

For rules filed in the second quarter between April 1 - June 30

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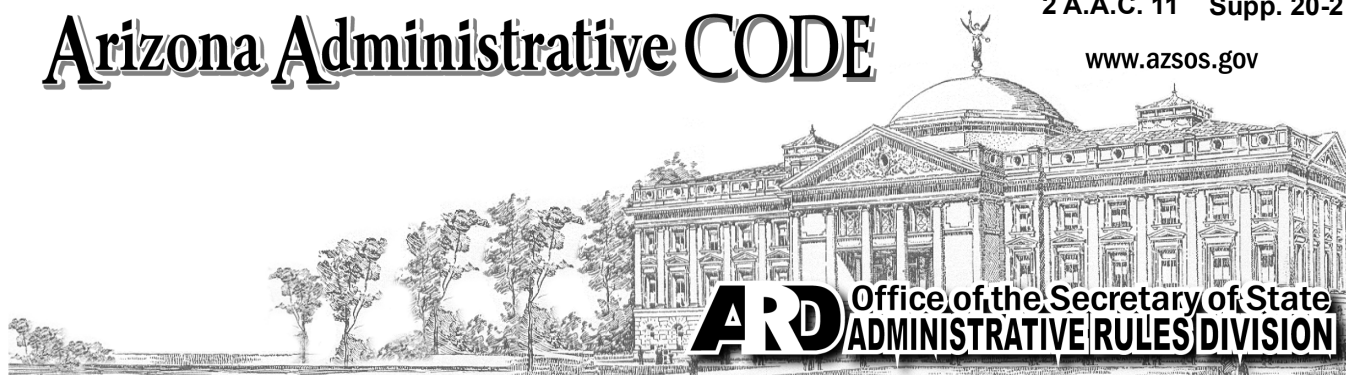
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# Arizona Administrative CODE

2 A.A.C. 11 Supp. 20-2

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## TITLE 2. ADMINISTRATION

### CHAPTER 11. DEPARTMENT OF ADMINISTRATION - PUBLIC BUILDINGS MAINTENANCE

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Sections, Parts, Exhibits, Tables or Appendices codified in this supplement. The list provided contains quick links to the updated rules.

This Chapter contains rule Sections that were filed to be codified in the *Arizona Administrative Code* between the dates of April 1, 2020 through June 30, 2020.

[R2-11-501.](#)    [Review of Denial or Summary Suspension ..... 8](#)

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#### The release of this Chapter in Supp. 20-2 replaces Supp. 19-3, 1-8 pages

Please note that the Chapter you are about to replace may have rules still in effect after the publication date of this supplement. Therefore, all superseded material should be retained in a separate binder and archived for future reference.



## Administrative Rules Division

The Arizona Secretary of State electronically publishes each A.A.C. Chapter with a digital certificate. The certificate-based signature displays the date and time the document was signed and can be validated in Adobe Acrobat Reader.

## TITLE 2. ADMINISTRATION

## CHAPTER 11. DEPARTMENT OF ADMINISTRATION - PUBLIC BUILDINGS MAINTENANCE

*Editor's Note: 2 A.A.C. 11 made by final rulemaking at 9 A.A.R. 3781, effective August 8, 2003. Under A.R.S. § 41-1026(E) these rules repeal and replace the emergency rules made at 9 A.A.R. 3046 (Supp. 03-3).*

*Editor's Note: 2 A.A.C. 11 made by emergency rulemaking under A.R.S. § 41-1026 at 9 A.A.R. 3046, effective June 18, 2003 for a period of 180 days (Supp. 03-2). The public buildings maintenance rules were previously in 2 A.A.C. 6, which expired under A.R.S. § 41-1056(E) at 8 A.A.R. 5017, effective September 30, 2002 (Supp. 02-4).*

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## CHAPTER 11. DEPARTMENT OF ADMINISTRATION - PUBLIC BUILDINGS MAINTENANCE

**ARTICLE 1. GENERAL****R2-11-101. Definitions**

The following definitions apply in this Chapter:

1. "Agency" has the meaning in A.R.S. § 41-1001.
2. "Department" means the Department of Administration.
3. "Director" means the Director of the Department of Administration or the Director's designated agent.
4. "Person" has the meaning in A.R.S. § 1-215 but includes an agency, unless the agency is listed in A.R.S. § 41-791(B)(3).
5. "State building" means a building under the jurisdiction of the Director.
6. "State property" means all real property and buildings under the jurisdiction of the Department, as prescribed by A.R.S. § 41-791.

**Historical Note**

New Section made by emergency rulemaking under A.R.S. § 41-1026 at 9 A.A.R. 3046, effective June 18, 2003 for a period of 180 days (Supp. 03-2). Emergency Section repealed and replaced by new Section under A.R.S. § 41-1026(E) made by final rulemaking at 9 A.A.R. 3781, effective August 8, 2003 (Supp. 03-3).

**R2-11-102. Alcoholic Beverages**

A person shall not possess or consume alcoholic beverages on state property.

**Historical Note**

New Section made by emergency rulemaking under A.R.S. § 41-1026 at 9 A.A.R. 3046, effective June 18, 2003 for a period of 180 days (Supp. 03-2). Emergency Section repealed and replaced by new Section under A.R.S. § 41-1026(E) made by final rulemaking at 9 A.A.R. 3781, effective August 8, 2003 (Supp. 03-3).

**R2-11-103. Altering Buildings or Grounds**

A person shall not alter, remodel, or redecorate state property without prior approval from the Director.

**Historical Note**

New Section made by emergency rulemaking under A.R.S. § 41-1026 at 9 A.A.R. 3046, effective June 18, 2003 for a period of 180 days (Supp. 03-2). Emergency Section repealed and replaced by new Section under A.R.S. § 41-1026(E) made by final rulemaking at 9 A.A.R. 3781, effective August 8, 2003 (Supp. 03-3).

**R2-11-104. Animals**

A person shall not bring an animal, other than an animal guide or service animal, onto state property without prior approval from the Director.

**Historical Note**

New Section made by emergency rulemaking under A.R.S. § 41-1026 at 9 A.A.R. 3046, effective June 18, 2003 for a period of 180 days (Supp. 03-2). Emergency Section repealed and replaced by new Section under A.R.S. § 41-1026(E) made by final rulemaking at 9 A.A.R. 3781, effective August 8, 2003 (Supp. 03-3).

**R2-11-105. Bicycles, Rollerblades, Rollerskates, and Skateboards**

A person shall not use or operate bicycles, rollerblades, rollerskates, or skateboards on state property, unless that person is an on-duty police officer on bicycle patrol or a state employee using a bicycle for transportation to and from work.

**Historical Note**

New Section made by emergency rulemaking under

A.R.S. § 41-1026 at 9 A.A.R. 3046, effective June 18, 2003 for a period of 180 days (Supp. 03-2). Emergency Section repealed and replaced by new Section under A.R.S. § 41-1026(E) made by final rulemaking at 9 A.A.R. 3781, effective August 8, 2003 (Supp. 03-3).

**R2-11-106. Electrical or Plumbing Systems**

A person shall not install or modify an electrical or plumbing system on state property, or any part of such a system, without prior approval from the Director.

**Historical Note**

New Section made by emergency rulemaking under A.R.S. § 41-1026 at 9 A.A.R. 3046, effective June 18, 2003 for a period of 180 days (Supp. 03-2). Emergency Section repealed and replaced by new Section under A.R.S. § 41-1026(E) made by final rulemaking at 9 A.A.R. 3781, effective August 8, 2003 (Supp. 03-3).

**R2-11-107. Heating or Cooling Equipment**

A person shall not tamper with or adjust heating or cooling equipment or controls on state property without prior approval from the Director.

**Historical Note**

New Section made by emergency rulemaking under A.R.S. § 41-1026 at 9 A.A.R. 3046, effective June 18, 2003 for a period of 180 days (Supp. 03-2). Emergency Section repealed and replaced by new Section under A.R.S. § 41-1026(E) made by final rulemaking at 9 A.A.R. 3781, effective August 8, 2003 (Supp. 03-3).

**R2-11-108. Noise**

A person shall not create loud noises on state property that interfere with the work of an employee or daily business of an agency.

**Historical Note**

New Section made by emergency rulemaking under A.R.S. § 41-1026 at 9 A.A.R. 3046, effective June 18, 2003 for a period of 180 days (Supp. 03-2). Emergency Section repealed and replaced by new Section under A.R.S. § 41-1026(E) made by final rulemaking at 9 A.A.R. 3781, effective August 8, 2003 (Supp. 03-3).

**R2-11-109. Plants**

A person shall not pick, cut, or remove flowers, shrubs, trees, or other plants or parts of plants from state property without prior approval from the Director.

**Historical Note**

New Section made by emergency rulemaking under A.R.S. § 41-1026 at 9 A.A.R. 3046, effective June 18, 2003 for a period of 180 days (Supp. 03-2). Emergency Section repealed and replaced by new Section under A.R.S. § 41-1026(E) made by final rulemaking at 9 A.A.R. 3781, effective August 8, 2003 (Supp. 03-3).

**R2-11-110. Roofs**

A person shall not be on the roof of a state building without prior approval from the Director.

**Historical Note**

New Section made by emergency rulemaking under A.R.S. § 41-1026 at 9 A.A.R. 3046, effective June 18, 2003 for a period of 180 days (Supp. 03-2). Emergency Section repealed and replaced by new Section under A.R.S. § 41-1026(E) made by final rulemaking at 9 A.A.R. 3781, effective August 8, 2003 (Supp. 03-3).

**R2-11-111. Signs**

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A person shall not install a sign of any type on state property without prior approval from the Director.

**Historical Note**

New Section made by emergency rulemaking under A.R.S. § 41-1026 at 9 A.A.R. 3046, effective June 18, 2003 for a period of 180 days (Supp. 03-2). Emergency Section repealed and replaced by new Section under A.R.S. § 41-1026(E) made by final rulemaking at 9 A.A.R. 3781, effective August 8, 2003 (Supp. 03-3).

**R2-11-112. Expired****Historical Note**

New Section made by emergency rulemaking under A.R.S. § 41-1026 at 9 A.A.R. 3046, effective June 18, 2003 for a period of 180 days (Supp. 03-2). Emergency Section repealed and replaced by new Section under A.R.S. § 41-1026(E) made by final rulemaking at 9 A.A.R. 3781, effective August 8, 2003 (Supp. 03-3). Section expired under A.R.S. § 41-1056(J) at 24 A.A.R. 2563, effective June 13, 2017 (Supp. 18-3).

**R2-11-113. Waste**

- A. A person shall not leave garbage, litter, trash, human or animal waste, or any other kind of waste on state property unless the waste is deposited in a container the Department maintains for that kind of waste.
- B. A person shall not deposit waste collected from a private residence or commercial business on state property.

**Historical Note**

New Section made by emergency rulemaking under A.R.S. § 41-1026 at 9 A.A.R. 3046, effective June 18, 2003 for a period of 180 days (Supp. 03-2). Emergency Section repealed and replaced by new Section under A.R.S. § 41-1026(E) made by final rulemaking at 9 A.A.R. 3781, effective August 8, 2003 (Supp. 03-3).

**R2-11-114. Windows**

A person shall not open windows in air-conditioned state buildings without prior approval from the Director.

**Historical Note**

New Section made by emergency rulemaking under A.R.S. § 41-1026 at 9 A.A.R. 3046, effective June 18, 2003 for a period of 180 days (Supp. 03-2). Emergency Section repealed and replaced by new Section under A.R.S. § 41-1026(E) made by final rulemaking at 9 A.A.R. 3781, effective August 8, 2003 (Supp. 03-3).

**ARTICLE 2. TRAFFIC AND PARKING****R2-11-201. Definitions**

The following definitions apply in this Article:

1. "Citation" means a document, issued by the Department's Capitol Police under A.R.S. § 41-796, that contains a notice to appear.
2. "Decal" means a graphic designed label, placard, sticker, or tag that, when properly displayed, authorizes preferential parking privileges in state parking lots for the driver of a vehicle.
3. "Designate" means to identify with signs or markings.
4. "Employee" means any person elected, appointed, or employed by the state, either on a part-time or full-time basis, whether paid by payroll or under contract or serving as a volunteer.
5. "Loading zone" means an area that is painted yellow, designating a place for business pickups and deliveries.

6. "No-parking zone" means an area that is painted red, designating a place where parking is not permitted.
7. "Parking" means stopping or placing a vehicle in an area, regardless of whether the vehicle is attended or unattended.
8. "Parking space" means an area that the Department outlines with painted white lines, designating a place for parking a vehicle.
9. "Reserved parking space" means any parking space designated for a special purpose or a special class, such as physically disabled persons, travel reduction program participants, or visitors.
10. "Safety zone" means an area or space that is both:
  - a. Officially set apart within a roadway for the exclusive use of pedestrians; and
  - b. Protected, marked, or indicated by adequate signs as to be plainly visible at all times.
11. "Vehicle" has the meaning in A.R.S. § 28-101 and includes a "motor vehicle," a term also defined in A.R.S. § 28-101.
12. "Visitor" means any person other than an employee.

**Historical Note**

New Section made by emergency rulemaking under A.R.S. § 41-1026 at 9 A.A.R. 3046, effective June 18, 2003 for a period of 180 days (Supp. 03-2). Emergency Section repealed and replaced by new Section under A.R.S. § 41-1026(E) made by final rulemaking at 9 A.A.R. 3781, effective August 8, 2003 (Supp. 03-3).

**R2-11-202. General Provisions**

- A. The state is not responsible for the care and protection of any vehicle or its contents at any time the vehicle is operated or parked on state property.
- B. The person to whom a parking permit is issued is responsible for all parking violations involving the person's vehicle.
- C. If parking lot or area reservation hours are altered, the Department shall post notices at the parking lot or area, and the changes are effective immediately.

**Historical Note**

New Section made by emergency rulemaking under A.R.S. § 41-1026 at 9 A.A.R. 3046, effective June 18, 2003 for a period of 180 days (Supp. 03-2). Emergency Section repealed and replaced by new Section under A.R.S. § 41-1026(E) made by final rulemaking at 9 A.A.R. 3781, effective August 8, 2003 (Supp. 03-3).

**R2-11-203. Parking Prohibitions**

- A. A person shall not park a vehicle in a:
  1. Bicycle rack or area;
  2. Loading zone, unless the person is making a pickup or delivery and the person's vehicle has commercial license plates or is state owned. Loading zone parking is permitted during the time the person is actually engaged in loading or unloading;
  3. Location that is not designated as a parking space;
  4. No parking zone;
  5. Reserved parking space without authorization, unless the person is a visitor using parking reserved for visitors; or
  6. Safety zone.
- B. A person shall not obstruct any of the following with a vehicle:
  1. Building entrance,
  2. Driveway,
  3. Fire lane,
  4. Loading dock, or
  5. Properly parked vehicle.
- C. A person shall not drive or park a vehicle:

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1. On a pedestrian path or sidewalk; or
  2. In any area on state property closed by barricades, chain, tape, rope, traffic cones, or other traffic-control devices.
- D.** A person shall not park outside of the area designated by painted white lines when using a parking space.
- E.** In an emergency the Department may impose parking limitations or prohibitions required by the particular circumstances.
- F.** For special events the Department may impose parking limitations or prohibitions based on all of the following factors:
1. Previous experience with similar events, and
  2. Risk data.

**Historical Note**

New Section made by emergency rulemaking under A.R.S. § 41-1026 at 9 A.A.R. 3046, effective June 18, 2003 for a period of 180 days (Supp. 03-2). Emergency Section repealed and replaced by new Section under A.R.S. § 41-1026(E) made by final rulemaking at 9 A.A.R. 3781, effective August 8, 2003 (Supp. 03-3).

**R2-11-204. Parking Decals**

- A.** Unless a person is a visitor using parking reserved for visitors, the person shall properly display a reserved parking space decal in the manner prescribed in this Section to be authorized to park in a reserved parking space.
- B.** To park in a parking space reserved for the physically disabled, a person shall obtain a removable windshield placard or special plates, bearing the international symbol of access, from the Department of Transportation, Motor Vehicle Division, and display the placard or plates as prescribed by rules of the Department of Transportation.
- C.** A person with a decal for any other kind of reserved parking space shall display the decal from the rearview mirror, attach the decal to the left side of the windshield, or display the decal on the left side of the dashboard. The person shall ensure that the decal is visible through the windshield so it can be read by someone standing outside the vehicle.

**Historical Note**

New Section made by emergency rulemaking under A.R.S. § 41-1026 at 9 A.A.R. 3046, effective June 18, 2003 for a period of 180 days (Supp. 03-2). Emergency Section repealed and replaced by new Section under A.R.S. § 41-1026(E) made by final rulemaking at 9 A.A.R. 3781, effective August 8, 2003 (Supp. 03-3).

**R2-11-205. Operation of Vehicles on State Property**

- A.** On state property the Department shall enforce all state laws governing the operation of vehicles.
- B.** A person driving or parking a vehicle on state property shall obey posted traffic and parking signs.
- C.** The Department's Capitol Police shall enforce a maximum speed limit of 5 miles per hour in all state parking lots under the Department's jurisdiction.
- D.** Any person who has been in an accident involving a moving vehicle on state property shall immediately report the accident to the Department's Capitol Police.

**Historical Note**

New Section made by emergency rulemaking under A.R.S. § 41-1026 at 9 A.A.R. 3046, effective June 18, 2003 for a period of 180 days (Supp. 03-2). Emergency Section repealed and replaced by new Section under A.R.S. § 41-1026(E) made by final rulemaking at 9 A.A.R. 3781, effective August 8, 2003 (Supp. 03-3).

**R2-11-206. Expired****Historical Note**

New Section made by emergency rulemaking under A.R.S. § 41-1026 at 9 A.A.R. 3046, effective June 18, 2003 for a period of 180 days (Supp. 03-2). Emergency Section repealed and replaced by new Section under A.R.S. § 41-1026(E) made by final rulemaking at 9 A.A.R. 3781, effective August 8, 2003 (Supp. 03-3). Section expired under A.R.S. § 41-1056(J) at 24 A.A.R. 2563, effective June 13, 2017 (Supp. 18-3).

**R2-11-207. Expired****Historical Note**

New Section made by emergency rulemaking under A.R.S. § 41-1026 at 9 A.A.R. 3046, effective June 18, 2003 for a period of 180 days (Supp. 03-2). Emergency Section repealed and replaced by new Section under A.R.S. § 41-1026(E) made by final rulemaking at 9 A.A.R. 3781, effective August 8, 2003 (Supp. 03-3). Section expired under A.R.S. § 41-1056(J) at 24 A.A.R. 2563, effective June 13, 2017 (Supp. 18-3).

**R2-11-208. Expired****Historical Note**

New Section made by emergency rulemaking under A.R.S. § 41-1026 at 9 A.A.R. 3046, effective June 18, 2003 for a period of 180 days (Supp. 03-2). Emergency Section repealed and replaced by new Section under A.R.S. § 41-1026(E) made by final rulemaking at 9 A.A.R. 3781, effective August 8, 2003 (Supp. 03-3). Section expired under A.R.S. § 41-1056(J) at 24 A.A.R. 2563, effective June 13, 2017 (Supp. 18-3).

**R2-11-209. Removal of Vehicles from State Property**

The Department shall remove any vehicle on state property parked in a barricaded area, abandoned, or parked in a manner that constitutes a hazard or impediment to vehicular or pedestrian traffic or to the movement and operation of emergency equipment. The registered owner of the vehicle shall pay for all costs of removal.

**Historical Note**

New Section made by emergency rulemaking under A.R.S. § 41-1026 at 9 A.A.R. 3046, effective June 18, 2003 for a period of 180 days (Supp. 03-2). Emergency Section repealed and replaced by new Section under A.R.S. § 41-1026(E) made by final rulemaking at 9 A.A.R. 3781, effective August 8, 2003 (Supp. 03-3).

**ARTICLE 3. SOLICITATION AND SPECIAL EVENT****R2-11-301. Definitions**

The following definitions apply in this Article:

1. "Department" means the Arizona Department of Administration.
2. "Director" means the Director of the Arizona Department of Administration or the Director's designee.
3. "Solicitation" means any activity for the promotion, sale, advocacy or transfer of product or products, service or services, membership or memberships, or cause or causes. In addition, distribution or posting of advertisements, circulars, flyers, handbills, leaflets, posters, or other printed information for these purposes is solicitation.
4. "Solicitation material" means advertising, circulars, flyers, handbills, leaflets, posters, or other printed information.
5. "Solicitor" means a person conducting a solicitation activity.

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6. "Special Event" or "Event" means an assembly, gathering, ceremony, press conference, demonstration, display, festival, parade, or rally conducted by a person excluding a ceremony, gathering, or press conference that is conducted by a person authorized by the head of a state agency using the agency's own office space.
7. "Sponsor" means the person holding an event.
8. "Work site" means any location within a state building where public employees or officers conduct the daily business of an agency including building lobby areas, cafeterias, break rooms, and areas outside of any main entrance.

**Historical Note**

New Section made by emergency rulemaking under A.R.S. § 41-1026 at 9 A.A.R. 3046, effective June 18, 2003 for a period of 180 days (Supp. 03-2). Emergency Section repealed and replaced by new Section under A.R.S. § 41-1026(E) made by final rulemaking at 9 A.A.R. 3781, effective August 8, 2003 (Supp. 03-3). Amended by final rulemaking at 25 A.A.R. 2211, effective October 13, 2019 (Supp. 19-3).

**R2-11-302. Unauthorized Solicitation or Event Prohibited**

A person shall not conduct a solicitation on state property or use state buildings or grounds for an event without express written permission from the Director.

**Historical Note**

New Section made by emergency rulemaking under A.R.S. § 41-1026 at 9 A.A.R. 3046, effective June 18, 2003 for a period of 180 days (Supp. 03-2). Emergency Section repealed and replaced by new Section under A.R.S. § 41-1026(E) made by final rulemaking at 9 A.A.R. 3781, effective August 8, 2003 (Supp. 03-3). Amended by final rulemaking at 25 A.A.R. 2211, effective October 13, 2019 (Supp. 19-3).

**R2-11-303. Application**

- A. Any person who would like to conduct a solicitation or hold an event on state property may apply for a permit by filing, in person or by mail, a Department-approved application form with the Office of Special Events.
- B. The completed application form shall be submitted at least 15 business days before the desired date of the solicitation or event. A completed application form is one that is legible and contains, at a minimum, all of the following information:
  1. The name, address, and telephone number of the solicitor or sponsor;
  2. The proposed date of the solicitation or event and the approximate starting and concluding times;
  3. The specific, proposed location for the solicitation or event;
  4. A general description of the solicitation or event, including equipment and facilities to be used;
  5. Approximate number of persons expected to be in attendance.
  6. The name, address, and telephone number of the person responsible for clean-up of the area after the activity, if different from the person in subsection (B)(1);
  7. Copies of all solicitation materials to be used. All materials must provide accurate information;
  8. The name, address, and telephone number of any chief monitor who will be designated to direct the solicitation or event;
  9. A Certificate of Insurance as required by the Department's Risk Management Division; and

10. Any use of devices that create amplified noise must be included in the permit request.

- C. The Director may accept a completed application form submitted less than 15 days before a press conference if the Director determines that enforcing the 15-day requirement would nullify the need for the press conference. In this situation, R2-11-304 does not apply.

**Historical Note**

New Section made by emergency rulemaking under A.R.S. § 41-1026 at 9 A.A.R. 3046, effective June 18, 2003 for a period of 180 days (Supp. 03-2). Emergency Section repealed and replaced by new Section under A.R.S. § 41-1026(E) made by final rulemaking at 9 A.A.R. 3781, effective August 8, 2003 (Supp. 03-3). Amended by final rulemaking at 25 A.A.R. 2211, effective October 13, 2019 (Supp. 19-3).

**R2-11-304. Processing Procedure**

- A. Within three days of receiving an application, the Department shall notify the applicant that the application is either complete or incomplete. If the application is incomplete, the notice shall specify what information is missing.
- B. An applicant with an incomplete application shall supply the missing information within five days after the date of the notice. If the applicant fails to do so, the Department may deny the permit.
- C. Upon receipt of all missing information within five days, as specified in subsection (B), the Department shall notify the applicant that the application is complete.
- D. The Department shall not process an application for a permit until the applicant has fully complied with R2-11-303.
- E. The Director shall render a permit decision no later than three days after receipt of a complete application. The date of receipt is the postmark date of the notice advising the applicant that the application is complete.
- F. For the purpose of A.R.S. § 41-1073, the Department establishes the following permit time-frames:
  1. Administrative completeness review time-frame: three days.
  2. Substantive review time-frame: three days.
  3. Overall time-frame: six days.

**Historical Note**

New Section made by emergency rulemaking under A.R.S. § 41-1026 at 9 A.A.R. 3046, effective June 18, 2003 for a period of 180 days (Supp. 03-2). Emergency Section repealed and replaced by new Section under A.R.S. § 41-1026(E) made by final rulemaking at 9 A.A.R. 3781, effective August 8, 2003 (Supp. 03-3).

**R2-11-305. Permit Issuance; Denial**

- A. Before issuing a permit, the Director shall review the application.
- B. After consideration of the factors in subsection (C), the Director may issue a permit to an applicant who has complied with the application requirements in R2-11-303.
- C. The Director may deny a permit for one or more of the following reasons:
  1. The solicitation or event interferes with the work of an employee or daily business of an agency;
  2. The solicitation or event conflicts with the time, place, manner, or duration of other events or solicitations for which permits have been issued or are pending;
  3. The solicitation or event creates a risk of injury or illness to persons or risk of danger to property; or
  4. The applicant, solicitation, or event fails to comply with the requirements of this Article.

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- D. A permit shall not be issued earlier than one year before the solicitation.
- E. If the Director denies a permit, the Department shall send the applicant a written notice explaining:
  1. The reason for denial, with citations to supporting statutes or rules,
  2. The applicant's right to seek a hearing to challenge the denial,
  3. The applicant's right to request an informal settlement conference under A.R.S. § 41-1092.06, and
  4. The time periods for appealing the denial.

**Historical Note**

New Section made by emergency rulemaking under A.R.S. § 41-1026 at 9 A.A.R. 3046, effective June 18, 2003 for a period of 180 days (Supp. 03-2). Emergency Section repealed and replaced by new Section under A.R.S. § 41-1026(E) made by final rulemaking at 9 A.A.R. 3781, effective August 8, 2003 (Supp. 03-3). Amended by final rulemaking at 25 A.A.R. 2211, effective October 13, 2019 (Supp. 19-3).

**R2-11-306. Bulletin Boards**

- A. The Director shall designate at least one bulletin board for solicitation or event material in each state building.
- B. A person conducting a solicitation or event shall post solicitation or event material only on bulletin boards designated under subsection (A).
- C. All posted material must go through the application process and receive approval of the Office of Special Events prior to posting on bulletin boards.
- D. The Department has the authority to remove solicitation or event material that is outdated or improperly posted.

**Historical Note**

New Section made by emergency rulemaking under A.R.S. § 41-1026 at 9 A.A.R. 3046, effective June 18, 2003 for a period of 180 days (Supp. 03-2). Emergency Section repealed and replaced by new Section under A.R.S. § 41-1026(E) made by final rulemaking at 9 A.A.R. 3781, effective August 8, 2003 (Supp. 03-3). Amended by final rulemaking at 25 A.A.R. 2211, effective October 13, 2019 (Supp. 19-3).

**R2-11-307. State Resources**

A person shall not use state materials, supplies, or equipment or other resources, such as payroll stuffing or interoffice mail, to conduct a solicitation.

**Historical Note**

New Section made by emergency rulemaking under A.R.S. § 41-1026 at 9 A.A.R. 3046, effective June 18, 2003 for a period of 180 days (Supp. 03-2). Emergency Section repealed and replaced by new Section under A.R.S. § 41-1026(E) made by final rulemaking at 9 A.A.R. 3781, effective August 8, 2003 (Supp. 03-3).

**R2-11-308. Work Sites**

Except for posting solicitation material on a bulletin board designated under R2-11-306, a person shall not conduct a solicitation at a work site.

**Historical Note**

New Section made by emergency rulemaking under A.R.S. § 41-1026 at 9 A.A.R. 3046, effective June 18, 2003 for a period of 180 days (Supp. 03-2). Emergency Section repealed and replaced by new Section under A.R.S. § 41-1026(E) made by final rulemaking at 9

A.A.R. 3781, effective August 8, 2003 (Supp. 03-3).

**R2-11-309. Exemptions**

This Article does not apply to the following state programs:

1. The State Deferred Compensation Program,
2. The State Employees Charitable Campaign,
3. The U.S. Savings Bond Drive,
4. The United Blood Services Blood Drive,
5. The Capitol Rideshare Commuter Club,
6. The Capitol Rideshare Clean Air Campaign,
7. Human Resources Professional Development programs,
8. The Employee Wellness Program,
9. The employee recognition programs of each agency subject to these rules, and
10. Programs as determined by the Director related to professional development or training only when sponsored or requested by the agency head.

**Historical Note**

New Section made by emergency rulemaking under A.R.S. § 41-1026 at 9 A.A.R. 3046, effective June 18, 2003 for a period of 180 days (Supp. 03-2). Emergency Section repealed and replaced by new Section under A.R.S. § 41-1026(E) made by final rulemaking at 9 A.A.R. 3781, effective August 8, 2003 (Supp. 03-3). Amended by final rulemaking at 10 A.A.R. 5184, effective December 7, 2004 under A.R.S. § 41-1052(E) (Supp. 04-4). Amended by final rulemaking at 25 A.A.R. 2211, effective October 13, 2019 (Supp. 19-3).

**R2-11-310. Suspension or Revocation**

- A. The Director may suspend or revoke a permit for failure to comply with this Article or other applicable laws.
- B. Before the Director suspends or revokes a permit, the Department shall send the solicitor or sponsor written notice, explaining:
  1. The reason for suspension or revocation, with citations to supporting statutes or rules,
  2. The solicitor or sponsor's right to a hearing before suspension or revocation, and
  3. The time and place of the hearing concerning the suspension or revocation.
- C. If the Director finds that public health, safety, or welfare imperatively requires emergency action, and incorporates a finding to that effect in the order, the Director may summarily suspend the permit pending proceedings for revocation or other action, based on circumstances of the emergency.

**Historical Note**

New Section made by emergency rulemaking under A.R.S. § 41-1026 at 9 A.A.R. 3046, effective June 18, 2003 for a period of 180 days (Supp. 03-2). Emergency Section repealed and replaced by new Section under A.R.S. § 41-1026(E) made by final rulemaking at 9 A.A.R. 3781, effective August 8, 2003 (Supp. 03-3). Amended by final rulemaking at 25 A.A.R. 2211, effective October 13, 2019 (Supp. 19-3).

**R2-11-311. Review of Denial or Summary Suspension**

- A. Under A.R.S. Title 41, Chapter 6, Article 10, an applicant, solicitor, or sponsor may obtain a hearing on a denial or summary suspension.
- B. An applicant appealing a denial shall file a notice of appeal with the Department within 30 days after receiving the notice prescribed in R2-11-305(E).
- C. If the Director summarily suspends a permit under R2-11-310(C), the Department shall promptly prepare and serve a notice of hearing under A.R.S. § 41-1092.05.

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- D. The Department shall notify the Office of Administrative Hearings, which shall schedule and conduct the hearing.

**Historical Note**

New Section made by emergency rulemaking under A.R.S. § 41-1026 at 9 A.A.R. 3046, effective June 18, 2003 for a period of 180 days (Supp. 03-2). Emergency Section repealed and replaced by new Section under A.R.S. § 41-1026(E) made by final rulemaking at 9 A.A.R. 3781, effective August 8, 2003 (Supp. 03-3). Amended by final rulemaking at 25 A.A.R. 2211, effective October 13, 2019 (Supp. 19-3).

**R2-11-312. Risk Management**

- A. The Director may take one or more of the following actions to the extent it is necessary and in the best interests of the state:
1. Impose conditions on the conduct of the event in the permit;
  2. Require the applicant to post a deposit against damage and clean-up expense;
  3. Require the applicant to carry liability insurance and provide the certificate of insurance; and
  4. Require the applicant to provide medical, sanitary, and security services.
- B. The Director shall consider all of the following criteria to determine whether one or more of the actions in subsection (A) is necessary and in the best interests of the state:
1. Previous experience with similar events;
  2. Deposits required for similar events in Arizona;
  3. Risk data; and
  4. Medical, sanitary, and security services required for similar events in Arizona and the cost of those services.
- C. The Department shall not provide insurance or guarantee against damage to equipment or personal property of any person using state buildings or grounds.
- D. If the Director requires insurance for a solicitation or event, the solicitor or sponsor shall list the state of Arizona and the Department as additional insured entities.
- E. The sponsor is liable to the state for any injury done to its property and for any expense arising out of the sponsor's use of state buildings or grounds.

**Historical Note**

New Section made by final rulemaking at 25 A.A.R. 2211, effective October 13, 2019 (Supp. 19-3).

**ARTICLE 4. SEVERABILITY****R2-11-401. Validity of Rules**

If a rule or portion of a rule contained in this Chapter is held unconstitutional or invalid, the holding does not affect the validity of the remaining rules.

**Historical Note**

New Section made by emergency rulemaking under A.R.S. § 41-1026 at 9 A.A.R. 3046, effective June 18, 2003 for a period of 180 days (Supp. 03-2). Emergency Section repealed and replaced by new Section under A.R.S. § 41-1026(E) made by final rulemaking at 9 A.A.R. 3781, effective August 8, 2003 (Supp. 03-3). Section repealed; new Section R2-11-401 renumbered from R2-11-501 by final rulemaking at 25 A.A.R. 2211, effective October 13, 2019 (Supp. 19-3).

**R2-11-402. Repealed****Historical Note**

New Section made by emergency rulemaking under A.R.S. § 41-1026 at 9 A.A.R. 3046, effective June 18, 2003 for a period of 180 days (Supp. 03-2). Emergency

Section repealed and replaced by new Section under A.R.S. § 41-1026(E) made by final rulemaking at 9 A.A.R. 3781, effective August 8, 2003 (Supp. 03-3). Repealed by final rulemaking at 25 A.A.R. 2211, effective October 13, 2019 (Supp. 19-3).

**R2-11-403. Repealed****Historical Note**

New Section made by emergency rulemaking under A.R.S. § 41-1026 at 9 A.A.R. 3046, effective June 18, 2003 for a period of 180 days (Supp. 03-2). Emergency Section repealed and replaced by new Section under A.R.S. § 41-1026(E) made by final rulemaking at 9 A.A.R. 3781, effective August 8, 2003 (Supp. 03-3). Repealed by final rulemaking at 25 A.A.R. 2211, effective October 13, 2019 (Supp. 19-3).

**R2-11-404. Repealed****Historical Note**

New Section made by emergency rulemaking under A.R.S. § 41-1026 at 9 A.A.R. 3046, effective June 18, 2003 for a period of 180 days (Supp. 03-2). Emergency Section repealed and replaced by new Section under A.R.S. § 41-1026(E) made by final rulemaking at 9 A.A.R. 3781, effective August 8, 2003 (Supp. 03-3). Repealed by final rulemaking at 25 A.A.R. 2211, effective October 13, 2019 (Supp. 19-3).

**R2-11-405. Repealed****Historical Note**

New Section made by emergency rulemaking under A.R.S. § 41-1026 at 9 A.A.R. 3046, effective June 18, 2003 for a period of 180 days (Supp. 03-2). Emergency Section repealed and replaced by new Section under A.R.S. § 41-1026(E) made by final rulemaking at 9 A.A.R. 3781, effective August 8, 2003 (Supp. 03-3). Repealed by final rulemaking at 25 A.A.R. 2211, effective October 13, 2019 (Supp. 19-3).

**R2-11-406. Repealed****Historical Note**

New Section made by emergency rulemaking under A.R.S. § 41-1026 at 9 A.A.R. 3046, effective June 18, 2003 for a period of 180 days (Supp. 03-2). Emergency Section repealed and replaced by new Section under A.R.S. § 41-1026(E) made by final rulemaking at 9 A.A.R. 3781, effective August 8, 2003 (Supp. 03-3). Repealed by final rulemaking at 25 A.A.R. 2211, effective October 13, 2019 (Supp. 19-3).

**R2-11-407. Repealed****Historical Note**

New Section made by emergency rulemaking under A.R.S. § 41-1026 at 9 A.A.R. 3046, effective June 18, 2003 for a period of 180 days (Supp. 03-2). Emergency Section repealed and replaced by new Section under A.R.S. § 41-1026(E) made by final rulemaking at 9 A.A.R. 3781, effective August 8, 2003 (Supp. 03-3). Repealed by final rulemaking at 25 A.A.R. 2211, effective October 13, 2019 (Supp. 19-3).

**R2-11-408. Repealed****Historical Note**

New Section made by emergency rulemaking under A.R.S. § 41-1026 at 9 A.A.R. 3046, effective June 18, 2003 for a period of 180 days (Supp. 03-2). Emergency

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Section repealed and replaced by new Section under A.R.S. § 41-1026(E) made by final rulemaking at 9 A.A.R. 3781, effective August 8, 2003 (Supp. 03-3). Repealed by final rulemaking at 25 A.A.R. 2211, effective October 13, 2019 (Supp. 19-3).

**R2-11-409. Repealed****Historical Note**

New Section made by emergency rulemaking under A.R.S. § 41-1026 at 9 A.A.R. 3046, effective June 18, 2003 for a period of 180 days (Supp. 03-2). Emergency Section repealed and replaced by new Section under A.R.S. § 41-1026(E) made by final rulemaking at 9 A.A.R. 3781, effective August 8, 2003 (Supp. 03-3). Repealed by final rulemaking at 25 A.A.R. 2211, effective October 13, 2019 (Supp. 19-3).

**ARTICLE 5. GOVERNMENTAL MALL DEVELOPMENT****R2-11-501. Review of Denial or Summary Suspension**

- A. Under A.R.S. Title 41, Chapter 6, Article 10, an applicant, may obtain a hearing on a denial or summary suspension.

- B. An applicant appealing a denial shall file a notice of appeal with the Department within 30 days after receiving the notice of denial.
- C. If the Director summarily suspends a development project, the Department shall promptly prepare and serve a notice of hearing under Arizona Administrative Code Title 2, Chapter 19.
- D. The Department shall notify the Office of Administrative Hearings, which shall schedule and conduct the hearing.

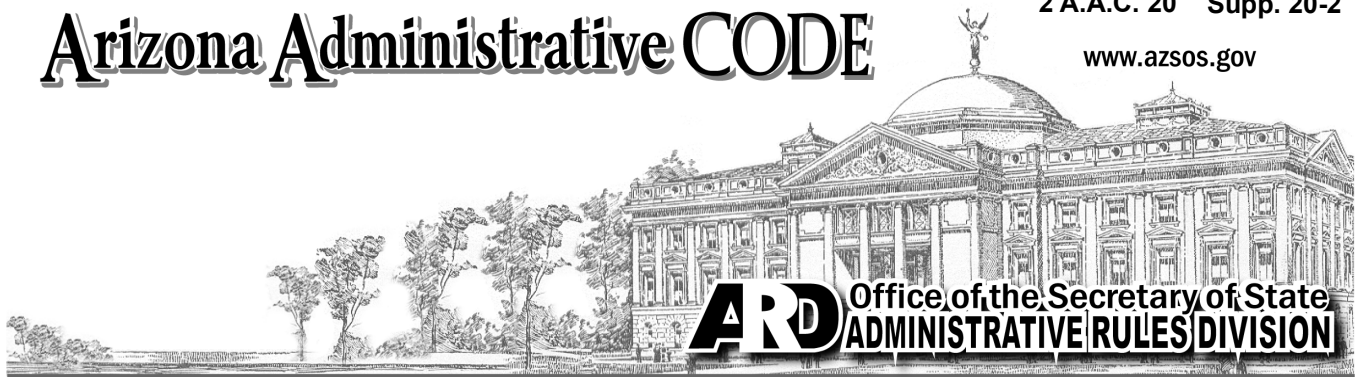
**Historical Note**

New Section made by emergency rulemaking under A.R.S. § 41-1026 at 9 A.A.R. 3046, effective June 18, 2003 for a period of 180 days (Supp. 03-2). Emergency Section repealed and replaced by new Section under A.R.S. § 41-1026(E) made by final rulemaking at 9 A.A.R. 3781, effective August 8, 2003 (Supp. 03-3). R2-11-501 renumbered to R2-11-401 by final rulemaking at 25 A.A.R. 2211, effective October 13, 2019 (Supp. 19-3). New Section made by final rulemaking at 26 A.A.R. 679, effective June 5, 2020 (Supp. 20-2).

# Arizona Administrative CODE

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## TITLE 2. ADMINISTRATION

### CHAPTER 20. CITIZENS CLEAN ELECTIONS COMMISSION

The table of contents on the first page contains quick links to the referenced page numbers in this Chapter. Refer to the notes at the end of a Section to learn about the history of a rule as it was published in the *Arizona Administrative Register*.

Sections, Parts, Exhibits, Tables or Appendices codified in this supplement. The list provided contains quick links to the updated rules.

This Chapter contains rule Sections that were filed to be codified in the *Arizona Administrative Code* between the dates of April 1, 2020 through June 30, 2020.

<a href="#">R2-20-701.</a>	<a href="#">Purpose and Scope .....</a>	<a href="#">24</a>	<a href="#">R2-20-702.01.</a>	<a href="#">Use of Assets .....</a>	<a href="#">25</a>
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#### Questions about these rules? Contact:

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#### The release of this Chapter in Supp. 20-2 replaces Supp. 20-1, 1-27 pages

Please note that the Chapter you are about to replace may have rules still in effect after the publication date of this supplement. Therefore, all superseded material should be retained in a separate binder and archived for future reference.





## Administrative Rules Division

The Arizona Secretary of State electronically publishes each A.A.C. Chapter with a digital certificate. The certificate-based signature displays the date and time the document was signed and can be validated in Adobe Acrobat Reader.

## TITLE 2. ADMINISTRATION

## CHAPTER 20. CITIZENS CLEAN ELECTIONS COMMISSION

*Editor's Note: The Office of the Secretary of State, Administrative Rules Division, complied with its legal obligation to publish the Notice of Rule Expiration filed for Sections R2-20-109 and R2-20-111 under A.R.S. § 41-1011(C) and 41-1056(G) and (J)(2) in Supp. 17-2, version 2. As a courtesy to the Commission, the Office also published R2-20-109 and R2-20-111 as adopted and made by the Commission because it stated the Governor's Regulatory Review Council did not have the authority to file such a notice. On December 14, 2017, the Commission "re-adopted" rules in the disputed Sections of R2-20-109 and R2-20-111; therefore, our Division has removed the expired rule Sections as published in Supp. 17-2, version 2. The Office will not interpret the legality of any actions made by the Commission or the Council as to whether the rules in R2-20-109 and R2-20-111 were effective at 23 A.A.R. 1761 or expired at 23 A.A.R. 1757 between the dates of June 7, and December 14, 2017. Those interested in that issue should consult counsel.*

*Editor's Note: The Citizen's Clean Elections Commission has filed a Notice of Public Information with the Office of the Secretary of State (Office) stating the Governor's Regulatory Review Council (G.R.R.C.) "cannot effectively repeal the rules" in this Chapter. The Notice also states, "persons subject to the Act and Rules are advised that it is the Commission's position [sic] that an action of G.R.R.C.... cannot relieve them of their obligations under the Act and Rules." [published at 23 A.A.R. 1761] The Office has received a Notice of Rule Expiration from the G.R.R.C. stating R2-20-109 and R2-20-111 have automatically expired [published at 23 A.A.R. 1757]. Under A.R.S. § 41-1056(G), our Office publishes filed G.R.R.C. notices and has included the rule expiration in this Chapter. Since the Office is merely the publisher, it has not, nor will it interpret the legality of the G.R.R.C. authority to "effectively repeal rules."*

*Editor's Note: The Office of the Secretary of State publishes all Code Chapters on white paper (Supp. 02-1).*

*Editor's Note: This Chapter contains rules that were adopted under an exemption from the rulemaking provisions of the Arizona Administrative Procedure Act (A.R.S. Title 41, Chapter 6) pursuant to A.R.S. § 16-956(D). Exemption from A.R.S. Title 41, Chapter 6 means that these rules were not certified by the Attorney General or the Governor's Regulatory Review Council. Because this Chapter contains rules that are exempt from the regular rulemaking process, the Chapter is printed on blue paper. The rules affected by this exemption appear throughout this Chapter.*

## ARTICLE 1. GENERAL PROVISIONS

*Article 1, consisting of Sections R2-20-101 through R2-20-113, repealed by exempt rulemaking at 8 A.A.R. 588, effective October 17, 2001; new Article 1, consisting of Sections R2-20-101 through R2-20-112, made by exempt rulemaking at 8 A.A.R. 588, effective October 17, 2001 (Supp. 02-1).*

*Article 1, consisting of Sections R2-20-101 through R2-20-113, adopted by exempt rulemaking at 6 A.A.R. 1567, effective June 21, 2000 (Supp. 00-2).*

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*ber 27, 2001 (Supp. 02-1).*

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*Article 6, consisting of Sections R2-20-601 through R2-20-604, made by exempt rulemaking at 8 A.A.R. 588, effective November 27, 2001 (Supp. 02-1).*

Section	
R2-20-601.	Purpose and Scope .....
R2-20-602.	Definitions .....
R2-20-603.	Audits, Investigations, and Litigation .....
R2-20-604.	Sanctions .....

**ARTICLE 7. USE OF FUNDS AND REPAYMENT**

*Article 7, consisting of Sections R2-20-701 through R2-20-710, made by exempt rulemaking at 8 A.A.R. 588, effective November 27, 2001 (Supp. 02-1).*

Section	
R2-20-701.	Purpose and Scope .....
R2-20-702.	Use of Campaign Funds .....
R2-20-702.01.	Use of Assets .....
R2-20-703.	Documentation for Direct Campaign Expenditures .....
R2-20-703.01.	Campaign Consultants .....
R2-20-704.	Repayment .....
R2-20-705.	Additional Audits or Repayment Determinations .....
R2-20-706.	Repealed .....
R2-20-707.	Repealed .....
R2-20-708.	Repealed .....
R2-20-709.	Repealed .....
R2-20-710.	Repealed .....

## CHAPTER 20. CITIZENS CLEAN ELECTIONS COMMISSION

## ARTICLE 1. GENERAL PROVISIONS

**R2-20-101. Definitions**

In addition to the definitions provided in A.R.S. § 16-961, the following shall apply to the Chapter, unless the context otherwise requires:

1. "Act" means the Citizens Clean Elections Act set forth in the Arizona Revised Statutes, Title 16, Chapter 6, Article 2.
2. "Audit" means a written report pertaining to an examination of a candidate's campaign finances that is reviewed by the Commission in accordance with A.A.C. Title 2, Chapter 20, Article 4.
3. "Campaign account" means an account at a financial institution designated by a political committee that is used solely for political campaign purposes.
4. "Candidate" means a natural person who receives or gives consent for receipt of a contribution for the person's nomination for or election to any office in this state, and includes the person's campaign committee, the political committee designated and authorized by the person, or any agents or personnel of the person. When not otherwise specified by statute or these rules, "Candidate" includes a Candidate for Statewide Office or a Legislative Candidate.
5. "Candidate for Statewide Office" means: A natural person seeking the office of governor, attorney general, secretary of state, treasurer, superintendent of public instruction, or mine inspector.
6. "Current campaign account" means a campaign account used solely for election campaign purposes in the present election cycle.
7. "Direct campaign purpose" includes, but is not limited to, materials, communications, transportation, supplies and expenses used toward the election of a candidate. This does not include the candidate's personal appearance, support, or support of a candidate's family member.
8. "Early contributions" means private contributions that are permitted pursuant to A.R.S. § 16-945.
9. "Examination" means an inspection by the Commission or agent of the Commission of a candidate's books, records, accounts, receipts, disbursements, debts and obligations, bank account records, and campaign finance reports related to the candidate's campaign, which may include fieldwork, or a visit to the campaign headquarters, to ensure compliance with campaign finance laws and rules.
10. "Executive Director" means the highest ranking Commission staff member, who is appointed pursuant to A.R.S. § 16-955(J) and is responsible for directing the day-to-day operations of the Commission.
11. "Expressly advocates" means:
  - a. Conveying a communication containing a phrase such as "vote for," "elect," "re-elect," "support," "endorse," "cast your ballot for," "(name of candidate) in (year)," "(name of candidate) for (office)," "vote against," "defeat," "reject," or a campaign slogan or words that in context can have no reasonable meaning other than to advocate the election or defeat of one or more clearly identified candidates.
  - b. Making a general public communication, such as in broadcast medium, newspaper, magazine, billboard, or direct mailer referring to one or more clearly identified candidates and targeted to the electorate of that candidate(s) that in context can have no reasonable meaning other than to advocate the election or defeat of the candidate(s), as evidenced by factors such as the presentation of the candidate(s) in a favorable or unfavorable light, the targeting, placement, or timing of the communication, or the inclusion of statements of the candidate(s) or opponents.
- c. A communication within the scope of subsection (10)(b) shall not be considered as one that "expressly advocates" merely because it presents information about the voting record or position on a campaign issue of three or more candidates, so long as it is not made in coordination with a candidate, political party, agent of the candidate or party, or a person who is coordinating with a candidate or candidate's agent.
12. "Extension of credit" means the delivery of goods or services or the promise to deliver goods or services to a candidate in exchange for a promise from the candidate to pay for such goods or services at a later date.
13. "Family member" means parent, grandparent, spouse, child, or sibling of the candidate or a parent or spouse of any of those persons.
14. "Fair market value" means the amount at which property would change hands between a willing buyer and a willing seller, neither being under any compulsion to buy or sell and both having reasonable knowledge of the relevant facts.
15. "Fixed Asset" means tangible property usable in a capacity that will benefit the candidate for a period of more than one year from the date of acquisition.
16. "Fund" means the Citizens Clean Elections Fund established pursuant to A.R.S. § 16-949(D).
17. "Future campaign account" means a campaign account that is used solely for campaign election purposes in an election that does not include the present or prior primary or general elections.
18. "Independent candidate" means a candidate who is registered as an independent or with no party preference or who is registered with a political party that is not eligible for recognition on the ballot.
19. "Legislative Candidate" means: A natural person seeking the office of state senator or state representative.
20. "Officeholder" means a person who has been elected to a statewide office or the legislature in the most recent election, as certified by the Secretary of State, or who is appointed to or otherwise fills a vacancy in such office.
21. "Person," unless stated otherwise, or having context requiring otherwise, means: A corporation, company, partnership, firm, association or society, as well as a natural person.
22. "Prior campaign account" means a campaign account used solely for campaign election purposes in a prior election.
23. "Public funds" includes all funds deposited into the Citizens Clean Elections Fund and all funds disbursed by the Commission to a participating candidate.
24. "Solicitor" means a person who is eligible to be registered to vote in this state and seeks qualifying contributions from qualified electors of this state.
25. "Unopposed" means in reference to state senate candidates and statewide candidates other than Corporation Commission, that the candidate is opposed by no candidates who will appear on the ballot. In reference to candidates for the House of Representatives and Corporation Commission, "unopposed" means that no more candidates will appear on the ballot than the number of seats available for the office sought.

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**Historical Note**

New Section adopted by exempt rulemaking at 6 A.A.R. 1567, effective June 21, 2000 (Supp. 00-2). Section repealed; new Section made by exempt rulemaking at 8 A.A.R. 588, effective October 17, 2001 (Supp. 02-1). Amended by exempt rulemaking at 11 A.A.R. 4518, effective May 28, 2005 (Supp. 05-4). Amended by exempt rulemaking at 13 A.A.R. 2434, effective August 27, 2007 (Supp. 07-2). Amended by exempt rulemaking at 15 A.A.R. 1156, effective August 31, 2009 (Supp. 09-2). Amended by exempt rulemaking at 19 A.A.R. 3515, effective September 27, 2013 (Supp. 13-4). Amended by final exempt rulemaking at 23 A.A.R. 113, effective December 15, 2016 (Supp. 16-4).

**R2-20-102. Repealed****Historical Note**

New Section adopted by exempt rulemaking at 6 A.A.R. 1567, effective June 21, 2000 (Supp. 00-2). Section repealed; new Section made by exempt rulemaking at 8 A.A.R. 588, effective October 17, 2001 (Supp. 02-1). Repealed by exempt rulemaking at 19 A.A.R. 3518, effective September 27, 2013 (Supp. 13-4).

**R2-20-103. Communications: Time and Method**

- A. General rule: in computing any period of time prescribed or allowed by the Act or these rules, unless otherwise specified, days are calculated by calendar days, and the day of the act, event, or default from which the designated period of time begins to run shall not be included. The last day of the period so computed shall be included, unless it is a Saturday, a Sunday, or a legal holiday. The term "legal holiday" includes New Year's Day, Martin Luther King Jr. Day, President's Day, Memorial Day, Independence Day, Labor Day, Columbus Day, Veterans Day, Thanksgiving Day, Christmas Day, and any other day appointed as a holiday for employees of the state.
- B. Special rule for periods less than seven days: when the period of time prescribed or allowed is less than seven days, intermediate Saturdays, Sundays, and legal holidays shall be excluded in the computation.
- C. Whenever the Commission or any person has the right or is required to do some act within a prescribed period after the service of any paper by or upon the Commission by regular mail, three calendar days shall be added to the prescribed period.
- D. Whenever the Commission or any person is required to do some act within a prescribed period after the service of paper by or upon the Commission by overnight delivery, the time period shall begin on the date the recipient signs for the overnight delivery.
- E. The Commission shall use the address of the candidate that is provided on the application for certification filed pursuant to A.R.S. § 16-947. A candidate may designate in writing for the Commission to send written correspondence to a person other than the candidate.
- F. If possible, the Commission shall furnish a copy of all communications electronically.
- G. Delivery of subpoenas, orders and notifications to a natural person may be made by handing a copy to the person, or leaving a copy at his or her office with the person in charge thereof, by leaving a copy at his or her dwelling place or usual place of abode with a person of suitable age and discretion residing therein, by mailing a copy by overnight delivery to his or her last known address, or by any other method whereby actual notice is given.
- H. When the person to be served is not an individual, delivery of subpoenas, orders and notifications may be made by mailing a

copy by overnight delivery to the person at its place of business or by handing a copy to a registered agent for service, or to any officer, director, or agent in charge of any office of such person, or by mailing a copy by overnight delivery to such representative at his or her last known address, or by any other method whereby actual notice is given.

**Historical Note**

New Section adopted by exempt rulemaking at 6 A.A.R. 1567, effective June 21, 2000 (Supp. 00-2). Section repealed; new Section made by exempt rulemaking at 8 A.A.R. 588, effective October 17, 2001 (Supp. 02-1). Amended by exempt rulemaking at 11 A.A.R. 4518, effective May 28, 2005 (Supp. 05-4). Amended by exempt rulemaking at 12 A.A.R. 758, effective February 15, 2006 (Supp. 06-1). Amended by exempt rulemaking at 13 A.A.R. 2434, effective August 27, 2007 (Supp. 07-2).

**R2-20-104. Certification as a Participating Candidate**

- A. A nonparticipating candidate who accepts contributions up to the limits authorized by A.R.S. § 16-941(B), but later chooses to run as a participating candidate, shall:
  1. Make the change to participating candidate status during the exploratory and qualifying periods only;
  2. Return the amount of each contribution in excess of the individual contribution limit for participating candidates;
  3. Return all Political Action Committee (PAC) monies received;
  4. Not have made expenditures exceeding the early contribution limit, or have spent any part of a contribution exceeding the early contribution limit;
  5. Comply with all provisions of A.R.S. § 16-941 and Commission rules.
  6. Return all contributions received from another candidate's candidate committee.
- B. Money from prior election. If a nonparticipating candidate has a cash balance remaining in the campaign account from the prior election cycle, the candidate may seek certification as a participating candidate in the current election after:
  1. Transferring money from the prior campaign account to the candidate's current election campaign account. The amount transferred shall not exceed the permitted personal monies, early contributions, and debt-retirement contributions, as defined in A.R.S. § 16-945(C), and shall contain contributions received from individuals only;
  2. Spending the money lawfully prior to April 30 of an election year in a way that does not constitute a direct campaign purpose and does not meet the definition of "expenditure" under A.R.S. § 16-901(24); and the event or item purchased is completed or otherwise used and depleted prior to April 30 of an election year;
  3. Remitting the money to the Fund; or
  4. Holding the money in the prior election campaign account, not to be used during the current election, except as provided pursuant to this Section.
- C. Application for certification as a participating candidate. Pursuant to A.R.S. § 16-947, a candidate seeking certification shall file with the Secretary of State a Commission-approved application and a campaign finance report reflecting all campaign activity to date. In the application, a candidate shall certify under oath that the candidate:
  1. Agrees to use all Clean Elections funding for direct campaign purposes only;
  2. Has filed a campaign finance report, showing all campaign activity to date in the current election cycle;

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3. Will comply with all requirements of the Act and Commission rules;
  4. Is subject to all enforcement actions by the Commission as authorized by the Act and Commission rules;
  5. Has the burden of proving that expenditures made by or on behalf of the candidate are for direct campaign purposes;
  6. Will keep and furnish to the Commission all documentation relating to expenditures, receipts, funding, books, records (including bank records for all accounts), and supporting documentation and other information that the Commission may request;
  7. Will permit an audit or examination by the Commission of all receipts and expenditures including those made by the candidate. The candidate shall also provide any material required in connection with an audit, investigation, or examination conducted by the Commission. The candidate shall facilitate the audit by making available in one central location, such as the Commission's office space, records and such personnel as are necessary to conduct the audit or examination, and shall pay any amounts required to be repaid;
  8. Will submit the name and mailing address of the person who is entitled to receive primary and general election funding on behalf of the candidate and the name and address of the campaign depository designated by the candidate. Changes in the information required by this subsection shall not be effective until submitted to the Commission in a letter signed or submitted electronically, by the candidate or the committee treasurer;
  9. Will pay any civil penalties included in a conciliation agreement or otherwise imposed against the candidate;
  10. Will timely file all campaign finance reports with the Secretary of State in an electronic format; and
  11. Will file an amended application for certification reporting any change in the information prescribed in the application for certification within five days after the change.
- D.** If certified as a participating candidate, the candidate shall:
1. Only accept early contributions from individuals during the exploratory and qualifying periods in accordance with A.R.S. § 16-945. No contributions may be accepted from political action committees, political parties or corporations;
  2. Not accept any private contributions, other than early contributions and a limited number of \$5 qualifying contributions;
  3. Make expenditures of personal monies of no more than the amounts prescribed in A.R.S. § 16-941(A)(2) for legislative candidates and for statewide office candidates;
  4. Conduct all campaign activity through a single campaign account. A participating candidate shall only deposit early contributions, qualifying contributions and Clean Elections funds into the candidate's current campaign account. The campaign account shall not be used for any non-direct campaign purpose as provided in Article 7 of these rules;
  5. Attend a Commission sponsored candidate training class within 60 days of being certified or within 60 days of the beginning of the qualifying period if the candidate is certified before the beginning of the qualifying period. If the candidate is unable to attend a training class, the candidate shall:
    - a. Notify the Commission that the candidate is unable to attend a training class. The Commission then will send that person the Commission training materials; and
    - b. The candidate shall sign and send to the Commission a statement certifying that he or she has received and reviewed the Commission training materials; and
  6. Limit campaign expenditures. Prior to qualifying for Clean Elections funding, a candidate shall not incur debt, or make an expenditure in excess of the amount of cash on hand. Upon approval for funding by the Secretary of State, a candidate may incur debt, or make expenditures, not to exceed the sum of the cash on hand and the applicable spending limit.
- E.** Loans. A participating candidate may accept an individual contribution as a loan or may loan his or her campaign committee personal monies during the exploratory and qualifying periods only. The total sum of the contribution received or personal funds and loans shall not exceed the expenditure limits set forth in A.R.S. § 16-941(A)(1) and (2). If the loan is to be repaid, the loans shall be repaid promptly upon receipt of Clean Elections funds if the participating candidate qualifies for Clean Elections funding. Loans from a financial institution or bank, to a candidate used for the purpose of influencing that candidate's election shall be considered personal monies and shall not exceed the personal monies expenditure limits set forth in A.R.S. § 16-941(A)(2).
- F.** A participating candidate may raise early contributions for election to one office and choose to run for election to another office.
- G.** Contributions to officeholder expense accounts are subject to the restrictions of A.R.S. § 41-1234.01, contributions prohibited during session; exceptions.

**Historical Note**

New Section adopted by exempt rulemaking at 6 A.A.R. 1567, effective June 21, 2000 (Supp. 00-2). Section repealed; new Section made by exempt rulemaking at 8 A.A.R. 588, effective October 17, 2001 (Supp. 02-1). Amended by exempt rulemaking at 9 A.A.R. 3506, effective April 2, 2002 (Supp. 03-3). Amended by exempt rulemaking at 11 A.A.R. 4518, effective May 28, 2005 (Supp. 05-4). Amended by exempt rulemaking at 12 A.A.R. 758, effective February 15, 2006 (Supp. 06-1). Amended by exempt rulemaking at 13 A.A.R. 3597, effective January 1, 2008 (Supp. 07-4). Amended by exempt rulemaking at 15 A.A.R. 1156, effective August 31, 2009 (Supp. 09-2). Amended by exempt rulemaking at 15 A.A.R. 1420, effective April 30, 2010 (Supp. 09-3). Subsection R2-20-104(C)(8) amended by exempt rulemaking at 19 A.A.R. 1685, effective October 6, 2011; Subsection R2-20-104(D)(5) amended by exempt rulemaking at 19 A.A.R. 1685, effective May 23, 2013 (Supp. 13-2). Amended by final exempt rulemaking at 23 A.A.R. 115, effective December 15, 2016 (Supp. 16-4).

**R2-20-105. Certification for Funding**

- A.** After a candidate is certified as a participating candidate, pursuant to A.R.S. § 16-947, in accordance with the procedure set forth in R2-20-104, that candidate may collect qualifying contributions only during the qualifying period.
- B.** A participating candidate must submit to the Secretary of State, a list of names of persons who made qualifying contributions, an application for funding prescribed by the Secretary of State, the minimum number of original reporting slips, and an amount equal to the sum of the qualifying contributions collected pursuant to A.R.S. § 16-950 no later than one week after the end of the qualifying period. Any and all expenses associated with obtaining the qualifying contributions, including credit card processing fees must be paid for from the candi-

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date's early contributions or personal monies. A candidate may develop his or her own three-part reporting slip for qualifying contributions, or one that is photocopied or computer reproduced, if the form substantially complies with the form prescribed by the Commission. The candidate must comply with the Act and ensure that the original qualifying slip is tendered to the Secretary of State, a copy remains with the candidate, and that a copy is given to the contributor.

- C. A candidate may accept electronic \$5 qualifying contributions for the elected office sought by the candidate. The Secretary of State's secured internet portal must be used to collect electronic \$5 qualifying. A \$5 contribution must accompany every \$5 qualifying contribution form and must be submitted via the Secretary of State's portal using a private electronic payment service, specified by the Secretary of State's Office, bank account, credit or debit card. A non-refundable transaction fee may be assessed on electronic \$5 qualifying contribution transactions. The transaction fee is not a contribution to the candidate's campaign and is paid by the contributor. If excess funds are accumulated by the candidate's campaign based on the transaction fee then all excess funds must be given to the Commission and must be entered into the candidate's campaign finance report in a manner that indicates the transaction fees have been accumulated and transferred.
- D. A solicitor who seeks signatures and qualifying contributions on behalf of a participating candidate shall provide his or her residential address, typed or printed name and signature on each reporting slip. The solicitor shall also sign a sworn statement on the contribution slip avowing that the contributor signed the slip, that the contributor contributed the \$5, that based on information and belief, the contributor's name and address are correctly stated and that each contributor is a qualified elector of this state. If a contribution is received unsolicited, the candidate or contributor may sign the qualifying contribution form as the solicitor and is accountable for all of the responsibilities of a solicitor. Nothing in this rule shall prohibit the use of direct mail or the internet to obtain qualifying contributions as long as an original signature is provided on the qualifying contribution form. The candidate may sign the qualifying contribution form as the solicitor and is accountable for all of the responsibilities of a solicitor. For qualifying contributions received in accordance with subsection (C) of this Section, the residential address and signature of the solicitor is not required.
- E. The Secretary of State has the authority to approve or deny a candidate for Clean Elections funding, pursuant to A.R.S. § 16-950(C) based upon the verification of the qualifying contribution forms by the appropriate county recorder. The county recorder shall disqualify any qualifying contribution forms that are:
  - 1. Unsigned by the contributor;
  - 2. Undated; or
  - 3. That the recorder is unable to verify as matching signature of a person who is registered to vote, on the date specified inside the electoral district the candidate is seeking.
- F. The Secretary of State will notify the candidate and the Commission regarding the approval or denial of Clean Elections funds. A candidate who is denied Clean Elections funding after all of the slips are verified is eligible to submit supplemental qualifying contribution forms for one additional opportunity to be approved for funding pursuant to subsection (G) of this rule.
- G. The amount equal to the sum of the qualifying contributions collected and tendered to the Secretary of State pursuant to A.R.S. § 16-950(B) will be deposited into the fund, and the

amount tendered will not be returned to a candidate if a candidate is denied Clean Elections funding.

- H. In accordance with the procedure set forth at A.R.S. § 16-950(C), if the Secretary of State determines that the result of the five percent random sample is less than 110 percent of the slips needed to qualify for funding, then the Secretary of State shall send all of the slips for verification. If the county recorder has verified all of the candidate's signature slips and there is an insufficient number of valid qualifying contribution slips to qualify the candidate for funding, the candidate may make only one supplemental filing of additional qualifying contribution slips and qualifying contributions to the Secretary of State if all of the following apply:
  - 1. The candidate files at least the minimum number of additional slips needed to qualify for funding;
  - 2. The slips are not receipts for duplicate contributions from individuals who have previously contributed to that candidate; and
  - 3. The period for filing qualifying contributions slips has not expired.
- I. The Secretary of State shall forward facsimiles of all of the supplemental qualifying contribution slips to the appropriate county recorders for the county of the contributors' addresses as shown on the contribution slips. The county recorder shall verify all of the supplemental slips within 10 business days after receipt of the facsimiles and shall provide a report to the Secretary of State identifying as disqualified any slips that are unsigned by the contributor or undated or that the recorder is unable to verify as matching the signature of a person who is registered to vote, on the date specified on the slip, inside the electoral district of the office the candidate is seeking. On receipt of the report of the county recorder on all supplemental slips, the Secretary of State shall calculate the candidate's total number of valid qualifying contribution slips and shall approve or deny the candidate for funds.

**Historical Note**

New Section adopted by exempt rulemaking at 6 A.A.R. 1567, effective June 21, 2000 (Supp. 00-2). Section repealed; new Section made by exempt rulemaking at 8 A.A.R. 588, effective October 17, 2001 (Supp. 02-1). Amended by exempt rulemaking at 9 A.A.R. 3506, effective April 30, 2002 (Supp. 03-3). Amended by exempt rulemaking at 13 A.A.R. 2434, effective August 27, 2007 (Supp. 07-2). Amended by exempt rulemaking at 16 A.A.R. 1200, effective February 28, 2008 (Supp. 10-2). Subsection R2-20-105(C) amended by exempt rulemaking at 19 A.A.R. 1688, effective October 6, 2011; Subsection R2-20-105(J) amended by exempt rulemaking at 19 A.A.R. 1688, effective May 23, 2013 (Supp. 13-2). Amended by final exempt rulemaking at 23 A.A.R. 117, effective January 1, 2017 (Supp. 16-4).

**R2-20-106. Distribution of Funds to Certified Candidates**

- A. Before the initial disbursement of funds, the Commission shall review the candidate's funding application and all relevant facts and circumstances and:
  - 1. Verify that the number of signatures on the candidate's nominating petitions equals or exceeds the number required pursuant to A.R.S. § 16-322 as follows:
    - a. If the application is submitted before the March 1 voter registration list is determined, the Commission shall verify that the number of signatures on the candidate's nominating petitions equals or exceeds 115 percent of the number required pursuant to A.R.S. § 16-322 based on the prior election voter registration list as determined by the Secretary of State; or

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- b. If the application is submitted after the current year March 1 voter registration list is determined, the Commission shall verify that the number of signatures on the candidate's nominating petitions is equal to or greater than the number required pursuant to A.R.S. § 16-322.
  2. Determine that the required number of qualifying contributions have been received and paid to the Secretary of State for deposit in the Fund; and
  3. Determine whether the candidate is opposed in the election.
- B.** In making the determinations described in subsection (A)(3), the Commission shall consider all relevant facts and circumstances, and it shall not be bound by election formalities such as the filing of nominating petitions by others in determining whether an applicant is opposed. Among other evidence the Commission may consider is the existence of exploratory committees or filings made to organize campaign committees of opponents and other like indicia.
- C.** The Commission may review and affirm or change its determination that the candidate is or is not opposed until the ballot for the election is established.
- D.** Within seven days after a primary election and before the Secretary of State completes the canvass, the Commission shall disburse funds for general election campaigns to the participating candidates who received the greatest number of votes at each primary election, provided that the candidate with the highest number of votes out of the total number of votes, has at least two percentage points greater than the candidate with the next highest votes based on the unofficial results as of that date. In a legislative race for the Arizona House of Representatives, the Commission shall disburse funds for general election campaigns to participating candidates with the highest or second highest number of votes cast, provided such candidate received votes totaling at least two percentage points, of the total ballots cast, larger than the vote total cast for the candidate with the third highest vote total.
- E.** Promptly after the Secretary of State completes the canvass, the Commission shall disburse funds for general election campaigns to all eligible participating candidates to whom payment has not been made. If a participating candidate has received funds from the Commission pursuant to subsection (D) and the canvass or recount determines that the candidate is not eligible to appear on the general election ballot, the participating candidate shall return all unused funds to the Fund within 10 days after such determination is made. That candidate shall make no expenditures from general election funds from the date of the canvass.
- F.** The Commission may refuse to distribute funds to participating candidates in cases in which the Commission finds evidence of fraud or illegal activity committed by the participating candidate.
- G.** Pursuant to A.R.S. § 16-953, a participating candidate shall return to the Fund:
1. All primary election funds not committed to expenditures (1) during the primary election period; and (2) for goods or services directed to the primary election. A candidate shall not be deemed to have violated A.R.S. § 16-953(A) or this subsection on account of failure to use all materials purchased with primary election funds prior to the primary election, provided such candidate exercises good faith and diligent efforts to comply with the requirement that goods and services purchased with primary election funds be directed to the primary election. Subject to A.R.S. § 16-953(A) and this subsection, a candidate may continue to use goods purchased with primary election funds during the general election period.
  2. All general funds not committed to expenditures (1) during the general election period; and (2) for goods or services directed to the general election.
- H.** All funds returned to the Commission pursuant to subsection (G) of this rule, shall be returned to the Fund by a cashier's check drawn on the candidate's campaign bank account. Any fee associated with the issuance of a cashier's check shall be deemed a direct campaign expenditure and reported on the candidate's campaign finance report.
- I.** If a participating candidate does not account for any outstanding expenditures in the amount of the funds returned to the Commission, the participating candidate must reconcile the outstanding expenditures with personal monies. Once funds have been returned to the Commission, no further reimbursements from the Clean Elections Fund shall be permitted. Participating candidates may not exceed the primary or general election spending limits.
- J.** Commission staff may waive the return of funds if:
1. The Commission staff determines the amount to be returned is de minimus;
  2. The Commission staff determines the cost of recovery exceeds the amount of the return;
  3. The funds to be returned shall not exceed \$25; and
  4. The Commission is notified of any waiver of the return of funds.

**Historical Note**

New Section adopted by exempt rulemaking at 6 A.A.R. 1567, effective June 21, 2000 (Supp. 00-2). Section repealed; new Section made by exempt rulemaking at 8 A.A.R. 588, effective October 17, 2001 (Supp. 02-1). Amended by exempt rulemaking at 13 A.A.R. 2434, effective August 27, 2007 (Supp. 07-2). Amended by final exempt rulemaking at 24 A.A.R. 107, effective December 14, 2017 (Supp. 17-4).

**R2-20-107. Candidate Debates**

- A.** The Commission shall sponsor debates among statewide and legislative office candidates prior to the primary and general elections. Except as set forth in the subsection below, the Commission shall not be required to sponsor a debate if there is no participating candidate in the election for a particular office.
- B.** In the primary election period, the Commission shall sponsor political party primary election debates for every office in which:
1. There are more candidates appearing on the ballot than there are seats available for the political party's nomination for general election candidates, and
  2. At least one of the candidates is a participating candidate.
- C.** The following candidates will not be invited to participate in debates as follows:
1. In the primary election, write-in candidates for the primary election, independent candidates, no party affiliation or unrecognized party candidates.
  2. In the general election, write-in candidates.
- D.** In the event that there is no participating candidate in a primary or general election but there is an election involving candidates who are not unopposed, a candidate may request that the Commission sponsor a debate pursuant to this rule. If the requesting candidate is the sole participant in the debate the format shall be as prescribed in R2-20-107(K).
1. A nonparticipating candidate who requests a debate pursuant to this rule shall complete and return the invitation form sent to the candidate by the Commission by the

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deadline identified on the form. Forms received by the Commission past the deadline may still be considered at the discretion of the Commission. Commission staff shall notify all invited candidates if a debate will be sponsored by the Commission and which candidates will participate.

2. If a candidate requests that the Commission sponsor a debate and fails or refuses to attend the debate, or a candidate agrees to participate in a debate and subsequently fails or refuses to attend the debate sponsored by the Commission, each candidate who fails or refuses to attend the debate shall reimburse the Commission for the cost of debate preparations not to exceed \$10,000 for a non-participating candidate for the legislature and \$25,000 for a non-participating candidate for statewide office. In the event that a candidate requests a general election debate or agrees to participate in a general election debate but does not advance to the general election, the candidate shall not be liable for the reimbursement.
- E. Pursuant to A.R.S. § 16-956(A)(2), all participating candidates certified pursuant to A.R.S. § 16-947 shall attend and participate in the debates sponsored by the Commission. No proxies or representatives are permitted to participate for any candidate and no statements may be read on behalf of an absent candidate.
- F. Unless exempted, if a participating candidate fails to participate in any Commission-sponsored debate, the participating candidate shall be fined \$500.00. For purposes of this Section, each primary or general election shall be considered a separate election.
- G. A participating candidate may request to be exempt from participating in a required debate by doing the following:
  1. Submit a written request to the Commission at least one week prior to the scheduled debate, and
  2. State the reasons and circumstances justifying the request for exemption.
- H. After examining the request to be exempt, the Commission will exempt a candidate from participating in a debate if at least three Commissioners determine that the circumstances are:
  1. Beyond the control of the candidate; or
  2. Of such nature that a reasonable person would find the failure to attend justifiable or excusable.
- I. A participating candidate who fails to participate in a required debate may submit a request for excused absence to the Commission.
  1. The candidate's request for excused absence shall:
    - a. State the reason the candidate failed to participate in the debate, and
    - b. State the reason the candidate failed to request an exemption in advance, and
    - c. Be submitted to the Commission no later than five business days after the date of the debate the candidate failed to attend.
  2. After examining the request for excused absence, the Commission may excuse a candidate from the penalties imposed if at least three Commissioners determine that the circumstances were:
    - a. Beyond the control of the candidate; or
    - b. Of such nature that a reasonable person would find the failure to attend justifiable or excusable.
- J. When a participating candidate is not opposed in the general election, the candidate shall be exempt from participating in a Commission-sponsored debate for the general election.
- K. In the event that a participating candidate is opposed in the primary election or general election but is the only candidate taking part in a primary election period or general election period

debate, as applicable, the debate will be held and will consist of a 30-minute question and answer session for the single participating candidate. If more than one candidate takes part in the debate, regardless of participation status, the debate will be held in accordance with the procedures established by the Commission staff.

**Historical Note**

New Section adopted by exempt rulemaking at 6 A.A.R. 1567, effective June 21, 2000 (Supp. 00-2). Section repealed; new Section made by exempt rulemaking at 8 A.A.R. 588, effective October 17, 2001 (Supp. 02-1). Section repealed by exempt rulemaking at 11 A.A.R. 4518, effective May 28, 2005 (Supp. 05-4). New Section made by exempt rulemaking at 12 A.A.R. 758, effective February 15, 2006 (Supp. 06-1). Amended by exempt rulemaking at 13 A.A.R. 2434, effective August 27, 2007 (Supp. 07-2). Amended by exempt rulemaking at 15 A.A.R. 1156, effective August 31, 2009 (Supp. 09-2). Amended by exempt rulemaking at 19 A.A.R. 1690, effective October 6, 2011 (Supp. 13-2). Amended by exempt rulemaking at 19 A.A.R. 4213, effective November 21, 2013 (Supp. 13-4). Amended by final exempt rulemaking at 21 A.A.R. 1627, effective July 23, 2015 (Supp. 15-3). Amended by final exempt rulemaking at 23 A.A.R. 119, effective December 15, 2016 (Supp. 16-4).

**R2-20-108. Termination of Participating Candidate Status**

- A. A candidate may voluntarily request termination of his or her participating candidate status at any time prior to notification by the Commission that such candidate has qualified for Clean Elections funding. To withdraw from participating candidate status, a candidate shall send a letter to the Commission stating the candidate's intent to withdraw and the reason for the withdrawal. The candidate shall not accept any private monies until the withdrawal is approved by the Commission. The Commission shall act on the withdrawal request within seven days. If the Commission takes no action within the seven-day time period, the withdrawal is automatic.
- B. A candidate's participating candidate status shall automatically terminate if:
  1. The candidate fails to make such submissions to the Secretary of State as prescribed in R2-20-105(B) within seven days after the end of the qualifying period, or
  2. The candidate is denied Clean Elections funding by the Secretary of State and the candidate is ineligible to make a supplemental filing with the Secretary of State in accordance with R2-20-105(G).
- C. A candidate whose participating candidate status has been terminated in accordance with this Section shall be ineligible to receive Clean Elections funding for that election cycle unless he/she reapplies for certification and is in compliance with R2-20-104(A) and (C).
- D. In the event that a candidate who has collected qualifying contributions decides not to seek certification as a participating candidate, the candidate shall return all qualifying contributions received from contributors who have not given written permission to use their qualify contributions as campaign contributions. Written permission may include a check box on the original \$5 form that authorizes a candidate to treat the qualifying contribution as a general campaign contribution if he or she decides not to participate in the Clean Elections system. If a good faith attempt to return the funds to the contributor is unsuccessful, the contributions shall be submitted to the Fund.

**Historical Note**

New Section adopted by exempt rulemaking at 6 A.A.R. 1567, effective June 21, 2000 (Supp. 00-2). Section



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repealed; new Section made by exempt rulemaking at 8 A.A.R. 588, effective October 17, 2001 (Supp. 02-1). Amended by exempt rulemaking at 13 A.A.R. 2434, effective August 27, 2007 (Supp. 07-2). Amended by exempt rulemaking at 17 A.A.R. 1950, effective August 25, 2011 (Supp. 11-3).

***Revised Editor's Note: The Office will not interpret the legality of any actions made by the Commission or the Governor's Regulatory Review Council as to whether the rules in R2-20-109 and R2-20-111 were effective at 23 A.A.R. 1761 or expired at 23 A.A.R. 1757 between the dates of June 7, and December 14, 2017. Those interested in that issue should consult counsel.***

#### **R2-20-109. Independent Expenditure Reporting Requirements**

- A.** In accordance with A.R.S. § 16-958(E), all persons obligated to file any campaign finance report under any provisions of Chapter 6, Article 2 of the Arizona Revised Statutes shall file such reports using the Secretary of State's Internet-based finance-reporting system, except if:
1. Expressly provided otherwise by another Commission rule; or
  2. That system, or the necessary function on the system, is unavailable, in which case the executive director shall implement a suitable process.
- B.** Independent Expenditure Reporting Requirements.
1. Any person making independent expenditures cumulatively exceeding the amount prescribed in A.R.S. § 16-941(D) in an election cycle shall file campaign finance reports in accordance with A.R.S. § 16-958 and Commission rules.
  2. Any person who fails to file a timely campaign finance report pursuant to A.R.S. § 16-941(D), A.R.S. § 16-958, shall be subject to a civil penalty as prescribed in A.R.S. § 16-942(B). Subsection R2-20-109(B)(4) does not apply to reports pursuant to A.R.S. §§ 16-941(D) and -958 or this subsection. Any expenditure advocating against one or more candidates shall be considered an expenditure on behalf of any opposing candidate(s). Penalties shall be assessed as follows:
    - a. For an election involving a candidate for statewide office, the civil penalty shall be \$300 per day.
    - b. For an election involving a legislative candidate, the civil penalty shall be \$100 per day.
    - c. The penalties in (a) and (b) shall be doubled if the amount not reported for a particular election cycle exceeds ten (10%) percent of the applicable adjusted primary election spending limit or adjusted general election spending limit.
    - d. The dollar amounts in items (a) and (b), and the spending limits in item (c) are subject to adjustment of A.R.S. § 16-959.
    - e. Penalties imposed pursuant to this subsection shall not exceed twice the amount of expenditures not reported.
  3. A.R.S. § 16-942(B) applies to any entity including political committees that accepts contributions or makes expenditures on behalf of any candidate regardless of any other contributions taken or expenditures made and fails to timely file a campaign finance report under Chapter 6 of Title 16, Arizona Revised Statutes. Any expenditure advocating against one or more candidates shall be considered an expenditure on behalf of any opposing candidate(s). Penalties shall be assessed as follows:
    - a. For an election involving a candidate for statewide office, the civil penalty shall be \$300 per day.
    - b. For an election involving a legislative candidate, the civil penalty shall be \$100 per day.
    - c. The penalties in (a) and (b) shall be doubled if the amount not reported for a particular election cycle exceeds ten (10%) percent of the applicable adjusted primary election spending limit or adjusted general election spending limit.
    - d. The dollar amounts in items (a) and (b), and the spending limits in item (c) are subject to adjustment of A.R.S. § 16-959.
    - e. Penalties imposed pursuant to this subsection shall not exceed twice the amount of expenditures not reported.
  4. For purposes of A.A.C. R2-20-109(B)(3):
    - a. An entity shall not be found to have the predominant purpose of influencing elections unless, a preponderance of the evidence establishes that during a two-year legislative election cycle, the total reportable contributions made by the entity, in any combination, in a calendar year exceeds \$1,000 and is more than fifty percent (50%) of the entity's total spending during the election cycle.
      - i. For purposes of this provision, a "reportable contribution" or "reportable expenditure" shall be limited to a contribution or expenditure, as defined in title 16 of the Arizona revised statutes, that must be reported to the Arizona secretary of state, the Arizona citizens clean elections commission, or local filing officer in Arizona. A contribution or expenditure that must be reported to the federal election commission or to the election authority of any other state, but not to the Arizona secretary of state, the Arizona citizens clean elections commission or a local filing officer in Arizona, shall not be considered a reportable contribution or reportable expenditure.
      - ii. For purposes of this provision, "total spending" shall not include volunteer time or fundraising and administrative expenses but shall include all other spending by the organization.
      - iii. For purposes of this provision, grants to other organizations shall be treated as follows:
        - (1) A grant made to a political committee or an organization organized under section 527 of the internal revenue code shall be counted in total spending and as a reportable contribution or reportable expenditure, unless expressly designated for use outside Arizona or for federal elections, in which case such spending shall be counted in total spending but not as a reportable contribution or reportable expenditure.
        - (2) If the entity making a grant takes reasonable steps to ensure that the transferee does not use such funds to make a reportable contribution or reportable expenditure, such a grant shall be counted in total spending but not as a reportable contribution or reportable expenditure.
      - iv. If the entity making a grant earmarks the grant for reportable contributions or reportable expenditures, knows the grant will be used to make reportable contributions or reportable expenditures, knows that a recipient will likely use a portion of the grant to make reportable

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- contributions or reportable expenditures, or responds to a solicitation for reportable contributions or reportable expenditures, the grant shall be counted in total spending and the relevant portion of the grant as set forth in subsection (v) of this section shall count as a reportable contribution or reportable expenditure.
- v. Notwithstanding subsections (iii) and (iv) the amount of a grant counted as a reportable contribution or reportable expenditure shall be limited to the lesser of the grant or the following:
- (1) The amount that the recipient organization spends on reportable contributions and reportable expenditures, plus
  - (2) The amount that the recipient organization gives to third parties but not more than the amount that such third parties fund reportable contributions or reportable expenditures.
- b. Notwithstanding section a above, the commission may nonetheless determine that an entity is not a political committee if, taking into account all the facts and circumstances of grants made by an entity, it is not persuaded that the preponderance of the evidence establishes that the entity is a political committee as defined in title 16 of Arizona Revised Statutes.

**Historical Note**

New Section adopted by exempt rulemaking at 6 A.A.R. 1567, effective June 21, 2000 (Supp. 00-2). Section repealed; new Section made by exempt rulemaking at 8 A.A.R. 588, effective October 17, 2001 (Supp. 02-1). Amended by exempt rulemaking at 11 A.A.R. 4518, effective May 28, 2005 (Supp. 05-4). Amended by exempt rulemaking at 13 A.A.R. 3597, effective January 1, 2008 (Supp. 07-4). Amended by exempt rulemaking at 15 A.A.R. 1156, effective August 31, 2009 (Supp. 09-2). Amended by exempt rulemaking at 16 A.A.R. 152, effective January 29, 2010 (Supp. 10-1). Subsections R2-20-109(A), (A)(4), and (B) through (E) amended by exempt rulemaking at 19 A.A.R. 2923, effective October 6, 2011; Subsections R2-20-109(A) and (C)(2) amended by exempt rulemaking at 19 A.A.R. 2923, effective August 29, 2013; Subsection R2-20-109(C)(3) amended by exempt rulemaking at 19 A.A.R. 2923, effective January 1, 2014 (Supp. 13-3). Amended by exempt rulemaking at 19 A.A.R. 3519, effective September 27, 2013 (Supp. 13-4). Amended by exempt rulemaking at 20 A.A.R. 1329, effective May 22, 2014 (Supp. 14-2). Amended by exempt rulemaking at 20 A.A.R. 2804, effective September 11, 2014 (Supp. 14-3). Subsection R2-20-109(D) amended by final exempt rulemaking at 21 A.A.R. 3168 effective October 29, 2015; subsection R2-20-109(F) amended by final exempt rulemaking at 21 A.A.R. 3168 effective October 30, 2015 (Supp. 15-4). Amended by exempt rulemaking at 22 A.A.R. 2892, effective January 1, 2017 (Supp. 16-3). Amended by final exempt rulemaking at 23 A.A.R. 121, effective January 1, 2017 (Supp. 16-4). Section retained at the request of the Commission at 23 A.A.R. 1761 (Supp. 17-2, version 2). The Commission adopted and unanimously voted to reenact and republish this Section that was "currently in effect" for

the purpose of public notice and clarity at 24 A.A.R. 109, effective December 14, 2017 (Supp. 17-4).

**R2-20-110. Participating Candidate Reporting Requirements**

- A. All participating candidates shall file campaign finance reports that include all receipts and disbursements for their current campaign account as follows:
1. Expenditures for consulting, advising, or other such services to a candidate shall include a detailed description of what is included in the service, including an allocation of services to a particular election. When appropriate, the Commission may treat such expenditures as though made during the general election period.
  2. If a participating candidate makes an expenditure on behalf of the campaign using personal funds, the candidate's campaign shall reimburse the candidate within seven calendar days of the expenditure. After the 7 day period has passed, the expenditure shall be deemed an in-kind contribution subject to all applicable limits.
  3. A candidate may authorize an agent to purchase goods or services on behalf of such candidate, provided that:
    - a. Expenditures shall be reported as of the date that the agent promises, agrees, contracts or otherwise incurs an obligation to pay for the goods or services;
    - b. The candidate shall have sufficient funds in the candidate's campaign account to pay for the amount of such expenditure at the time it is made and all other outstanding obligations of the candidate's campaign committee; and
    - c. Within seven calendar days of the date upon which the amount of the expenditure is known, the candidate shall pay such amount from the candidate's campaign account to the agent who purchases the goods or services.
  4. A joint expenditure is made when two or more candidates agree to share the cost of goods or services. Candidates may make a joint expenditure on behalf of one or more other campaigns, but must be authorized in advance by the other candidates involved in the expenditure, and must be reimbursed within seven days. Participating candidates may participate in joint expenditures for the cost of goods and services with one or more candidates, subject to the following:
    - a. Joint expenditures must be allocated fairly among candidates. An allocated share of a joint expenditure paid by one candidate pursuant to such an agreement must be reimbursed within seven days.
    - b. Any violator of part (a) shall be liable for a penalty pursuant to R2-20-222, in addition to penalties prescribed by any other law.
    - c. If a fairly allocated share of any joint expenditure is not reimbursed to a candidate, the unreimbursed amount of the joint expenditure fairly allocated to that candidate shall be deemed a contribution to that candidate by the campaign committee of the candidate obligated to reimburse the share.
    - d. If a fairly allocated share of any joint expenditure is not reimbursed to a participating candidate, the candidate obligated to reimburse the share shall reimburse the fund for the unreimbursed amount of the joint expenditure fairly allocated to the obligated candidate, in addition to any penalty specified by law.
    - e. A candidate's payment for an advertisement, literature, material, campaign event or other activity shall

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be considered a joint expenditure including, but not limited to, the following criteria:

- i. The activity includes express advocacy of the election or defeat of more than 2 candidates;
- ii. The purpose of the material or activity is to promote or facilitate the election of a second candidate;
- iii. The use and prominence of a second candidate or his or her name or likeness in the material or activity;
- iv. The material or activity includes an expression by a second candidate of his or her view on issues brought up during the election campaign;
- v. The timing of the material or activity in relation to the election of a second candidate;
- vi. The distribution of the material or the activity is targeted to a second candidate's electorate; or
- vii. The amount of control a second candidate has over the material or activity.

5. For the purposes of the Act and Commission rules, a candidate or campaign shall be deemed to have made an expenditure as of the date upon which the candidate or campaign promises, agrees, contracts or otherwise incurs an obligation to pay for goods or services.

**B. Timing of reporting expenditures.**

1. Except as set forth in subsection (A)(2) above, a participating candidate shall report a contract, promise or agreement to make an expenditure resulting in an extension of credit as an expenditure, in an amount equal to the full future payment obligation, as of the date the contract, promise or agreement is made.
2. In the alternative to reporting in accordance with subsection (A)(1) above, a participating candidate may report a contract, promise or agreement to make an expenditure resulting in an extension of credit as follows:
  - a. For a month-to-month or other such periodic contract or agreement that is terminable by a candidate at will and without any termination penalty or payment, the candidate may report an expenditure, in an amount equal to each future periodic payment, as of the date upon which the candidate's right to terminate the contract or agreement and avoid such future periodic payment elapses.
  - b. For a contract, promise or agreement to provide goods or services during the general election period that is contingent upon a candidate advancing to the general election period, the candidate may report an expenditure, in an amount equal to the general election period payment obligation, as of the date upon which such contingency is satisfied.
  - c. For a contract, promise or agreement to pay rent, utility charges or salaries payable to individuals employed by a candidate's campaign committee as staff, the candidate may report an expenditure, in an amount equal to each periodic payment, as of the date that is the sooner of (i) the date upon which payment is made; or (ii) the date upon which payment is due.

**C. Reports and Refunds of Excess Monies by Participating Candidates.**

1. In addition to any campaign finance report required by Chapter 6 of Title 16, Arizona Revised Statutes, participating candidates shall file the following campaign finance reports and dispose of excess monies as follows:
  - a. Prior to filing the application for funding pursuant to A.R.S. § 16-950, participating candidates shall file a

campaign finance report with the names of the persons who have made qualifying contributions to the candidate.

- b. At the end of the qualifying period, a participating candidate shall file a campaign finance report consisting of all early contributions received, including personal monies and the expenditures of such monies.
  - i. The campaign finance report shall be filed with the Secretary of State no later than five days after the last day of the qualifying period and shall include all campaign activity through the last day of the qualifying period.
  - ii. If the campaign finance report shows any amount of unspent monies, the participating candidate, within five days after filing the campaign finance report, shall remit all unspent contributions to the Fund, pursuant to A.R.S. § 16-945(B). Any unspent personal monies shall be returned to the candidate or the candidates' family member within five days.
2. Each participating candidate shall file a campaign finance report consisting of all expenditures made in connection with an election, all contributions received in the election cycle in which such election occurs, and all payments made to the Clean Elections Fund. If the campaign finance report shows any amount unspent, the participating candidate, within five days after filing the campaign finance report, shall send a check from the candidate's campaign account to the Commission in the amount of all unspent monies to be deposited in the Fund.
  - a. The campaign finance report for the primary election shall be filed within five days after the primary election day and shall reflect all activity through the primary election day.
  - b. The campaign finance report for the general election shall be filed within five days after the general election day and shall reflect all activity through the general election day.
3. In the event that a participating candidate purchases goods or services from a subcontractor or other vendor through an agent pursuant to subsection (A)(3), the candidate's campaign finance report shall include the same detail as required in A.R.S. § 16-948(C) for each such subcontractor or other vendor. Such detail is also required when petty cash funds are used for such expenditures.

**Historical Note**

New Section adopted by exempt rulemaking at 6 A.A.R. 1567, effective June 21, 2000 (Supp. 00-2). Section repealed; new Section made by exempt rulemaking at 8 A.A.R. 588, effective October 17, 2001 (Supp. 02-1). Amended by exempt rulemaking at 19 A.A.R. 1693, effective May 23, 2013 (Supp. 13-2). Amended by final exempt rulemaking at 21 A.A.R. 1629, effective July 23, 2015 (Supp. 15-3). Section R2-20-110 renumbered to Section R2-20-114; new Section R2-20-110 made by exempt rulemaking at 22 A.A.R. 2897, effective January 1, 2017 (Supp. 16-3). Amended by final exempt rulemaking at 23 A.A.R. 124, effective January 1, 2017 (Supp. 16-4).

**Revised Editor's Note:** *The Office will not interpret the legality of any actions made by the Commission or the Governor's Regulatory Review Council as to whether the rules in R2-20-109 and R2-20-111 were effective at 23 A.A.R. 1761 or expired at 23*

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*A.A.R. 1757 between the dates of June 7, and December 14, 2017. Those interested in that issue should consult counsel.*

**R2-20-111. Non-participating Candidate Reporting Requirements and Contribution Limits**

- A.** Any person may file a complaint with the Commission alleging that any non-participating candidate or that candidate's campaign committee has failed to comply with or violated A.R.S. § 16-941(B). Complaints shall be processed as prescribed in Article 2 of these rules. In addition to those penalties outlined in R2-20-222(B), a non-participating candidate or candidate's campaign committee violating A.R.S. § 16-941(B) shall be subject to penalties prescribed in A.R.S. § 16-941(B) and A.R.S. § 16-942(B) and (C) as applicable:
- B.** Penalties under A.R.S. § 16-942(B):
1. For an election involving a candidate for statewide office, the civil penalty shall be \$300 per day.
  2. For an election involving a legislative candidate, the civil penalty shall be \$100 per day.
  3. The penalties in (B)(1) and (B)(2) shall be doubled if the amount not reported for a particular election cycle exceeds ten percent (10%) of the applicable one of the adjusted primary election spending limit or adjusted general election spending limit.
  4. The dollar amounts in items (B)(1) and (B)(2), and the spending limits in item (B)(3) are subject to adjustment of A.R.S. § 16-959.
- C.** Penalties under A.R.S. § 16-942(C): Where a campaign finance report filed by a non-participating candidate or that candidate's campaign committee indicates a violation of A.R.S. § 16-941(B) that involves an amount in excess of ten percent (10%) of the sum of the adjusted primary election spending limit and the adjusted general election spending limits specified by A.R.S. § 16-961(G) and (H) as adjusted pursuant to A.R.S. § 16-959, that violation shall result in disqualification of a candidate or forfeiture of office.
- D.** Penalties under A.R.S. § 16-941(B): Regardless of whether or not there is a violation of a reporting requirement, a person who violates A.R.S. § 16-941(B) is subject to a civil penalty of three times the amount of money that has been received, expended, or promised in violation of A.R.S. § 16-941(B) or three times the value in money for an equivalent of money or other things of value that have been received, expended, or promised in violation of A.R.S. § 16-941(B).
- E.** The twenty percent reduction in A.R.S. § 16-941(B) applies to all campaign contributions limits on contributions that are permitted to be accepted by nonparticipating candidates.
- F.** Contribution limits as adjusted by A.R.S. § 16-931 shall be the base level contribution limits subject to reduction pursuant to A.R.S. § 16-941(B).

**Historical Note**

New Section adopted by exempt rulemaking at 6 A.A.R. 1567, effective June 21, 2000 (Supp. 00-2). Section repealed; new Section made by exempt rulemaking at 8 A.A.R. 588, effective October 17, 2001 (Supp. 02-1). Amended by exempt rulemaking at 11 A.A.R. 4518, effective May 28, 2005 (Supp. 05-4). Amended by exempt rulemaking at 13 A.A.R. 2434, effective August 27, 2007 (Supp. 07-2). Amended by exempt rulemaking at 13 A.A.R. 3597, effective January 1, 2008 (Supp. 07-4). Amended by exempt rulemaking at 15 A.A.R. 1156, effective August 31, 2009 (Supp. 09-2). Amended by final exempt rulemaking at 21 A.A.R. 1631, effective July 23, 2015 (Supp. 15-3). Section R2-20-111 renumbered to R2-20-115 at 22 A.A.R. 2904; new Section R2-20-111 made by exempt rulemaking at 22 A.A.R. 2899

effective January 1, 2017 (Supp. 16-3). Amended by final exempt rulemaking at 23 A.A.R. 126, effective January 1, 2017 (Supp. 16-4). Section retained at the request of the Commission at 23 A.A.R. 1761 (Supp. 17-2, version 2). The Commission unanimously adopted and voted to reenact and republish this Section that was "currently in effect" for the purpose of public notice and clarity, with amendments at 24 A.A.R. 111, effective December 14, 2017 (Supp. 17-4).

**R2-20-112. Political Party Exceptions**

The provisions of A.R.S. § 16-911(B)(4) shall apply to a candidate, whether participating or nonparticipating, who becomes a nominee as defined in A.R.S. § 16-901(38).

**Historical Note**

New Section adopted by exempt rulemaking at 6 A.A.R. 1567, effective June 21, 2000 (Supp. 00-2). Section repealed; new Section made by exempt rulemaking at 8 A.A.R. 588, effective October 17, 2001 (Supp. 02-1). Section repealed by exempt rulemaking at 11 A.A.R. 4518, effective May 28, 2005 (Supp. 05-4). New Section made by exempt rulemaking at 13 A.A.R. 3597, effective January 1, 2008 (Supp. 07-4). Amended by exempt rulemaking at 15 A.A.R. 1423, effective October 22, 2009 (Supp. 09-3). Amended by final exempt rulemaking at 23 A.A.R. 128, effective January 1, 2017 (Supp. 16-4).

**R2-20-113. Candidate Statement Pamphlet**

- A.** The Commission shall publish a candidate statement pamphlet in both the primary and general elections as required by A.R.S. § 16-956(A)(1). Commission staff shall send invitations for submission of a 200 word statement to every statewide and legislative candidate who has qualified for the ballot. Statements submitted for the primary candidate statement pamphlet shall be used for the general candidate statement pamphlet unless otherwise stated by the candidate.
- B.** The following candidates will not be invited to submit a statement for the candidate statement pamphlet:
1. In the primary election: write-in candidates for the primary election, independent candidates, no party affiliation or unrecognized party candidates.
  2. In the general election: write in candidates.

**Historical Note**

New Section adopted by exempt rulemaking at 6 A.A.R. 1567, effective June 21, 2000 (Supp. 00-2). Section repealed by exempt rulemaking at 8 A.A.R. 588, effective October 17, 2001 (Supp. 02-1). New Section made by exempt rulemaking at 11 A.A.R. 4518, effective May 28, 2005 (Supp. 05-4). Amended by exempt rulemaking at 13 A.A.R. 2434, effective August 27, 2007 (Supp. 07-2). Amended by exempt rulemaking at 13 A.A.R. 3597, effective January 1, 2008 (Supp. 07-4). Amended by exempt rulemaking at 15 A.A.R. 1156, effective August 31, 2009 (Supp. 09-2). Amended by exempt rulemaking at 15 A.A.R. 1423, effective October 22, 2009 (Supp. 09-3). Amended by exempt rulemaking at 15 A.A.R. 1567, effective September 2, 2009 (Supp. 09-3). Amended by exempt rulemaking at 16 A.A.R. 1200, effective January 8, 2010 (Supp. 10-2). Repealed by exempt rulemaking at 19 A.A.R. 1694, effective October 6, 2011 (Supp. 13-2). New Section made by final exempt rulemaking at 21 A.A.R. 1633, effective July 23, 2015 (Supp. 15-3). Amended by final rulemaking at 25 A.A.R. 2118, effective July 29, 2019 (Supp. 19-3). Amended by final rulemaking at 26 A.A.R. 335, effective February 4, 2020;

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amendments made to subsection (A) were originally codified in Supp. 19-3 at 25 A.A.R. 2118 (Supp. 20-1).

**R2-20-114. Candidate Campaign Bank Account**

- A. Each participating candidate shall designate a single campaign bank account for conducting campaign financial activity. During an election cycle, each participating candidate shall conduct all campaign financial activities through a single, current election campaign bank account and any petty cash accounts as are permitted by law.
- B. A participating candidate may maintain a campaign bank account other than the current election campaign bank account described in subsection (A) if the other campaign bank account is for a campaign in a prior election cycle in which the candidate was not a participating candidate.
- C. During the exploratory period, a candidate may receive debt-retirement contributions for a campaign during a prior election cycle if the funds are deposited in the bank account for that prior campaign. A candidate shall not deposit debt-retirement contributions into the current election campaign bank account.

**Historical Note**

New Section R2-20-114 renumbered from R2-20-110 by exempt rulemaking at 22 A.A.R. 2897 and 22 A.A.R. 2902, effective January 1, 2017 (Supp. 16-3).

**R2-20-115. Books and Records Requirements**

- A. All candidates shall maintain, at a single location within the state, the books and records of financial transactions, and other information required by A.R.S. § 16-904.
- B. All candidates shall ensure that the books and records of accounts and transactions of the candidate are recorded and preserved as follows:
  1. The treasurer of a candidate's campaign committee is the custodian of the candidate's books and records of accounts and transactions, and shall keep a record of all of the following:
    - a. All contributions or other monies received by or on behalf of the candidate.
    - b. The identification of any individual or political committee that makes any contribution together with the date and amount of each contribution and the date of deposit into the candidate's campaign bank account.
    - c. Cumulative totals contributed by each individual or political committee.
    - d. The name and address of every person to whom any expenditure is made, and the date, amount and purpose or reason for the expenditure.
    - e. All periodic bank statements or other statements for the candidate's campaign bank account.
    - f. In the event that the campaign committee uses a petty cash account the candidate's campaign finance report shall include the same detail for each petty cash expenditure as required in A.R.S. § 16-948(C) for each vendor.
  2. No expenditure may be made for or on behalf of a candidate without the authorization of the treasurer or his or her designated agent.
  3. Unless specified by the contributor or contributors to the contrary, the treasurer shall record a contribution made by check, money order or other written instrument as a contribution by the person whose signature or name appears on the bottom of the instrument or who endorses the instrument before delivery to the candidate. If a contribution is made by more than one person in a single written instrument, the treasurer shall record the amount to be attributed to each contributor as specified.

4. All contributions other than in-kind contributions and qualifying contributions must be made by a check drawn on the account of the actual contributor or by a money order or a cashier's check containing the name of the actual contributor or must be evidenced by a written receipt with a copy of the receipt given to the contributor and a copy maintained in the records of the candidate.
  5. The treasurer shall preserve all records set forth in subsection (B) and copies of all campaign finance reports required to be filed for three years after the filing of the campaign finance report covering the receipts and disbursements evidenced by the records.
  6. If requested by the attorney general, the county, city or town attorney or the filing officer, the treasurer shall provide any of the records required to be kept pursuant to this Section.
- C. Any request to inspect a candidate's records under A.R.S. § 16-958(F) shall be sent to the candidate, with a copy to the Commission, 10 or more days before the proposed date of the inspection. If the request is made within two weeks before the primary or general election, the request shall be delivered at least two days before the proposed date of inspection. Every request shall state with reasonable particularity the records sought.
1. The inspection shall occur at a location agreed upon by the candidate and the person making the request. If no agreement can be reached, the inspection shall occur at the Commission office. The inspection shall occur during the Commission's regular business hours and shall be limited to a two-hour time period.
  2. The requesting party may obtain copies of records for a reasonable fee. The Commission shall not be responsible for making copies. The person in possession of the records shall produce copies within a reasonable time of the receipt of the copying request and fees.
  3. The Commission will not permit public inspection of records if it determines that the inspection is for harassment purposes.
  4. If a person who requests to inspect a candidate's records under A.R.S. § 16-958(F) is denied such a request, the requesting party may notify the Commission. The Commission may enforce the public inspection request by issuing a subpoena pursuant to A.R.S. § 16-956(B) for the production of any books, papers, records, or other items sought in the public inspection request. The subpoena shall order the candidate to produce:
    - a. All papers, records, or other items sought in the public inspection request;
    - b. No later than two business days after the date of the subpoena; and
    - c. To the Commission's office during regular business hours.
  5. Any person who believes that a candidate or a candidate's campaign committee has not complied with this Section may appeal to Superior Court.

**Historical Note**

New Section R2-20-115 renumbered from R2-20-111 by exempt rulemaking at 22 A.A.R. 2899 and 22 A.A.R. 2904, effective January 1, 2017 (Supp. 16-3).

**ARTICLE 2. COMPLIANCE AND ENFORCEMENT PROCEDURES****R2-20-201. Scope**

These rules provide procedures for processing possible violations of the Citizens Clean Elections Act.

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**Historical Note**

New Section made by exempt rulemaking at 8 A.A.R. 588, effective November 27, 2001 (Supp. 02-1).

**R2-20-202. Initiation of Compliance Matters**

Compliance matters may be initiated by a complaint or on the basis of information ascertained by the Commission in the normal course of carrying out its statutory responsibilities.

**Historical Note**

New Section made by exempt rulemaking at 8 A.A.R. 588, effective November 27, 2001 (Supp. 02-1).

**R2-20-203. Complaints**

- A. Any person who believes that a violation of any statute or rule over which the Commission has jurisdiction has occurred or is about to occur may file a complaint in writing to the Executive Director.
- B. A complaint shall conform to the following:
  1. Provide the full name and address of the complainant; and
  2. Contents of the complaint shall be sworn to and signed in the presence of a notary public and shall be notarized.
- C. All statements made in a complaint are subject to the statutes governing perjury. The complaint shall differentiate between statements based upon personal knowledge and statements based upon information and belief.
- D. The complaint shall conform to the following provisions:
  1. Clearly identify as a respondent each person or entity who is alleged to have committed a violation;
  2. Statements which are not based upon personal knowledge shall be accompanied by an identification of the source of information which gives rise to the complainant's belief in the truth of such statements;
  3. Contain a clear and concise recitation of the facts which describe a violation of a statute or rule over which the Commission has jurisdiction; and
  4. Be accompanied by any documentation supporting the facts alleged if such documentation is known of, or available to, the complainant.

**Historical Note**

New Section made by exempt rulemaking at 8 A.A.R. 588, effective November 27, 2001 (Supp. 02-1).  
Amended by exempt rulemaking at 9 A.A.R. 3511, effective May 21, 2002 (Supp. 03-3). Amended by exempt rulemaking at 11 A.A.R. 4518, effective May 28, 2005 (Supp. 05-4).

**R2-20-204. Initial Complaint Processing; Notification**

- A. Upon receipt of a complaint, the Administrative Counsel shall review the complaint for substantial compliance with the technical requirements of R2-20-203, and, if it complies with those requirements, shall within five days after receipt notify each respondent that the complaint has been filed, advise each respondent of Commission compliance procedures, and provide each respondent a copy of the complaint.
- B. If a complaint does not comply with the requirements of R2-20-203, the Administrative Counsel shall so notify the complainant and any person or entity identified therein as respondent, within the five-day period specified in subsection (A), that no action should be taken on the basis of that complaint. A copy of the complaint shall be provided with the notification to each respondent.

**Historical Note**

New Section made by exempt rulemaking at 8 A.A.R. 588, effective November 27, 2001 (Supp. 02-1).

Amended by final exempt rulemaking at 21 A.A.R. 1634, effective July 23, 2015 (Supp. 15-3).

**R2-20-205. Opportunity for No Action on Complaint-generated Matters**

- A. A respondent shall be afforded an opportunity to demonstrate that no action should be taken on the basis of a complaint by submitting, within 5 days from receipt of a written copy of the complaint, a letter or memorandum setting forth reasons why the Commission should take no action.
- B. The Commission shall not take any action, or make any finding, against a respondent other than action dismissing the complaint, unless it has considered such response or unless no such response has been served upon the Commission within the 5 day period specified in subsection A.
- C. The respondent's response shall be sworn to and signed in the presence of a notary public and shall be notarized. The respondent's failure to respond in accordance with subsection A within 5 days of receiving the written copy of the complaint may be viewed as an admission to the allegations made in the complaint for purposes of the reason to believe finding pursuant to A.A.C. R2-20-206.

**Historical Note**

New Section made by exempt rulemaking at 8 A.A.R. 588, effective November 27, 2001 (Supp. 02-1).  
Amended by exempt rulemaking at 11 A.A.R. 4518, effective May 28, 2005 (Supp. 05-4). Amended by final exempt rulemaking at 21 A.A.R. 1636, effective July 23, 2015 (Supp. 15-3).

**R2-20-206. Executive Director's Recommendation on Complaint-generated Matters**

- A. Following either the expiration of the 5 day period specified by A.A.C. R2-20-205 or the receipt of a response as specified by A.A.C. R2-20-205(A), whichever occurs first, the Executive Director:
  1. May recommend to the Commission whether it should find reason to believe that a respondent has committed or is about to commit a violation of a statute or rule over which the Commission has jurisdiction;
  2. May recommend that the Commission find that there is no reason to believe that a violation of a statute or rule over which the Commission has jurisdiction has been committed or is about to be committed, or that the Commission otherwise dismiss a complaint without regard to the provisions of A.A.C. R2-20-205(A); or
  3. May close the complaint generated matter without a reason to believe recommendation from the Executive Director based upon Respondent complying with the statute or rule on which the complaint is founded and in such case shall notify the Commission.
- B. Neither the complainant nor the respondent has the right to appeal the Executive Director's recommendation made pursuant to subsection (A) because the recommendation is not an appealable agency action.
- C. If the complaint relates to a violation of A.R.S. § 16-941(B) by a non-participating candidate or that candidate's campaign committee, the Executive Director shall not proceed pursuant to R2-20-206(A) or R2-20-207(A), without first receiving Commission approval to initiate an inquiry.
- D. The respondent shall not have the right to appeal the Commission's decision to authorize an inquiry pursuant to subsection (C) because the Commission's decision whether or not to authorize an inquiry is not an appealable agency action.

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**Historical Note**

New Section made by exempt rulemaking at 8 A.A.R. 588, effective November 27, 2001 (Supp. 02-1). Amended by exempt rulemaking at 11 A.A.R. 4518, effective May 28, 2005 (Supp. 05-4). Amended by exempt rulemaking at 12 A.A.R. 758, effective February 15, 2006 (Supp. 06-1). Amended by exempt rulemaking at 20 A.A.R. 1332, effective May 22, 2014 (Supp. 14-2). Amended by final exempt rulemaking at 21 A.A.R. 1638, effective July 23, 2015 (Supp. 15-3).

**R2-20-207. Internally Generated Matters; Referrals**

- A. On the basis of information ascertained by the Commission in the normal course of carrying out its statutory responsibilities, or on the basis of a referral from an agency of the state, the Executive Director may recommend in writing that the Commission find reason to believe that a person or entity has committed or is about to commit a violation of a statute or rule over which the Commission has jurisdiction.
- B. If the Commission finds reason to believe that a violation of a statute or rule over which the Commission has jurisdiction has occurred or is about to occur, the Executive Director shall notify the respondent of the Commission's decision and shall include a copy of a staff report setting forth the legal basis and the alleged facts which support the Commission's action.

**Historical Note**

New Section made by exempt rulemaking at 8 A.A.R. 588, effective November 27, 2001 (Supp. 02-1). Amended by exempt rulemaking at 13 A.A.R. 3524, effective January 1, 2008 (Supp. 07-3).

**R2-20-208. Complaint Processing; Notification**

- A. If the Commission, either after reviewing a complaint-generated recommendation as described in R2-20-206 and any response of a respondent submitted pursuant to R2-20-205, or after reviewing an internally-generated recommendation as described in R2-20-207, determines by an affirmative vote of at least three of its members that it has reason to believe that a respondent has violated a statute or rule over which the Commission has jurisdiction, the Commission shall notify such respondent of the Commission's finding, setting forth the sections of the statute or rule alleged to have been violated and the alleged factual basis supporting the finding. In accordance with A.R.S. § 16-957(A), the Commission shall serve on the respondent an order requiring compliance within 14 days. During that period, the respondent may provide any explanation to the Commission, comply with the order, or enter into a public administrative settlement with the Commission.
- B. If the Commission finds no reason to believe that a violation of a statute or rule over which the Commission has jurisdiction has occurred, or otherwise terminates its proceedings, the Executive Director shall so notify both the complainant and respondent.
- C. The complainant may bring an action in Superior Court in accordance with A.R.S. § 16-957(C) if the Commission finds there is no reason to believe a violation of a statute or rule over which the Commission has jurisdiction has occurred or otherwise terminates its proceedings.

**Historical Note**

New Section made by exempt rulemaking at 8 A.A.R. 588, effective November 27, 2001 (Supp. 02-1). Amended by exempt rulemaking at 11 A.A.R. 4518, effective May 28, 2005 (Supp. 05-4). Amended by

exempt rulemaking at 12 A.A.R. 758, effective February 15, 2006 (Supp. 06-1).

**R2-20-209. Investigation**

- A. The Executive Director or any other person designated by the Executive Director shall conduct an investigation in any case in which the Commission finds reason to believe that a violation of a statute or rule over which the Commission has jurisdiction has occurred or is about to occur.
- B. The investigation may include, but is not limited to, field investigations, audits, and other methods of information gathering.

**Historical Note**

New Section made by exempt rulemaking at 8 A.A.R. 588, effective November 27, 2001 (Supp. 02-1). Section amended by final rulemaking at 26 A.A.R. 111, with a immediate effective of December 12, 2019 (Supp. 19-4). Amended by final rulemaking at 26 A.A.R. 542, effective March 9, 2020; the amendments to subsections (A) and (B) were originally codified in Supp. 19-4 at 26 A.A.R. 1111 (Supp. 20-1).

**R2-20-210. Written Questions Under Order**

The Commission may issue an order requiring any person to submit sworn, written answers to written questions and may specify a date by which such answers must be submitted to the Commission.

**Historical Note**

New Section made by exempt rulemaking at 8 A.A.R. 588, effective November 27, 2001 (Supp. 02-1). Amended by exempt rulemaking at 9 A.A.R. 3511, effective May 21, 2002 (Supp. 03-3).

**R2-20-211. Subpoenas and Subpoenas Duces Tecum; Depositions**

- A. The Commission may authorize its Executive Director or Assistant Attorney General to issue subpoenas requiring the attendance and testimony of any person by deposition and to issue subpoenas duces tecum for the production of documentary or other tangible evidence in connection with a deposition or otherwise.
- B. If the Commission orders oral testimony to be taken by deposition or for documents to be produced, the subpoena shall so state and shall advise the deponent or person subpoenaed that all testimony will be under oath. The Commission may authorize its Executive Director to take a deposition and have the power to administer oaths.
- C. The deponent shall have the opportunity to review and sign depositions taken pursuant to this rule.

**Historical Note**

New Section made by exempt rulemaking at 8 A.A.R. 588, effective November 27, 2001 (Supp. 02-1). Amended by exempt rulemaking at 13 A.A.R. 3524, effective January 1, 2008 (Supp. 07-3).

**R2-20-212. Repealed****Historical Note**

New Section made by exempt rulemaking at 8 A.A.R. 588, effective November 27, 2001 (Supp. 02-1). Section repealed by exempt rulemaking at 11 A.A.R. 4518, effective May 28, 2005 (Supp. 05-4).

**R2-20-213. Motions to Quash or Modify a Subpoena**

- A. Any person to whom a subpoena is directed may, prior to the time specified therein for compliance, but in no event more than five days after the date of receipt of such subpoena, apply to the Commission to quash or modify such subpoena, accom-

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panying such application with a brief statement of the reasons therefore.

- B. The Commission may deny the application, quash the subpoena or modify the subpoena.
- C. The person subpoenaed and the Executive Director may agree to change the date, time, or place of a deposition or for the production of documents without affecting the force and effect of the subpoena, but such agreements shall be confirmed in writing.

**Historical Note**

New Section made by exempt rulemaking at 8 A.A.R. 588, effective November 27, 2001 (Supp. 02-1).  
Amended by exempt rulemaking at 13 A.A.R. 3524, effective January 1, 2008 (Supp. 07-3).

**R2-20-214. The Probable Cause to Believe Recommendation; Briefing Procedures**

- A. Upon completion of the investigation conducted pursuant to R2-20-209, the Executive Director shall prepare a brief setting forth his or her position on the factual and legal issues of the case and containing a recommendation on whether the Commission should find probable cause to believe that a violation of a statute or rule over which the Commission has jurisdiction has occurred or is about to occur.
- B. The Executive Director shall notify each respondent of the recommendation and enclose a copy of his or her brief.
- C. Within five days from receipt of the Executive Director's brief, the respondent may file a brief with the Commission setting forth the respondent's position on the factual and legal issues of the case.
- D. After reviewing the respondent's brief, the Executive Director shall promptly advise the Commission in writing whether he or she intends to proceed with the recommendation or to withdraw the recommendation from Commission consideration.

**Historical Note**

New Section made by exempt rulemaking at 8 A.A.R. 588, effective November 27, 2001 (Supp. 02-1).  
Amended by exempt rulemaking at 11 A.A.R. 4518, effective May 28, 2005 (Supp. 05-4). Amended by exempt rulemaking at 12 A.A.R. 758, effective February 15, 2006 (Supp. 06-1).

**R2-20-215. Probable Cause to Believe Finding**

- A. If the Commission, after having found reason to believe and after following the procedures set forth in R2-20-214, determines by an affirmative vote of at least three of its members that there is probable cause to believe that a respondent has violated a statute or rule over which the Commission has jurisdiction, the Commission shall authorize the Executive Director to so notify the respondent by an order, that states the nature of the violation, pursuant to A.R.S. § 16-957.
- B. If the Commission finds no probable cause to believe that a violation of a statute or rule over which the Commission has jurisdiction has occurred or otherwise orders a termination of Commission proceedings, it shall authorize the Executive Director to notify both respondent and complainant by letter that the proceeding has ended. The Executive Director's letter also will inform the parties that the Commission is not precluded from taking action on this matter in the future if evidence is discovered which may alter the decision of the Commission.

**Historical Note**

New Section made by exempt rulemaking at 8 A.A.R. 588, effective November 27, 2001 (Supp. 02-1).  
Amended by exempt rulemaking at 9 A.A.R. 3511, effective May 21, 2002 (Supp. 03-3). Amended by exempt

rulemaking at 13 A.A.R. 3524, effective January 1, 2008 (Supp. 07-3).

**R2-20-216. Conciliation**

- A. Upon a Commission finding of probable cause to believe that the respondent has violated a statute or rule over which the Commission has jurisdiction, the Executive Director shall attempt to settle the matter as authorized by A.R.S. § 16-957(A) by informal methods of administrative settlement or conciliation, and shall attempt to reach a tentative conciliation agreement with the respondent.
- B. A conciliation agreement pursuant to subsection (A) of this Section is not binding upon either party unless and until it is signed by the respondent and by the Executive Director upon approval by the affirmative vote of at least three members of the Commission.
- C. If a conciliation agreement is reached between the Commission and the respondent, the Executive Director shall send a copy of the signed agreement to both complainant and respondent.

**Historical Note**

New Section made by exempt rulemaking at 8 A.A.R. 588, effective November 27, 2001 (Supp. 02-1).  
Amended by exempt rulemaking at 9 A.A.R. 3511, effective May 21, 2002 (Supp. 03-3).

**R2-20-217. Enforcement Proceedings**

- A. Upon a finding of probable cause that the alleged violator remains out of compliance, the Executive Director may recommend to the Commission that the Commission authorize the issuance of an order and assessment of civil penalties pursuant to A.R.S. § 16-957(B).
- B. The Commission may, by an affirmative vote of at least three of its members, authorize the Executive Director to issue an order and assess civil penalties pursuant to A.R.S. § 16-957(B).
- C. Subsections (A) and (B) of this rule shall not preclude the Commission, upon request of a respondent, from entering into a conciliation agreement pursuant to R2-20-216 even after the Commission authorizes the Executive Director to issue an order and assess civil penalties pursuant to subsection (B). Any conciliation agreement reached under this subsection is subject to the provisions of R2-20-216(B) and shall have the same force and effect as a conciliation agreement reached under R2-20-216(D).

**Historical Note**

New Section made by exempt rulemaking at 8 A.A.R. 588, effective November 27, 2001 (Supp. 02-1).  
Amended by exempt rulemaking at 9 A.A.R. 3511, effective May 21, 2002 (Supp. 03-3). Amended by exempt rulemaking at 11 A.A.R. 4518, effective May 28, 2005 (Supp. 05-4). Amended by exempt rulemaking at 12 A.A.R. 758, effective February 15, 2006 (Supp. 06-1).

**R2-20-218. Repealed****Historical Note**

New Section made by exempt rulemaking at 8 A.A.R. 588, effective November 27, 2001 (Supp. 02-1). Section repealed by exempt rulemaking at 11 A.A.R. 4518, effective May 28, 2005 (Supp. 05-4).

**R2-20-219. Repealed****Historical Note**

New Section made by exempt rulemaking at 8 A.A.R. 588, effective November 27, 2001 (Supp. 02-1). Section



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repealed by exempt rulemaking at 9 A.A.R. 3511, effective May 21, 2002 (Supp. 03-3).

**R2-20-220. Ex Parte Communications**

- A. In order to avoid the possibility of prejudice, real or apparent, to the public interest in enforcement actions pending before the Commission pursuant to its compliance procedures, except to the extent required for the disposition of ex parte matters as required by law (for example, during the normal course of an investigation or a conciliation effort), no interested person outside the agency shall make or cause to be made to any Commissioner or any member of any Commission staff any ex parte communication relative to the factual or legal merits of any enforcement action, nor shall any Commissioner or member of the Commission's staff make or entertain any such ex parte communications.
- B. This rule shall apply from the time a complaint is filed with the Commission or from the time that the Commission determines on the basis of information ascertained in the normal course of its statutory responsibilities that it has reason to believe that a violation of a statute or rule over which the Commission has jurisdiction has occurred or may occur, and remains in force until the Commission has finally concluded all action with respect to the matter in question.
- C. Nothing in this Section shall be construed to prohibit contact between a respondent or respondent's attorney and any attorney or the Administrative Counsel or the Assistant Attorney General in the course of representing the Commission or the respondent with respect to an enforcement proceeding or civil action. No statement made by a Commission attorney or staff member shall bind or estop the Commission.

**Historical Note**

New Section made by exempt rulemaking at 8 A.A.R. 588, effective November 27, 2001 (Supp. 02-1).

**R2-20-221. Representation by Counsel; Notification**

- A. If a respondent wishes to be represented by counsel with regard to any matter pending before the Commission, respondent shall so advise the Commission by sending a letter of representation signed by the respondent, which letter shall state the following:
  1. The name, address, and telephone number of the counsel; and
  2. A statement authorizing such counsel to receive any and all notifications and other communications from the Commission on behalf of respondent.
- B. Upon receipt of a letter of representation, the Commission shall have no contact with respondent except through the designated counsel unless authorized in writing by respondent. The Commission will send a copy of this letter to the respondent's attorney.

**Historical Note**

New Section made by exempt rulemaking at 8 A.A.R. 588, effective November 27, 2001 (Supp. 02-1).

**R2-20-222. Civil Penalties**

- A. If the Commission has reason to believe by a preponderance of the evidence that a participating candidate is not in compliance with the Act or Commission rules, then in addition to other penalties under law, the Commission may decertify a candidate, deny or suspend funding, order repayment of funds, or impose a penalty not to exceed \$1,000 for a participating candidate for the legislature and 5,000 for a participating candidate for statewide office.
- B. If the Commission has reason to believe by a preponderance of the evidence that a person other than a participating candidate

is not in compliance with the Act or Commission rules, then in addition to other penalties under law, the Commission may impose a penalty not to exceed \$1,000.

**Historical Note**

New Section made by exempt rulemaking at 8 A.A.R.

588, effective November 27, 2001 (Supp. 02-1).

Amended by exempt rulemaking at 13 A.A.R. 3524, effective January 1, 2008 (Supp. 07-3). Amended by exempt rulemaking at 19 A.A.R. 1697, effective May 23, 2013 (Supp. 13-2). Amended by exempt rulemaking at 19 A.A.R. 3524, effective September 27, 2013 (Supp. 13-4).

**R2-20-223. Notice of Appealable Agency Action**

If the Commission makes a probable cause finding pursuant to R2-20-215 or decides to initiate an enforcement proceeding pursuant to R2-20-217, the Assistant Attorney General (AAG) shall draft and serve notice of an appealable agency action pursuant to A.R.S. § 41-1092.03 and § 41-1092.04 on the respondent. The notice shall identify the following:

1. The statute or rule violated and specific facts constituting the violation;
2. A description of the respondent's right to request a hearing and to request an informal settlement conference; and
3. A description of what the respondent may do if the respondent wishes to remedy the situation without appealing the Commission's decision.

**Historical Note**

New Section made by exempt rulemaking at 8 A.A.R.

588, effective November 27, 2001 (Supp. 02-1).

Amended by exempt rulemaking at 11 A.A.R. 4518, effective May 28, 2005 (Supp. 05-4). Amended by final exempt rulemaking at 21 A.A.R. 2921, effective July 1, 2011; filed in the Office October 27, 2015 (Supp. 15-4).

**R2-20-224. Request for an Administrative Hearing**

- A. The respondent must file a request for a hearing with the Commission within 30 days of receipt of the notice prescribed in R2-20-223.
- B. If the respondent requests a hearing, the AAG shall notify the Office of Administrative Hearings (OAH) of the appeal and shall coordinate a hearing date with the Commission's AAG and Commission staff that may be called as witnesses and OAH. The hearing must be held within 60 days after the notice of appeal is filed with the Commission.
- C. The AAG shall prepare and serve a notice of hearing on all parties to the appeal at least 30 days before the hearing date, unless and expedited hearing is requested and granted. The notice of hearing shall be drafted in accordance with A.R.S. § 41-1092.05(D).

**Historical Note**

New Section made by exempt rulemaking at 8 A.A.R.

588, effective November 27, 2001 (Supp. 02-1).

**R2-20-225. Informal Settlement Conference**

- A. If the respondent requests an informal settlement conference, the informal settlement conference shall be held within 15 days after the Commission receives the request. A request for an informal settlement conference shall be in writing and must be filed with the Commission no later than 20 days before the hearing date. A person with the authority to act on behalf of the Commission must represent the Commission at the conference. The AAG shall attend the settlement conference, but shall not be the individual authorized to act on behalf of the Commission.
- B. The Commission representative shall notify the appellant in writing that the statements, either written or oral, made by the

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appellant at the conference, including a written document, created or expressed solely for the purpose of settlement negotiations, are inadmissible in any subsequent administrative hearing. The parties participating in the settlement conference waive their right to object to the participation of the agency representative in the final administrative decision.

**Historical Note**

New Section made by exempt rulemaking at 8 A.A.R. 588, effective November 27, 2001 (Supp. 02-1).

**R2-20-226. Administrative Hearing**

- A. If the matter continues to a hearing, the hearing shall be held in accordance with A.R.S. § 41-1092.07. The Administrative Law Judge (ALJ) must issue a written recommended decision within 20 days after the hearing is concluded.
- B. If the enforcement action occurs within six months of the primary or general election, the Commission will request an expedited review of the matter

**Historical Note**

New Section made by exempt rulemaking at 8 A.A.R. 588, effective November 27, 2001 (Supp. 02-1).

**R2-20-227. Review of Administrative Decision by Commission**

- A. Within 30 days after the date OAH sends a copy of the ALJ's decision to the Commission, the Commission may review the ALJ's decision and accept, reject or modify the decision.
- B. If the Commission declines to review the ALJ's decision, the Commission shall serve a copy of the decision on all parties. If the Commission modifies or rejects the decision, the Commission shall file with OAH and serve on all parties, a copy of the ALJ's decision with the rejection or modification and a written justification setting forth the reasons for the rejection or modification. If the Commission accepts, rejects or modifies the decision, the Commission's decision will be certified as final.
- C. If the Commission does not accept, reject or modify the decision within 30 days after OAH sends the ALJ's decision to the Commission, the ALJ's decision will be certified as final.

**Historical Note**

New Section made by exempt rulemaking at 8 A.A.R. 588, effective November 27, 2001 (Supp. 02-1).

**R2-20-228. Judicial Review**

A party may appeal a final administrative decision pursuant to A.R.S. § 12-901 et seq. (Judicial Review of Administrative Decisions). A party does not have the right to judicial review unless that party first exhausts its administrative remedies by going through the above steps. After a hearing has been held and a final administrative decision has been entered pursuant to § 41-1092.08, a party is not required to file a motion for rehearing or review of the decision in order to exhaust the party's administrative remedies.

**Historical Note**

New Section made by exempt rulemaking at 8 A.A.R. 588, effective November 27, 2001 (Supp. 02-1).

**R2-20-229. Repealed****Historical Note**

New Section made by exempt rulemaking at 8 A.A.R. 588, effective November 27, 2001 (Supp. 02-1). Section repealed by exempt rulemaking at 11 A.A.R. 4518, effective May 28, 2005 (Supp. 05-4).

**R2-20-230. Repealed****Historical Note**

New Section made by exempt rulemaking at 8 A.A.R. 588, effective November 27, 2001 (Supp. 02-1). Section repealed by exempt rulemaking at 11 A.A.R. 4518, effective May 28, 2005 (Supp. 05-4).

**R2-20-231. Repealed****Historical Note**

New Section made by exempt rulemaking at 8 A.A.R. 588, effective November 27, 2001 (Supp. 02-1). Section repealed by exempt rulemaking at 12 A.A.R. 758, effective February 15, 2006 (Supp. 06-1).

**ARTICLE 3. STANDARD OF CONDUCT FOR COMMISSIONERS AND EMPLOYEES****R2-20-301. Purpose and Applicability**

- A. The Commission is committed to implementing the Act in an honest, independent, and impartial fashion and to seeking to uphold public confidence in the integrity of the electoral system. To ensure public trust in the fairness and integrity of the Arizona elections process, all Commissioners and employees must observe the highest standards of conduct. This Article prescribes standards of ethical conduct for Commissioners and employees of the Commission relating to conflicts of interest arising from outside employment, private businesses, professional activities, political activities, and financial interests. The avoidance of misconduct and conflicts of interest on the part of the Commissioners and the employees through informed judgment is indispensable to the maintenance of these prescribed ethical standards. Attainment of these goals necessitates strict and absolute fairness and impartiality in the administration of the law.
- B. This Article applies to all persons included within the terms "employee" and "Commissioner" of the Commission.
- C. These Standards of Conduct shall be construed in accordance with any applicable laws, regulations, and agreements between the Commission and a labor organization.
- D. Pursuant to A.R.S. § 16-955(I), for three years after a Commissioner completes his or her tenure, Commissioners shall not seek or hold any public office, serve as an officer of any political committee, or employ or be employed as a lobbyist.

**Historical Note**

New Section made by exempt rulemaking at 8 A.A.R. 588, effective November 27, 2001 (Supp. 02-1).

**R2-20-302. Definitions**

The following terms apply in all Citizens Clean Elections Act matters:

1. "Commission" means the Citizens Clean Elections Commission of Arizona.
2. "Commissioner" means a voting member of the Commission, appointed pursuant to A.R.S. § 16-955.
3. "Conflict of interest" means a situation in which a Commissioner's or an employee's private interest is or appears to be inconsistent with the efficient and impartial conduct of his or her official duties and responsibilities.
4. "Employee" means an employee or staff member of the Commission.
5. "Former employee" means one who was, and is no longer, an employee of the Commission.
6. "Official responsibility" means the direct administrative or operating authority, whether intermediate or final, to approve, disapprove, or otherwise direct Commission action. Official responsibility may be exercised alone or with others and either personally or through subordinates.

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7. "Outside employment" or "outside activity" means any work, service or other activity performed by a Commissioner or employee other than in the performance of the Commissioner's or employee's official employment duties. It includes such activities as writing and editing, publishing, teaching, lecturing, consulting, self-employment, and other services or work performed, with or without compensation.
8. "Person" means an individual, corporation, company, association, firm, partnership, society, joint stock company, political committee, or other group, organization, or institution.

**Historical Note**

New Section made by exempt rulemaking at 8 A.A.R. 588, effective November 27, 2001 (Supp. 02-1).

**R2-20-303. Notification to Commissioners and Employees**

The Executive Director shall provide to each Commissioner and employee of the Commission, upon commencement of his or her term or employment and at least annually thereafter, a copy of this Article and such other information regarding standards of conduct as the Commission and/or applicable law may prescribe.

**Historical Note**

New Section made by exempt rulemaking at 8 A.A.R. 588, effective November 27, 2001 (Supp. 02-1).  
Amended by exempt rulemaking at 13 A.A.R. 3527, effective January 1, 2008 (Supp. 07-3).

**R2-20-304. Interpretation and Advisory Service**

Commissioners or employees seeking advice and guidance on questions of conflict of interest and on other matters covered by this Article shall consult with the Commission's Chair or Executive Director. The Commission's Chair or Executive Director shall be consulted prior to the undertaking of any action that might violate this Article governing the conduct of Commissioners or employees.

**Historical Note**

New Section made by exempt rulemaking at 8 A.A.R. 588, effective November 27, 2001 (Supp. 02-1).  
Amended by exempt rulemaking at 13 A.A.R. 3527, effective January 1, 2008 (Supp. 07-3).

**R2-20-305. Reporting Suspected Violations**

- A. Commissioners and employees who have information, which causes them to believe that there has been a violation of a statute or a rule set forth in this Article, shall report promptly, in writing, such incident to the Commission's Chair or Executive Director.
- B. When information available to the Commission indicates a conflict between the interests of a Commissioner or employee and the performance of his or her Commission duties, the Commissioner or employee shall be provided an opportunity to explain the conflict or appearance of conflict in writing.

**Historical Note**

New Section made by exempt rulemaking at 8 A.A.R. 588, effective November 27, 2001 (Supp. 02-1).

**R2-20-306. Disciplinary and Other Remedial Action**

- A. A violation of this Article by an employee may be cause for disciplinary action, which may be in addition to any penalty prescribed by law.
- B. When the Commission's Executive Director determines that an employee may have or appears to have a conflict of interest, the Commission's Executive Director may question the employee in the matter and gather other information. The Commission's Executive Director and the employee's supervisor shall discuss with the employee possible ways of eliminat-

ing the conflict or appearance of conflict. If the Commission's Executive Director, after consultation with the employee's supervisor, concludes that remedial action should be taken, he or she shall refer a statement to the Commission containing his or her recommendation for such action. The Commission, after consideration of the employee's explanation and the results of any investigation, may direct appropriate remedial action as it deems necessary.

- C. Remedial action pursuant to subsection (B) of this Section may include, but is not limited to:
  1. Changes in assigned duties;
  2. Divestment by the employee of his or her conflicting interest;
  3. Disqualification for particular action; or
  4. Disciplinary action.

**Historical Note**

New Section made by exempt rulemaking at 8 A.A.R. 588, effective November 27, 2001 (Supp. 02-1).

**R2-20-307. General Prohibited Conduct**

- A. A Commissioner or employee shall avoid any action whether or not specifically prohibited by this Section that might result in, or create the appearance of:
  1. Using public office for unlawful private gain;
  2. Giving favorable or unfavorable treatment to any person or organization due to any partisan or political consideration;
  3. Impeding Commission efficiency or economy;
  4. Losing impartiality.
  5. Making a Commission decision without Commission approval; or
  6. Adversely affecting the confidence of the public in the integrity of the Commission.
- B. A Commissioner or employee of the Commission shall not solicit or accept, directly or indirectly, any gift, gratuity, favor, entertainment, loan, or any other thing of monetary value, from a person who:
  1. Has, or is seeking to obtain, contractual or other business or financial relations with the Commission;
  2. Conducts operations or activities that are regulated or examined by the Commission; or
  3. Has an interest that may be substantially affected by the performance or nonperformance of the Commissioner or employee's official duty.
- C. Subsection (B) of this Section shall not apply in the following circumstances:
  1. When circumstances make it clear that obvious family or personal relationships, rather than the business of the persons concerned, are the motivating factors;
  2. To the acceptance of food, refreshments, and accompanying entertainment of nominal value in the ordinary course of a social occasion or a luncheon or dinner meeting or other function where a Commissioner or an employee is properly in attendance;
  3. To the acceptance of unsolicited advertising or promotional material or other items of nominal value such as pens, pencils, note pads, calendars; and
  4. To the acceptance of loans from banks or other financial institutions on customary terms to finance proper and usual activities, such as home mortgage loans.
- D. A Commissioner or an employee shall not solicit a contribution from another employee for a gift to an official superior, make a donation as a gift to an official superior, or accept a gift from an employee receiving less pay than himself or herself. However, this subsection does not prohibit a voluntary gift of nominal value or donation in a nominal amount made on a spe-

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cial occasion such as birthday, holiday, marriage, illness, or retirement.

- E. This Section does not preclude a Commissioner or employee from receipt of reimbursement, unless prohibited by law, for expenses of travel and such other necessary subsistence as is compatible with this Article for which no state payment or reimbursement is made. However, this Section does not allow a Commissioner or employee to be reimbursed, or payment to be made on his or her behalf, for excessive personal living expenses, gifts, entertainment, or other personal benefits, nor does it allow a Commissioner or employee to be reimbursed by a person for travel on official business under Commission orders when reimbursement is prescribed by statute.

**Historical Note**

New Section made by exempt rulemaking at 8 A.A.R. 588, effective November 27, 2001 (Supp. 02-1).

**R2-20-308. Outside Employment or Activities**

- A. A Commissioner or employee shall not engage in outside employment that is incompatible with the full discharge of his or her duties as a Commissioner or employee.
- B. Incompatible outside employment or other activities by Commissioners or employees include, but are not limited to:
1. Outside employment or other activities that involve illegal activities;
  2. Outside employment or other activities that would give rise to a real or apparent conflict of interest situation even though no violation of a specific statutory provision was involved;
  3. Acceptance of a fee, compensation, gift, payment of expense, or any other thing of monetary value in circumstances where acceptance may result in, or create the appearance of, a conflict of interest;
  4. Outside employment or other activities that might bring discredit upon the state or Commission;
  5. Outside employment or other activities that establish relationships or property interests that may result in a conflict between the Commissioner's or the employee's private interests and official duties;
  6. Outside employment or other activities which would involve any contractor or subcontractor connected with any work performed for the Commission or would involve any person or organization in a position to gain advantage in its dealings with the state through the Commissioner's or employee's exercise of his or her official duties;
  7. Outside employment or other activities that may be construed by the public to be the official acts of the Commission. In any permissible outside employment, care shall be taken to ensure that names and titles of Commissioners and employees are not used to give the impression that the activity is officially endorsed or approved by the Commission or is part of the Commission's activities;
  8. Outside employment or other activities which would involve use by a Commissioner or employee of his or her official duty time; use of official facilities, including office space, machines, or supplies, at any time; or use of the services of other employees during their official duty hours;
  9. Outside employment or other activities which impair the Commissioner's or employee's mental or physical capacities to perform Commission duties and responsibilities in an acceptable manner; or
  10. Use of information obtained as a result of state employment that is not freely available to the general public or would not be made available upon request. However,

written authorization for the use of any such information may be given when the Commission determines that such use would be in the public interest.

- C. Commissioners and employees shall not receive any salary or anything of monetary value from a private source as compensation for the Commissioner's or employee's services to the state.
- D. Commissioners and employees are encouraged to engage in teaching, lecturing, and writing that is not prohibited by law or this Article. However, Commissioners and employees shall not, either with or without compensation, engage in teaching or writing that is dependent on information obtained as a result of his or her Commission employment, except when that information has been made available to the public or will be made available on request, or when the Commission gives written authorization for the use of nonpublic information on the basis that the use is in the public interest.
- E. This Section does not preclude a Commissioner or employee from participating in the activities of or acceptance of an award for meritorious public contribution or achievement given by a charitable, religious, professional, social, fraternal, nonprofit, educational, recreational, public service, or civic organization.
- F. An employee who intends to engage in outside employment shall obtain the approval of the Executive Director. The request shall include the name of the person, group, or organization for whom the work is to be performed, the nature of the services to be rendered, the proposed hours of work, or approximate dates of employment, and the employee's certification as to whether the outside employment (including teaching, writing, or lecturing) will depend in any way on information obtained as a result of the employee's official position. The employee will receive, from the Executive Director, written notice of approval or disapproval of any written request. A record of the decision shall be placed in each employee's official personnel folder.

**Historical Note**

New Section made by exempt rulemaking at 8 A.A.R. 588, effective November 27, 2001 (Supp. 02-1).

**R2-20-309. Financial Interests**

- A. Commissioners and employees shall not engage in, directly or indirectly, a financial transaction as a result of, or primarily relying on, information obtained through the Commissioner's or employee's duties or employment.
- B. Commissioners and employees shall not have a direct or indirect financial interest that conflicts substantially, or appears to conflict substantially, with the Commissioner's or employee's official duties and responsibilities, except in cases where the Commissioner or employee makes full disclosure, and disqualifies himself or herself from participating in any decisions, approval, disapproval, recommendation, the rendering of advice, investigation, or in any proceeding of the Commission in which the financial interest is or appears to be affected. Full disclosure by a Commissioner or employee will require that individual to submit a written statement to the Executive Director or Chair disclosing the particular financial interest which conflicts substantially, or appears to conflict substantially, with the Commissioner's or employee's duties and responsibilities.
- C. Commissioners and employees shall disqualify themselves from a proceeding in which the Commissioner's or employee's impartiality might reasonably be questioned, such as in a situation where the Commissioner or employee knows that he or she, or his or her family member, has an interest in the subject matter in controversy or is a party to the proceeding, or has

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any other interest that could be substantially affected by the outcome of the proceeding.

- D. This Section does not preclude a Commissioner or employee from having a financial interest or engaging in financial transactions to the same extent as a private citizen not employed by the Commission, as long as the Commissioner's or employee's financial interest does not conflict with official Commission duties.

**Historical Note**

New Section made by exempt rulemaking at 8 A.A.R. 588, effective November 27, 2001 (Supp. 02-1).

**R2-20-310. Political and Organization Activity**

- A. Due to the Commission's role in the political process, the following restrictions on political activities are required:
1. Commissioners and employees shall not advocate for the election or defeat of a candidate, nor make contributions to a candidate, political party, or political committee subject to the jurisdiction of the Commission. Commissioners and employees, however, are not prohibited from signing candidate nomination petitions;
  2. Commissioners and employees shall not provide volunteer or paid services for a candidate, political party, or political committee subject to the jurisdiction of the Commission; and
  3. Commissioners and employees not shall display partisan buttons, badges, or other insignia on Commission premises.
- B. Employees on leave, leave without pay, or on furlough or terminal leave, even though the employees' resignations have been accepted, are subject to the restrictions of this Section. A separated employee who has received a lump-sum payment for annual leave, however, is not subject to the restrictions during the period covered by the lump-sum payment or thereafter, provided he or she does not return to state employment during that period. An employee is not permitted to take a leave of absence to work with a political candidate, committee, or organization or become a candidate for office despite any understanding that he or she will resign his or her position if nominated or elected.
- C. A Commissioner or employee is accountable for political activity by another person acting as his or her agent or under the Commissioner's or employee's direction or control if the Commissioner or employee is thus accomplishing what he or she may not lawfully do directly and openly.

**Historical Note**

New Section made by exempt rulemaking at 8 A.A.R. 588, effective November 27, 2001 (Supp. 02-1).

**R2-20-311. Membership in Associations**

Commissioners or employees who are members of nongovernmental associations or organizations shall avoid activities on behalf of those associations or organizations that are incompatible with their official positions.

**Historical Note**

New Section made by exempt rulemaking at 8 A.A.R. 588, effective November 27, 2001 (Supp. 02-1).

**R2-20-312. Use of State Property**

A Commissioner or employee shall not directly or indirectly use, or allow the use of, state property of any kind, including property leased to the state, for other than officially approved activities. Commissioners and employees have a positive duty to protect and conserve state property including equipment, supplies, and other property entrusted or issued to him or her.

**Historical Note**

New Section made by exempt rulemaking at 8 A.A.R. 588, effective November 27, 2001 (Supp. 02-1).

**ARTICLE 4. AUDITS****R2-20-401. Purpose and Scope**

This article prescribes procedures for conducting examinations and audits of participating candidates' campaign finances.

**Historical Note**

New Section made by exempt rulemaking at 11 A.A.R. 4518, effective May 28, 2005 (Supp. 05-4). Amended by exempt rulemaking at 19 A.A.R. 1699, effective October 6, 2011 (Supp. 13-2).

**R2-20-402. General**

The Commission may conduct an examination and audit of the receipts, disbursements, debts and obligations of each candidate. In addition, the Commission may conduct other examinations and audits as it deems necessary to carry out the provisions of the Act and regulations. Information obtained pursuant to any audit and examination may be used by the Commission as the basis, or partial basis, for its repayment determinations.

**Historical Note**

New Section made by exempt rulemaking at 11 A.A.R. 4518, effective May 28, 2005 (Supp. 05-4).

**R2-20-402.01. Audits of Participating Legislative Candidates**

To ensure compliance with the Act and Commission rules, the Commission shall conduct audits of all participating legislative candidates after each election. Candidates who win their primary election will not be subject to an audit until after the general election. Audits shall include the review of campaign finance reports for the entire election cycle and related documentation in accordance with procedures established by the Commission. The Commission may hire independent accounting firms to carry out the audits.

**Historical Note**

New Section made by exempt rulemaking at 13 A.A.R. 3529, effective January 1, 2008 (Supp. 07-3). Amended by exempt rulemaking at 19 A.A.R. 1700, effective October 6, 2011 (Supp. 13-2). Amended by final exempt rulemaking at 21 A.A.R. 1640, effective July 23, 2015 (Supp. 15-3). Amended by final exempt rulemaking at 23 A.A.R. 130, effective December 15, 2016 (Supp. 16-4). Amended by final exempt rulemaking at 23 A.A.R. 2944, effective September 28, 2017 (Supp. 17-4).

**R2-20-402.02. Audits of Participating Statewide Candidates**

All participating statewide candidates shall be audited after each primary election period and each general election period.

**Historical Note**

New Section made by final exempt rulemaking at 23 A.A.R. 131, effective December 15, 2016 (Supp. 16-4).

**R2-20-403. Conduct of Fieldwork**

- A. The Commission will provide the candidate two days notice of the Commission's intention to commence fieldwork on the audit and examination. The Commission will conduct fieldwork at a site provided by the candidate. During or after fieldwork, the Commission may request additional or updated information, which expands the coverage dates of information previously provided. During or after fieldwork, the Commission may also request additional information that was created by or becomes available to the candidate that is of assistance in the Commission's audit. The candidate shall produce the addi-

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tional or updated information no later than two days after service of the Commission's request.

- B. On the date scheduled for the commencement of fieldwork, the candidate shall facilitate the examination or audit by making records available in one central location, such as the Commission's office space, or shall provide the Commission with office space and records. The candidate shall be present at the site of the fieldwork. The candidate shall be familiar with the candidate's records and shall be available to the Commission to answer questions and to aid in locating records.
- C. If the candidate fails to provide adequate office space, personnel or records, the Commission may seek judicial intervention to enforce the request or assess other penalties.
- D. If, in the course of the examination or audit process, a dispute arises over the documentation sought, the candidate may seek review by the Commission of the issues raised. To seek review, the candidate shall submit a written statement within five days after the disputed Commission request is made, describing the dispute and indicating the candidate's proposed alternatives.

**Historical Note**

New Section made by exempt rulemaking at 11 A.A.R. 4518, effective May 28, 2005 (Supp. 05-4).

**R2-20-404. Preliminary Audit Report**

- A. After the completion of fieldwork, the auditors may prepare a written preliminary audit report, which will be provided to the candidate after it is reviewed by the Executive Director. The preliminary audit report may include:
  1. An evaluation of procedures and systems employed by the candidate to comply with applicable provisions of the Act and Commission rules,
  2. The accuracy of statements and campaign finance reports filed with the Secretary of State by the candidate, and
  3. Preliminary findings.
- B. The candidate may submit in writing within 10 days after receipt of the preliminary audit report, legal and factual materials disputing or commenting on the proposed findings contained in the preliminary audit report. In addition, the candidate shall submit any additional documentation requested by the Commission.
- C. If the preliminary audit report cannot be completed, the Commission shall notify the candidate in writing that the audit report will not be completed.

**Historical Note**

New Section made by exempt rulemaking at 11 A.A.R. 4518, effective May 28, 2005 (Supp. 05-4). Amended by exempt rulemaking at 16 A.A.R. 1200, effective February 28, 2008 (Supp. 10-2).

**R2-20-405. Final Audit Report**

- A. Before voting on whether to approve and issue a final audit report, the Commission will consider any written legal and factual materials timely submitted by the candidate in accordance with R2-20-404. The Commission-approved final audit report may address issues other than those contained in the preliminary audit report.
- B. The final audit report may identify issues that warrant referral for possible enforcement proceedings.
- C. Addenda to the final audit report may be approved and issued by the Commission from time to time as circumstances warrant and as additional information becomes available. Such addenda may be based on follow-up fieldwork conducted, or information ascertained by the Commission in the normal course of carrying out its responsibilities. The procedures set

forth in R2-20-404 and subsections (A) and (B) will be followed in preparing such addenda.

**Historical Note**

New Section made by exempt rulemaking at 11 A.A.R. 4518, effective May 28, 2005 (Supp. 05-4).

**R2-20-406. Release of Audit Report**

- A. The Commission will consider the final audit report specified in R2-20-405 in an open meeting. The Commission will provide the candidate with copies of the final audit report to be considered in an open meeting 24 hours prior to the public meeting.
- B. Following Commission approval of the final audit report, the report will be forwarded to the candidate within five days after the public meeting.

**Historical Note**

New Section made by exempt rulemaking at 11 A.A.R. 4518, effective May 28, 2005 (Supp. 05-4).

**ARTICLE 5. RULEMAKING****R2-20-501. Purpose and Scope**

This Article prescribes the procedures for the submission, consideration, and disposition of rulemaking petitions filed with the Commission, establishes the conditions under which the Commission may identify and respond to petitions for rulemaking, and informs the public of the procedures the agency follows in response to such petitions.

**Historical Note**

New Section made by exempt rulemaking at 8 A.A.R. 588, effective November 27, 2001 (Supp. 02-1).

**R2-20-502. Procedural Requirements**

- A. Any interested person may file with the Commission a written petition for the issuance, amendment, or repeal of an administrative rule implementing any of the Citizens Clean Elections Act.
- B. The petition shall:
  1. Include the name and address of the petitioner or agent. An authorized agent of the petitioner may submit the petition, but the agent shall disclose the identity of his or her principal;
  2. Identify itself as a petition for the issuance, amendment, or repeal of a rule;
  3. Identify the specific Section of the regulations to be affected;
  4. Set forth the factual and legal grounds on which the petitioner relies, in support of the proposed action; and
  5. Be addressed and submitted to the Commission.
- C. The petition may include draft regulatory language that would effectuate the petitioner's proposal.
- D. The Commission may, in its discretion, treat a document that fails to conform to the format requirements of subsection (B) of this Section as a basis for rulemaking addressing issues raised in a petition.

**Historical Note**

New Section made by exempt rulemaking at 8 A.A.R. 588, effective November 27, 2001 (Supp. 02-1).

**R2-20-503. Processing of Petitions**

- A. Within 10 days of receiving a petition, the Commission shall send a letter to the petitioner acknowledging the receipt of the petition and informing the petitioner that the Commission will review and decide whether to deny or accept the petition. To assist in determining whether a rulemaking proceeding should be initiated, the Commission may publish a Notice of Avail-

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ability on the Commission web site or otherwise post notice, stating that the petition is available for public inspection in the Commission's Office and that statements in support of or in opposition to the petition may be filed within a stated period after publication of the Notice of Availability.

- B. If the Commission decides a public hearing on the petition would help determine whether to commence a rulemaking proceeding, it will publish an appropriate notice of the hearing on the Commission web site or otherwise post notice, to notify interested persons and to invite their participation in the hearing.
- C. The Commission will consider all comments regarding whether rulemaking proceedings should be initiated.

**Historical Note**

New Section made by exempt rulemaking at 8 A.A.R. 588, effective November 27, 2001 (Supp. 02-1).

**R2-20-504. Disposition of Petitions**

- A. After considering the comments and any other information relevant to the subject matter of the petition, the Commission will decide whether to initiate rulemaking based on the filed petition.
- B. If the Commission decides to initiate rulemaking proceedings, it shall file a Notice of Proposed Rulemaking and the proposed rule, in the format prescribed in A.R.S. § 41-1022, with the Secretary of State's office for publication in the Arizona Administrative Register. After the Commission approves the proposed rule, the Commission will accept public comments on the proposed rule for 60 days. After consideration of the comments received in the 60-day comment period, the Commission may adopt the rule in open meeting.
- C. If the Commission decides not to initiate rulemaking, it will give notice of this action by publishing a Notice of Disposition on the Commission web site, or otherwise post notice, and by sending a letter to the petitioner. The Notice of Disposition will include a brief statement of the grounds for the Commission's decision.

**Historical Note**

New Section made by exempt rulemaking at 8 A.A.R. 588, effective November 27, 2001 (Supp. 02-1).

**R2-20-505. Commission Considerations**

The Commission's decision on the petition for rulemaking may include, but will not be limited to, the following considerations:

1. The Commission's statutory authority;
2. Policy considerations;
3. The desirability of proceeding on a case-by-case basis;
4. The necessity or desirability of statutory revision;
5. Available agency resources; and
6. Substantive policy statements.

**Historical Note**

New Section made by exempt rulemaking at 8 A.A.R. 588, effective November 27, 2001 (Supp. 02-1).

**R2-20-506. Administrative Record**

- A. The Commission record for the petition process consists of the following:
  1. The petition, including all attachments on which it relies, filed by the petitioner;
  2. Written comments on the petition that have been circulated to and considered by the Commission, including attachments submitted as a part of the comments;
  3. Agenda documents, in the form they are circulated to and considered by the Commission in the course of the petition process;

4. All notices published on the Commission web site and in the Arizona Administrative Register, including the Notice of Availability and Notice of Disposition;
  5. The transcripts or audiotapes of any public hearing on the petition;
  6. All correspondence between the Commission and the petitioner, other commentators and state agencies pertaining to Commission consideration of the petition; and
  7. The Commission's decision on the petition, including all documents identified or filed by the Commission as part of the record relied on in reaching its final decision.
- B. The administrative record specified in subsection (A) of this Section is the exclusive record for the Commission's decision.

**Historical Note**

New Section made by exempt rulemaking at 8 A.A.R. 588, effective November 27, 2001 (Supp. 02-1).

**ARTICLE 6. EX PARTE COMMUNICATIONS****R2-20-601. Purpose and Scope**

This Article prescribes procedures for handling ex parte communications made regarding Commission audits, investigations, and litigation. Rules governing such communications made in connection with Commission enforcement actions are found at R2-20-220.

**Historical Note**

New Section made by exempt rulemaking at 8 A.A.R. 588, effective November 27, 2001 (Supp. 02-1).

**R2-20-602. Definitions**

- A. "Ex parte communication" means any written or oral communication, by any person outside the agency to any Commissioner or any employee, which imparts information or argument regarding prospective Commission action or potential action concerning:
  1. Any ongoing audit;
  2. Any pending investigation; or
  3. Any litigation matter.
- B. "Ex parte communication" does not include the following communications:
  1. Public statements by any person in a public forum; or
  2. Statements or inquiries by any person limited to the procedural status of an open proceeding involving a Commission audit, investigation, or litigation matter.

**Historical Note**

New Section made by exempt rulemaking at 8 A.A.R. 588, effective November 27, 2001 (Supp. 02-1).

**R2-20-603. Audits, Investigations, and Litigation**

- A. In order to avoid the possibility of prejudice, real or apparent, in Commission decision making, no person outside the Commission shall make, or cause to be made, to any Commissioner or employee, any ex parte communication regarding any audit undertaken by the Commission or any pending or prospective Commission decision regarding any investigation or litigation, including whether to initiate, settle, appeal, or any other decision concerning an investigation or litigation matter.
- B. A Commissioner or employee who receives an oral ex parte communication concerning any matters addressed in subsection (A) of this Section shall attempt to prevent the communication. If unsuccessful in preventing the communication, the Commissioner or employee shall advise the person making the communication that he or she will not consider the communication and shall, as soon after the communication as is reasonably possible, but no later than three business days after the communication, or prior to the next Commission discussion of the matter, whichever is earlier, prepare a statement setting forth the substance and circumstances of the communication,

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and deliver the statement to the Executive Director for placement in the applicable case file.

- C. A Commissioner or employee who receives a written ex parte communication concerning any matters addressed in subsection (A) of this Section shall, as soon after the communication as is reasonably possible but no later than three business days after the communication, or prior to the next Commission discussion of the matter, whichever is earlier, deliver a copy of the communication to the Executive Director for placement in the applicable case file.

**Historical Note**

New Section made by exempt rulemaking at 8 A.A.R. 588, effective November 27, 2001 (Supp. 02-1).

**R2-20-604. Sanctions**

Any person who becomes aware of a possible violation of this Article shall notify the Executive Director in writing of the facts and circumstances of the alleged violation. The Executive Director shall recommend to the Commission the appropriate action to be taken. The Commission shall determine the appropriate action by at least three votes.

**Historical Note**

New Section made by exempt rulemaking at 8 A.A.R. 588, effective November 27, 2001 (Supp. 02-1).

**ARTICLE 7. USE OF FUNDS AND REPAYMENT****R2-20-701. Purpose and Scope**

Notwithstanding any other provision of the rules to the contrary, a participating candidate shall not make any payment to a private organization that is exempt under section 501(a) of the internal revenue code and that is eligible to engage in activities to influence the outcome of a candidate election, nor make any payment directly or indirectly to a political party; and subject to the foregoing, may spend clean elections monies only for reasonable and necessary expenses that are directly related to the campaign of that participating candidate.

**Historical Note**

New Section made by exempt rulemaking at 8 A.A.R. 588, effective November 27, 2001 (Supp. 02-1).

Amended by exempt rulemaking at 11 A.A.R. 4518, effective May 28, 2005 (Supp. 05-4). Amended by final rulemaking at 26 A.A.R. 886, with an immediate effective date of February 27, 2020; the same amendments were filed and codified by final rulemaking at 26 A.A.R. 1259, with an immediate effective date of June 4, 2020 (Supp. 20-2).

**R2-20-702. Use of Campaign Funds**

- A. A participating candidate shall use funds in the candidate's current campaign account to pay for goods and services for direct campaign purposes only. Funds shall be disbursed and reported in accordance with A.R.S. § 16-948(C).
- B. Participating candidates may purchase fixed assets with a value not to exceed \$800. Fixed assets, including accessories, purchased with campaign funds that can be used for non-campaign purposes with a value of \$200 or more shall be turned into the Commission no later than 14 days after the primary election or the general election if the candidate was successful in the primary. For purposes of determining whether a fixed asset is valued at \$200 or more, the value shall include any accessories purchased for use with the fixed asset in question. A candidate may elect to keep an item by reimbursing the Commission for 80 percent of the original purchase price including the cost of accessories.

- C. During the primary election period, a participating candidate shall not make any expenditure greater than the difference between:
1. The sum of early contributions received plus public funds disbursed through the primary election period; less
  2. All other expenditures made during and for the exploratory, qualifying and primary election periods.
- D. During the general election period, a participating candidate shall not make any expenditure greater than the difference between:
1. The amount of public funds disbursed during and for the general election period; less
  2. All other expenditures made during and for the general election period.
- E. Transportation expenses.
1. Except as otherwise provided in this subsection (D), the costs of transportation relating to the election of a participating statewide or legislative office candidate shall not be considered a direct campaign expense and shall not be reported by the candidate as expenditures or as in-kind contributions.
  2. If a participating candidate travels for campaign purposes in a privately owned automobile, the candidate may:
    - a. Use campaign funds to reimburse the owner of the automobile at a rate not to exceed the state mileage reimbursement rate in which event the reimbursement shall be considered a direct campaign expense and shall be reported as an expenditure and reported in the reporting period in which the expenditure was incurred. If a candidate chooses to use campaign funds to reimburse, the candidate shall keep an itinerary of the trip, including name and type of events(s) attended, miles traveled and the rate at which the reimbursement was made. This subsection applies to candidate owned automobiles in addition to any other automobile.
    - b. Use campaign funds to pay for direct fuel purchases for the candidate's automobile only and shall be reported. If a candidate chooses to use campaign funds for direct fuel purchases, the candidate shall keep an itinerary of the trip, including name and type of events(s) attended, miles traveled and the rate at which the reimbursement could have been made.
  3. Use of airplanes.
    - a. If a participating candidate travels for campaign purposes in a privately owned airplane, within 7 days from the date of travel, the candidate shall use campaign funds to reimburse the owner of the airplane at a rate of \$150 per hour of flying time, in which event the reimbursement shall be considered a direct campaign expense and shall be reported as an expenditure. If the owner of the airplane is unwilling or unable to accept reimbursement, the participating candidate shall remit to the fund an amount equal to \$150 per hour of flying time.
    - b. If a participating candidate travels for campaign purposes in a state-owned airplane, within 7 days from the date of travel, the candidate shall use campaign funds to reimburse the state for the portion allocable to the campaign in accordance with subsection 3a, above. The portion of the trip attributable to state business shall not be reimbursed. If payment to the State is not possible, the payment shall be remitted to the Clean Elections Fund.



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4. If a participating candidate rents a vehicle or purchases a ticket or fare on a commercial carrier for campaign purposes, the actual costs of such rental (including fuel costs), ticket or fare shall be considered a direct campaign expense and shall be reported as an expenditure.

**Historical Note**

New Section made by exempt rulemaking at 8 A.A.R. 588, effective November 27, 2001 (Supp. 02-1). Section repealed; new Section made by exempt rulemaking at 11 A.A.R. 4518, effective May 28, 2005 (Supp. 05-4). Amended by exempt rulemaking at 13 A.A.R. 3606, effective January 1, 2008 (Supp. 07-4). Amended by exempt rulemaking at 15 A.A.R. 1423, effective October 22, 2009 (Supp. 09-3). Amended by exempt rulemaking at 17 A.A.R. 1267, effective April 12, 2011 (Supp. 11-2). Since language in subsections R2-20-702(C)(3)(d)(i) and (ii) and R2-20-702(C)(4) and (5) are substantively identical, the Commission requested to remove the redundant language in R2-20-702(C)(3)(d)(i) and (ii) under A.R.S. § 41-1011(C), Office File No. M11-345, filed October 3, 2011 (Supp. 11-2). Amended by exempt rulemaking at 19 A.A.R. 1702, effective October 6, 2011 (Supp. 13-2). Amended by exempt rulemaking at 22 A.A.R. 2906, effective January 1, 2017 (Supp. 16-3). Amended by exempt rulemaking at 23 A.A.R. 2342, effective January 1, 2018 (Supp. 17-3). Amended by final rulemaking at 25 A.A.R. 2120, effective July 29, 2019 (Supp. 19-3). Amended by final rulemaking at 26 A.A.R. 309, with an immediate effective date of January 23, 2020 (Supp. 20-1). Amended by final rulemaking at 26 A.A.R. 1132, with an immediate effective date of May 11, 2020 (Supp. 20-2).

**R2-20-702.01. Use of Assets**

A participating candidate may use assets such as signs, pamphlets, and office equipment from a prior election cycle only after the candidate's current campaign pays for the assets in an amount equal to the fair market value of the assets, which amount shall in no event be less than one-fifth (1/5) the original purchase price of such assets. If the candidate was a participating candidate during the prior election cycle, the cash payment shall be made to the Fund. If the candidate was not a participating candidate during the prior election cycle, the cash payment shall be made to the prior campaign. If the prior campaign account of a nonparticipating candidate is closed, the payment shall be made to the candidate. Notwithstanding any other provision of the rules to the contrary, a participating candidate shall not make any payment to a private organization that is exempt under section 501(a) of the internal revenue code and that is eligible to engage in activities to influence the outcome of a candidate election, nor make any payment directly or indirectly to a political party.

**Historical Note**

New Section made by exempt rulemaking at 12 A.A.R. 758, effective February 15, 2006 (Supp. 06-1). Amended by exempt rulemaking at 13 A.A.R. 3606, effective January 1, 2008 (Supp. 07-4). Amended by exempt rulemaking at 15 A.A.R. 1156, effective August 31, 2009 (Supp. 09-2). Amended by final rulemaking at 26 A.A.R. 887, with an immediate effective date of March 9, 2020; the same amendments were filed and codified by final rulemaking at 26 A.A.R. 1261, with an immediate effective date of June 4, 2020 (Supp. 20-2).

**R2-20-703. Documentation for Direct Campaign Expenditures**

- A. In addition to the general books and records requirements prescribed in R2-20-111, participating candidates shall comply with the following requirements:
  1. All participating candidates shall have the burden of proving that expenditures made by the candidate were for direct campaign purposes. The candidate shall obtain and furnish to the Commission on request any evidence regarding direct campaign expenses made by the candidate as provided in subsection (A)(2).
  2. All participating candidates shall retain records with respect to each expenditure and receipt, including bank records, vouchers, worksheets, receipts, bills and accounts, journals, ledgers, fundraising solicitation material, accounting systems documentation, and any related materials documenting campaign receipts and disbursements, for a period of three years, and shall present these records to the Commission on request.
  3. All participating candidates shall maintain a list of all fixed assets whose purchase price exceeded \$200 when acquired by the campaign. The list shall include a brief description of each fixed asset, the purchase price, the date it was acquired, the method of disposition and the amount received in disposition.
- B. Upon written request from a candidate, the Commission shall determine whether a planned campaign expenditure or fundraising activity is permissible under the Act. To make a request, a candidate shall submit a written description of the planned expenditure or activity to the Commission. The Commission shall inform the candidate whether an enforcement action will be necessary if the candidate carries out the planned expenditure or activity. The Commission shall ensure that the candidate can rely on a "no action" letter. A "no action" letter applies only to the candidate who requested it.
- C. Any expenditure made by the candidate or the candidate's committee that cannot be documented as a direct expenditure shall promptly be repaid to the Fund with the candidate's personal monies.

**Historical Note**

New Section made by exempt rulemaking at 8 A.A.R. 588, effective November 27, 2001 (Supp. 02-1). Section repealed; new Section made by exempt rulemaking at 11 A.A.R. 4518, effective May 28, 2005 (Supp. 05-4). Amended by exempt rulemaking at 12 A.A.R. 758, effective February 15, 2006 (Supp. 06-1). Amended by final exempt rulemaking at 21 A.A.R. 1641, effective July 23, 2015 (Supp. 15-3). Amended by final exempt rulemaking at 23 A.A.R. 133, effective January 1, 2017 (Supp. 16-4).

**R2-20-703.01. Campaign Consultants**

- A. For purposes of this rule "Campaign Consultant" means any person paid by a participating candidate's campaign or who provides services that are ordinarily charged to a person, except services provided for in A.R.S. § 16-911(b)(6)(b).
- B. A participating candidate may engage campaign consultants.
- C. A participating candidate may only advance a campaign consultant for services such as consulting, communications, field employees, canvassers, mailers, auto-dialers, telephone town halls, electronic communications and other advertising purchases and other campaign service if an itemized invoice identifying the value of the services is provided directly to that particular candidate at the time of the advance payment.
  1. Providing payment for such services as described in subsection (C) of this rule in the absence of an itemized invoice or advance payment for such services shall be deemed not to be a direct campaign expenditure.

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2. A participating candidate may advance payment for postage upon the receipt of a written estimate and so long as any balance is returned to the candidate if the advance exceeds the actual cost of postage.
  3. A participating candidate may advance payment for advertising that customarily requires pre-payment upon the receipt of a written estimate and so long as any balance is returned to the candidate if the advance exceeds the actual cost of the advertisement.
- D.** The Commission shall be included in the mail batch for all mailers and invitations. The Commission shall also be provided with documentation from the mail house, printer or other original source, showing the number of mailers printed and the number of households to which a mailer was sent. Failure to provide this information within 7 days after the mailer has been mailed may be considered as evidence the mailer was not for direct campaign purposes.
- E.** Notwithstanding any other provision of the rules to the contrary, a participating candidate shall not make any payment to a private organization that is exempt under section 501(a) of the internal revenue code and that is eligible to engage in activities to influence the outcome of a candidate election, nor make any payment directly or indirectly to a political party.

**Historical Note**

New Section made by exempt rulemaking at 23 A.A.R. 2344, effective July 20, 2017 (Supp. 17-3). Amended by final rulemaking at 26 A.A.R. 889, with an immediate effective date of March 16, 2020; the same amendments were filed and codified by final rulemaking at 26 A.A.R. 1263, with an immediate effective date of June 4, 2020 (Supp. 20-2).

**R2-20-704. Repayment**

- A.** In general, the Commission may determine that a participating candidate who has received payments from the Fund must repay the Fund as determined by the Commission.
1. A candidate who has received payments from the Fund shall pay the Fund any amounts that the Commission determines to be repayable. In making repayment determinations, the Commission may utilize information obtained from audits and examinations or otherwise obtained by the Commission in carrying out its responsibilities.
  2. The Commission will notify the candidate of any repayment determinations made under this Section as soon as possible.
  3. Once the candidate receives notice of the Commission's repayment determination, the candidate should give preference to the repayment over all other outstanding obligations of the candidate, except for any taxes owed by the candidate.
  4. Repayments may be made only from the following sources: personal funds of the candidate, funds in the candidate's current election campaign account, and any additional funds raised subject to the limitations and prohibitions of the Act.
  5. The Commission may withhold the portion of funds required to be repaid from future payments to a participating candidate if the Commission has made a repayment determination.
- B.** The Commission may determine that a participating candidate who has received payments from the Fund must repay the Fund under any of the following circumstances:
1. Payments in excess of candidate's entitlement. If the Commission determines that any portion of the payments made to the candidate was in excess of the aggregate payments to which such candidate was entitled, it will so notify the candidate, and such candidate shall pay to the Fund an amount equal to such portion.
  2. Use of funds not for direct campaign expenses. If the Commission determines that any amount of any payment to an eligible candidate from the Fund was used for purposes other than direct campaign purposes described in R2-20-702, it will notify the candidate of the amount so used, and such candidate shall pay to the Fund an amount equal to such amount.
  3. Expenditures that were not documented in accordance with campaign finance reporting requirements, expended in violation of state or federal law, or used to defray expenses resulting from a violation of state or federal law, such as the payment of fines or penalties.
  4. Surplus. If the Commission determines that a portion of payments from the Fund remains unspent after all direct campaign expenses have been paid, it shall so notify the candidate, and such candidate shall pay the Fund that portion of surplus funds.
  5. Income on investment or other use of payments from the Fund. If the Commission determines that a candidate received any income as a result of an investment or other use of payments from the Fund, it shall so notify the candidate, and such candidate shall pay to the Fund an amount equal to the amount determined to be income, less any federal, state or local taxes on such income.
  6. Unlawful acceptance of contributions by an eligible candidate. If the Commission determines that a participating candidate accepted contributions, other than early contributions or qualifying contributions, it shall notify the candidate of the amount of contributions so accepted, and the candidate shall pay to the Fund an amount equal to such amount, plus any civil penalties assessed.
- C.** Repayment determination procedures. The Commission's repayment determination will be made in accordance with the following procedures:
1. Repayment determination. The Commission will send a repayment determination pursuant to Article 2, Compliance and Enforcement Procedures, and will set forth the legal and factual reasons for such determination, as well as the evidence upon which any such determination is based. The candidate shall repay, in accordance with subsection (D), the amount that the Commission has determined to be repayable.
  2. Administrative review of repayment determination. If a candidate disputes the Commission's repayment determination, he or she may request an administrative appeal of the determination in accordance with A.R.S. § 41-1092 et. seq.
- D.** Repayment period.
1. Within 30 days of service of the notice of the Commission's repayment determination, the candidate shall repay the amounts the Commission has determined must be repaid. Upon application by the candidate, the Commission may grant an extension of time in which to make repayment.
  2. If the candidate requests an administrative appeal of the Commission's repayment determination of this Section, the time for repayment will be suspended until the Commission has concluded its review of the Administrative Law Judge's (ALJ) decision. Within 30 days after service of the notice of the Commission's review of the ALJ's decision, the candidate shall repay the amounts that the Commission has determined to be repayable. Upon appli-

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cation by the candidate, the Commission may grant an extension of up to 30 days in which to make repayment.

3. Interest shall be assessed on all repayments made after the initial 30-day repayment period or the 30-day repayment period established by this Section. The amount of interest due shall be the greater of:
  - a. An amount calculated in accordance with A.R.S. § 44-1201(A); or
  - b. The amount actually earned on the funds set aside or to be repaid under this Section.

**Historical Note**

New Section made by exempt rulemaking at 8 A.A.R. 588, effective November 27, 2001 (Supp. 02-1). Section repealed; new Section made by exempt rulemaking at 11 A.A.R. 4518, effective May 28, 2005 (Supp. 05-4). Amended by final exempt rulemaking at 21 A.A.R. 1643, effective July 23, 2015 (Supp. 15-3). Amended by final rulemaking at 25 A.A.R. 2122, effective July 29, 2019 (Supp. 19-3). Amended by final rulemaking at 26 A.A.R. 337, effective February 4, 2020; the amendment to subsection (A)(2) was originally codified in Supp. 19-3 at 25 A.A.R. 2020 (Supp. 20-1).

**R2-20-705. Additional Audits or Repayment Determinations**

- A. The Commission may conduct an additional audit or examination of any candidate in any case in which the Commission finds reason to believe that a violation of a statute or regulation over which the Commission has jurisdiction has occurred or is about to occur.
- B. The Commission may make additional repayment determinations after it has made an initial repayment determination pursuant to R2-20-704. The Commission may make additional repayment determinations where there exist facts not used as the basis for any previous determination. Any such additional repayment determination will be made in accordance with the provisions of this Article.

**Historical Note**

New Section made by exempt rulemaking at 8 A.A.R. 588, effective November 27, 2001 (Supp. 02-1). Section

repealed; new Section made by exempt rulemaking at 11 A.A.R. 4518, effective May 28, 2005 (Supp. 05-4).

**R2-20-706. Repealed****Historical Note**

New Section made by exempt rulemaking at 8 A.A.R. 588, effective November 27, 2001 (Supp. 02-1). Section repealed by exempt rulemaking at 11 A.A.R. 4518, effective May 28, 2005 (Supp. 05-4).

**R2-20-707. Repealed****Historical Note**

New Section made by exempt rulemaking at 8 A.A.R. 588, effective November 27, 2001 (Supp. 02-1). Section repealed by exempt rulemaking at 11 A.A.R. 4518, effective May 28, 2005 (Supp. 05-4).

**R2-20-708. Repealed****Historical Note**

New Section made by exempt rulemaking at 8 A.A.R. 588, effective November 27, 2001 (Supp. 02-1). Section repealed by exempt rulemaking at 11 A.A.R. 4518, effective May 28, 2005 (Supp. 05-4).

**R2-20-709. Repealed****Historical Note**

New Section made by exempt rulemaking at 8 A.A.R. 588, effective November 27, 2001 (Supp. 02-1). Section repealed by exempt rulemaking at 11 A.A.R. 4518, effective May 28, 2005 (Supp. 05-4).

**R2-20-710. Repealed****Historical Note**

New Section made by exempt rulemaking at 8 A.A.R. 588, effective November 27, 2001 (Supp. 02-1). Section repealed by exempt rulemaking at 11 A.A.R. 4518, effective May 28, 2005 (Supp. 05-4).

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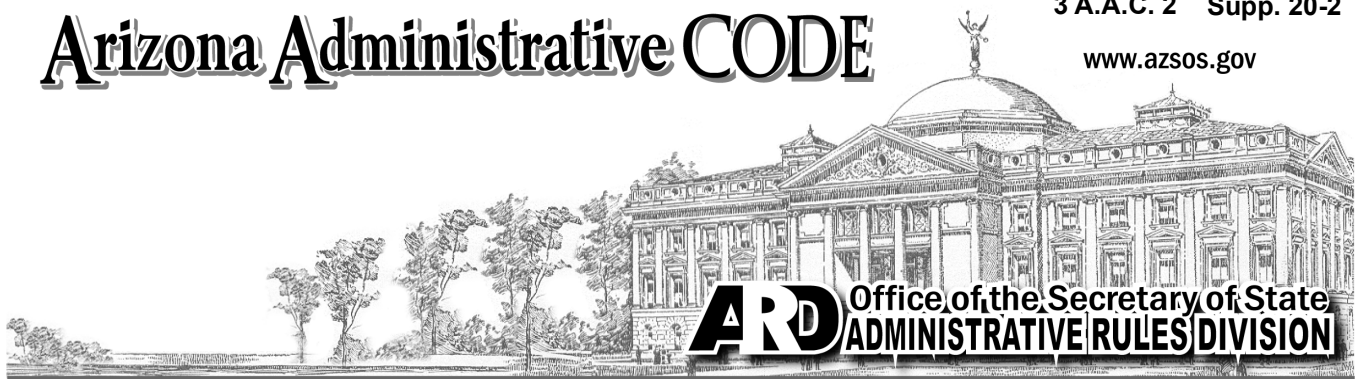
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## TITLE 3. AGRICULTURE

### CHAPTER 2. DEPARTMENT OF AGRICULTURE - ANIMAL SERVICES DIVISION

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#### The release of this Chapter in Supp. 20-2 replaces Supp. 19-3, 1-40 pages

Please note that the Chapter you are about to replace may have rules still in effect after the publication date of this supplement. Therefore, all superseded material should be retained in a separate binder and archived for future reference.



## Administrative Rules Division

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**TITLE 3. AGRICULTURE****CHAPTER 2. DEPARTMENT OF AGRICULTURE - ANIMAL SERVICES DIVISION**

(Authority: A.R.S. §§ 3-1201 et seq., 3-601 et seq., and 3-701 et seq., and 3-2901 et seq.)

Chapter 2, Articles 1 through 7 renumbered from Title 3, Chapter 9, Articles 1 through 7; Article 8, consisting of Sections R3-2-801 through R3-2-808, renumbered from Title 3, Chapter 5, Article 1, Sections R3-5-01 through R3-5-08; Article 9, consisting of Sections R3-2-901 through R3-2-909 renumbered from Title 3, Chapter 6, Article 1, Sections R3-6-101 through R3-6-109 (Supp. 91-4).

Article 1 consisting of Sections R3-9-101 through R3-9-103; Article 2 consisting of Sections R3-9-201 through R3-9-208; Article 3 consisting of Sections R3-9-301 and R3-9-302; Article 4 consisting of Sections R3-9-401 through R3-9-409; Article 5 consisting of Sections R3-9-501 through R3-9-504; Article 6 consisting of Sections R3-9-601 through R3-9-620; Article 7 consisting of Sections R3-9-701 and R3-9-702 adopted effective August 19, 1983.

Former Article 1 consisting of Sections R3-9-01 through R3-9-11; Article 2 consisting of Sections R3-9-16 through R3-9-26; Article 3 consisting of Sections R3-9-22 through R3-9-35; Article 4 consisting of Sections R3-9-46 through R3-9-48 repealed effective August 19, 1983.

**ARTICLE 1. GENERAL PROVISIONS**

Article 1, consisting of Section R3-2-101, adopted effective May 7, 1997 (Supp. 97-2).

Article 1, consisting of Sections R3-2-101 through R3-2-109, recodified to Article 11, Sections R3-2-1101 through R3-2-1109 (Supp. 97-1).

Article 1, consisting of Sections R3-2-101 through R3-2-109, adopted effective September 11, 1996 (Supp. 96-3).

Article 1, consisting of Sections R3-2-101 through R3-2-103, renumbered from R3-9-101 through R3-9-103 (Supp. 91-4).

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(Authority: A.R.S. § 3-601 et seq.)

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*Article 11, consisting of Sections R3-2-1101 through R3-2-1109, expired under A.R.S. § 41-1056(E) at 8 A.A.R. 3755, effective May 10, 2002 (Supp. 02-3).*

*Article 11, consisting of Sections R3-2-1101 through R3-2-1109, recodified from Article 1, Sections R3-2-101 through R3-2-109 (Supp. 97-1).*

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**ARTICLE 1. GENERAL PROVISIONS****R3-2-101. Definitions**

In addition to the definitions provided in A.R.S. §§ 3-1201, 3-1451, and 3-1771, the following terms apply to this Chapter:

“Accredited veterinarian” means a veterinarian approved by the State Veterinarian and USDA Area Veterinarian In Charge (A.V.I.C.) to perform functions required by cooperative State-Federal animal disease control and eradication programs.

“Animal” means livestock, bison, dogs, cats, rabbits, rodents, aquatic animals, game animals, furbearing and wildlife mammals, poultry and psittacines.

“APHIS” means the Animal and Plant Health Inspection Service of the United States Department of Agriculture.

“Beef cattle” means all cattle other than dairy cattle.

“Certificate of Veterinary Inspection” or “CVI” means a legible record that is issued by a VS animal health official, state animal health official, or accredited veterinarian at the point of origin of a shipment of animals, conforms to the requirements of R3-2-606, and is written on a form approved by the chief animal health official of the state of origin or an equivalent form of the USDA attesting that the animal described has been inspected and found to meet the Arizona entry requirements.

“Dairy cattle” means any domesticated bovine dairy animal or crosses of the Bos genus that show at least 50 percent phenotypic characteristics of a dairy breed, including; Ayrshire, Brown Swiss, Canadienne, Dutch Belt, Holstein, Jersey, Guernsey, Kerry, Milking Devon, Milking Shorthorn, or Norwegian Red.

“Designated feedlot” means a feedlot containing a confined drylot area under state quarantine that is approved and authorized by the State Veterinarian; contains a restricted feeding pen; and is maintained for finish feeding of cattle or bison that do not meet the brucellosis or tuberculosis import test requirements.

“Entry permit number” or “Import permit number” means a serialized number issued by the State Veterinarian’s Office that conforms to the requirements of this chapter and allows the regulated movement of certain animals into Arizona.

“Equine Infectious Anemia” or “EIA” means an infectious, noncontagious, and potentially fatal viral disease of members of equine caused by a RNA virus classified in the Lentivirus genus, family Retroviridae.

“Official Identification” as defined in 9 CFR 71.19 (b) as revised on January 1, 2018 for swine; 9 CFR 79.2 (a)(2) as revised on January 1, 2018 for sheep and goats; and 9 CFR 86.4 as revised on January 1, 2018 for cattle.

“Poultry” means any bird except psittacine, whether live or dead, including but not limited to chickens, turkeys, ducks, geese, guineas, ratites, squabs, and any exotic birds not regulated as restricted wildlife by the Arizona Game and Fish Department. The definition “poultry” also includes hatching eggs, which are fertilized eggs produced by breeding poultry.

“Psittacine” means a bird belonging to the family Psittacidae, which includes macaws, parakeets, and parrots.

“USDA” means the United States Department of Agriculture.

“VS” means the Veterinary Services branch of APHIS.

**Historical Note**

Reserved Section R3-2-101 renumbered from R3-9-101

(Supp. 91-4). New Section adopted effective September 11, 1996 (Supp. 96-3). Section R3-2-101 recodified to R3-2-1101 (Supp. 97-1). New Section adopted effective May 7, 1997 (Supp. 97-2). Amended by final rulemaking at 14 A.A.R. 876, effective May 3, 2008 (Supp. 08-1). Amended by final rulemaking at 26 A.A.R. 781, effective June 8, 2020 (Supp. 20-2).

**R3-2-102. Licensing Time-frames**

- A. Overall time-frame. The Department shall issue or deny a license within the overall time-frames listed in Table 1 after receipt of the complete application. The overall time-frame is the total of the number of calendar days provided for the administrative completeness review and the substantive review.
- B. Administrative completeness review.
  1. The administrative completeness review time-frame established in Table 1 begins on the date the Department receives the application. The Department shall notify the applicant in writing within the administrative completeness review time-frame whether the application or request is incomplete. The notice shall specify what information is missing. If the Department does not provide notice to the applicant within the administrative completeness review time-frame, the Department considers the application complete.
  2. An applicant with an incomplete license application shall supply the missing information within the completion request period established in Table 1. The administrative completeness review time-frame is suspended from the date the Department sends the notice of missing information to the applicant until the date the Department receives the information.
  3. If the applicant fails to submit the missing information before the expiration of the completion request period, the Department shall close the file, unless the applicant requests an extension. An applicant whose file has been closed may obtain a license by submitting a new application.
- C. Substantive review. The substantive review time-frame established in Table 1 shall begin after the application is administratively complete.
  1. If the Department makes a comprehensive written request for additional information, the applicant shall submit the additional information identified by the request within the additional information period provided in Table 1. The substantive review time-frame is suspended from the date of the Department request until the information is received by the Department. If the applicant fails to provide the information identified in the written request within the additional information period, the Department shall deny the license.
  2. The Department shall issue a written notice granting or denying a license within the substantive review time-frame. If the application is denied, the Department shall send the applicant written notice explaining the reason for the denial with citations to supporting statutes or rules, the applicant’s right to seek a fair hearing, and the time period in which the applicant may appeal the denial.

**Historical Note**

Reserved Section R3-2-102 renumbered from R3-9-102 (Supp. 91-4). New Section adopted effective September 11, 1996 (Supp. 96-3). Section R3-2-102 recodified to R3-2-1102 (Supp. 97-1). New Section R3-2-102 adopted effective October 8, 1998 (Supp. 98-4). Amended by final rulemaking at 26 A.A.R. 781, effective June 8, 2020

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(Supp. 20-2).

tion R3-2-105 recodified to R3-2-1105 (Supp. 97-1).

**R3-2-103. Recodified****Historical Note**

Adopted effective August 19, 1983 (Supp. 83-4). R3-2-103 renumbered from Section R3-9-103 (Supp. 91-4).  
 Repealed effective April 11, 1994 (Supp. 94-2). New Section adopted effective September 11, 1996 (Supp. 96-3). Section R3-2-103 recodified to R3-2-1103 (Supp. 97-1).

**R3-2-104. Recodified****Historical Note**

Adopted effective September 11, 1996 (Supp. 96-3). Section R3-2-104 recodified to R3-2-1104 (Supp. 97-1).

**R3-2-105. Recodified****Historical Note**

Adopted effective September 11, 1996 (Supp. 96-3). Sec-

**R3-2-106. Recodified****Historical Note**

Adopted effective September 11, 1996 (Supp. 96-3). Section R3-2-106 recodified to R3-2-1106 (Supp. 97-1).

**R3-2-107. Recodified****Historical Note**

Adopted effective September 11, 1996 (Supp. 96-3). Section R3-2-107 recodified to R3-2-1107 (Supp. 97-1).

**R3-2-108. Recodified****Historical Note**

Adopted effective September 11, 1996 (Supp. 96-3). Section R3-2-108 recodified to R3-2-1108 (Supp. 97-1).

**R3-2-109. Recodified****Historical Note**

Adopted effective September 11, 1996 (Supp. 96-3). Section R3-2-109 recodified to R3-2-1109 (Supp. 97-1).

**Table 1. Time-frames (Calendar Days)**

License	Authority	Administrative Completeness Review	Response to Completion Request	Substantive Completeness Review	Response to Additional Information	Overall Time-frame
<b>MEAT AND POULTRY INSPECTION</b>						
License to Slaughter	A.R.S. §§ 3-2002 & 3-2003 R3-2-208	14	14	30	14	44
Transfer of license without fee	A.R.S. § 3-2009	14	14	30	5	44
State Meat Inspection Service	A.R.S. § 3-2047	14	14	30	14	44
Sale or Exchange of Meat or Poultry	A.R.S. § 3-2081 R3-2-208	14	14	30	14	44
Rendering Facility Certification	A.R.S. § 3-2081	14	14	30	14	44
Transfer of License	A.R.S. § 3-2086	14	14	30	5	44
Official Slaughter Meat Licenses	A.R.S. § 3-2122 R3-2-208	14	14	30	14	44
<b>FEEDING OF ANIMALS</b>						
Feed Lot License	A.R.S. § 3-1452	14	14	60	14	74
Permit to Feed Garbage to Swine	A.R.S. § 3-2664	14	14	60	14	74
<b>DAIRY PRODUCTS AND CONTROL</b>						
Milk Distributing Plant New Renewal	A.R.S. § 3-607	14 14	14 14	14 14	14 14	28 28
Milk Processing Plant New Renewal	A.R.S. § 3-607	14 14	14 14	14 14	14 14	28 28
Plant Licensing New Renewal	A.R.S. § 3-665	14 14	14 14	14 14	14 14	28 28
Request to market a product as a milk product	A.R.S. § 601.01	14	14	14	14	28
Tester License	A.R.S. § 3-619	7	7	7	7	14
Trade Product Label	A.R.S. § 3-667	14	14	30	30	44
<b>LIVESTOCK INSPECTION</b>						
Equine Trader Permit	A.R.S. § 3-1348	7	7	7	7	14

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License	Authority	Administrative Completeness Review	Response to Completion Request	Substantive Completeness Review	Response to Additional Information	Overall Time-frame
Ownership and Hauling Certificate for Equines	A.R.S. §§ 3-1344 & 3-1345	14	14	14	14	28
EGG PRODUCTS AND CONTROL						
Annual Licensing	A.R.S. § 3-714	10	10	10	10	20
AQUACULTURE						
Aquaculture Facility	A.R.S. § 3-2907 R3-2-1004	14	14	30	14	44
Fee Fishing Facility	R3-2-1005	14	14	30	14	44
Processor	R3-2-1006	14	14	30	14	44
Transporter	R3-2-1007	14	14	30	14	44
Special Licenses	A.R.S. § 3-2908	14	14	30	14	44

**Historical Note**

Adopted effective October 8, 1998 (Supp. 98-4). Amended by final rulemaking at 8 A.A.R. 3625, effective August 7, 2002 (Supp. 02-3). Amended by final rulemaking at 9 A.A.R. 2089, effective August 2, 2003 (Supp. 03-2). Amended by final rulemaking at 26 A.A.R. 781, effective June 8, 2020 (Supp. 20-2).

**ARTICLE 2. MEAT AND POULTRY INSPECTION****R3-2-201. Definitions**

In addition to the definitions provided in A.R.S. §§ 3-101 and 3-2001 and 9 CFR 301.2 and 9 CFR 381.1, which are incorporated by reference in R3-2-202, the following terms apply to this Article:

1. "Animal" means any steer, heifer, calf, cow, bull, sheep, goat, swine, horse, ass, mule, burro, ratite, or poultry.
2. "Dead animal" means an animal that died other than by slaughter in a place where inspection is performed by the Department or by the United States Department of Agriculture.
3. "Inedible meat" means:
  - a. Meat or meat food product from an animal that died by slaughter or was processed in an inspected slaughterhouse, but which an inspector did not pass as fit for human consumption; or
  - b. Meat condemned by a federal or state inspector.
4. "Rendering" means the conversion of packinghouse waste or dead animal carcasses and parts into industrial fat, oil, or other product unfit for human consumption.

**Historical Note**

Adopted effective August 19, 1983 (Supp. 83-4). Amended effective June 4, 1987 (Supp. 87-2). Amended subsection (A) effective February 28, 1989 (Supp. 89-1). Section R3-2-201 renumbered from Section R3-9-201 (Supp. 91-4). Section repealed, new Section adopted effective July 13, 1995 (Supp. 95-3). Amended by final rulemaking at 10 A.A.R. 2661, effective August 7, 2004 (Supp. 04-2).

**R3-2-202. Meat and Poultry Inspection; Slaughtering Standards**

All meat and poultry inspection, slaughtering, production, processing, labeling, storing, handling, transportation and sanitation procedures shall be conducted as prescribed in 9 CFR Chapter III, revised January 1, 2016, as amended by 80 FR 75590-01 (December 2, 2015), except sections 302.2, 307.5, 307.6, 312, 322, 327, 329.7, 329.9, 331, 335, 351, 352, 354, 355, 381.38, 381.39, 381.96 through 381.112, 381.195 through 381.209, 381.218 through 381.225, 390, 391, 392, 590 and 592. This material is incorporated by reference and does not include any later amendments or editions. A copy of the incorporated material is available from the Department and may also be viewed online at [www.gpo.gov/fdsys](http://www.gpo.gov/fdsys).

**Historical Note**

Adopted effective August 19, 1983 (Supp. 83-4). Amended effective June 4, 1987 (Supp. 87-2). Amended subsection (A) effective February 28, 1989 (Supp. 89-1). Section R3-2-202 renumbered from Section R3-9-202 (Supp. 91-4). Amended effective July 13, 1995 (Supp. 95-3). Amended effective March 5, 1997 (Supp. 97-1). Amended by final rulemaking at 6 A.A.R. 465, effective January 5, 2000 (Supp. 00-1). Amended by final rulemaking at 8 A.A.R. 3625, effective August 7, 2002 (Supp. 02-3). Amended by final rulemaking at 10 A.A.R. 1971, effective May 4, 2004 (Supp. 04-2). Amended by emergency rulemaking at 15 A.A.R. 1890, effective October 21, 2009 for 180 days (Supp. 09-4). Emergency expired; Section amended by final rulemaking at 16 A.A.R. 351, effective April 3, 2010 (Supp. 10-1). Amended by emergency rulemaking at 19 A.A.R. 150, effective January 9, 2013 (Supp. 13-1). Amended by final rulemaking at 19 A.A.R. 1789, effective July 9, 2013 (Supp. 13-3). Amended by final rulemaking at 22 A.A.R. 2167, effective October 2, 2016 (Supp. 16-3).

**R3-2-203. Licenses; Registration; Records**

- A. Any person operating a business in any of the following categories shall obtain the appropriate license from the Department.
1. Types of slaughter licenses.
    - a. Official slaughter – the slaughtering of animals in a slaughterhouse for sale for human consumption.
    - b. Exempt slaughter.
      - i. Exempt non-mobile slaughter – the slaughtering or dressing of an animal in a stationary building for human consumption, that is not sold or offered for sale.
      - ii. Exempt mobile slaughter – the slaughtering or dressing of an animal for human consumption by using a mobile structure on the property of the animal's owner, that is not sold or offered for sale.
  2. Types of meat licenses.
    - a. Broker – any person, firm or corporation engaged in buying or selling carcasses, parts of carcasses, meat or poultry food products, or by-products from state or federally inspected establishments. A broker negotiates purchases or sales of these products other

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than for the broker's own account, as an employee of another person, and is paid a commission.

- b. Exempt – any person, firm, or corporation engaged in processing meat or poultry products without meat inspection, for an individual owner of meat that is not for sale.
  - c. Distributor – any person, firm, or corporation engaged in receiving carcasses, parts of carcasses, meat or poultry food products, or by-products from state or federally inspected establishments and storing or distributing these products to commercial outlets, processors, or individuals. A distributor does not process any of these products.
  - d. Jobber – any person, firm, or corporation with an established place of business that buys meat or poultry food products and offers the products for sale to someone other than the end-use consumer.
  - e. Pet food manufacturer – any person, firm, or corporation engaged in manufacturing animal food from meat or poultry unfit for human consumption.
  - f. Processor – any person, firm, or corporation that changes meat or poultry food products by cutting, mixing, blending, canning, curing or otherwise preparing meat or meat food products wholesale for human consumption.
  - g. Renderer – any person, firm, or corporation that renders and tallows and any person, firm, or corporation engaged commercially in the hide, hair, or pelt removal, cutting up, or rendering of animals.
- B.** Applications for a license or registration pursuant to A.R.S. § 3-2081(A), shall be made on forms provided by the Department and shall contain the following:
1. The name of the applicant and the applicant's partners, officers or directors of the business, if any;
  2. The business name, mailing address, telephone number, and Social Security number of the applicant;
  3. The exact location of the business, if different from subsection (B)(2).
- C.** All persons licensed or registered under this Section, and all other persons described in A.R.S. § 3-2081, shall maintain the records required under A.R.S. § 3-2081 for a minimum of one year. In addition, all registered dead animal haulers, licensed rendering and tallow plants, and pet food manufacturing plants shall prepare and submit the reports required under A.R.S. § 3-2695 and shall include copies of those reports as part of records maintained under this Section and A.R.S. § 3-2081.
- D.** During fiscal year 2020, the fee to obtain or renew a license to slaughter is:
1. For not to exceed 45 head of cattle, and not to exceed 55 head of sheep, goats or swine in one calendar year: \$250.
  2. For more than 45 and not to exceed 150 head of cattle and more than 45 and not to exceed 160 head of sheep, goats or swine in one calendar year: \$300.
  3. For more than 150 head of cattle and more than 160 head of sheep, goats or swine in any one calendar year: \$450.
- E.** During fiscal year 2020, the fee to obtain or renew a meat license is:
1. For a broker, \$450.
  2. For exempt processing, \$300.
  3. For a distributor, \$500.
  4. For a jobber, \$450.
  5. For a pet food manufacturer, \$300.
  6. For a processor, \$300.
  7. For meat storage, \$450.
  8. For transportation, \$300.

Adopted effective August 19, 1983 (Supp. 83-4). Section R3-2-208 renumbered from Section R3-9-208 (Supp. 91-4). Amended effective July 13, 1995 (Supp. 95-3). Former Section R3-2-203 renumbered to R3-2-208; new Section R3-2-203 renumbered from Section R3-2-208 and amended by final rulemaking at 5 A.A.R. 1593, effective May 5, 1999 (Supp. 99-2). Amended by exempt rulemaking at 16 A.A.R. 1331, effective June 29, 2010 (Supp. 10-2). Amended by exempt rulemaking at 17 A.A.R. 1756, effective July 20, 2011 (Supp. 11-3). Amended by exempt rulemaking at 18 A.A.R. 2060, effective August 2, 2012 (Supp. 12-3). Amended by exempt rulemaking at 19 A.A.R. 3127, effective September 14, 2013 (Supp. 13-3). Amended by exempt rulemaking at 20 A.A.R. 2449, effective July 24, 2014 (Supp. 14-3). Amended by exempt rulemaking pursuant to Laws 2015, Ch. 10, § 14, at 21 A.A.R. 2404, effective July 3, 2015 (Supp. 15-3). Amended by final exempt rulemaking at 23 A.A.R. 1937, effective August 9, 2017 (Supp. 17-2). Amended by final exempt rulemaking at 24 A.A.R. 2219, effective August 3, 2018 (Supp. 18-3). Amended by final exempt rulemaking at 25 A.A.R. 2081, effective August 27, 2019 (Supp. 19-3).

**R3-2-204. Official Slaughter Establishment**

In addition to the requirements in A.R.S. § 3-2051, the following shall be provided when slaughtering cattle, calves, sheep, and hogs:

1. Cattle.
  - a. A metal knocking box or concrete box with metal door to confine the animals prior to stunning;
  - b. A separately drained, dry landing area at least five feet wide in front of the knocking box;
  - c. A curbed-in bleeding area at least eight feet wide and seven feet long, located so that blood will not splash upon stunned animals lying in the dry landing area or upon carcasses being skinned on the siding bed. Curbing shall be at least six inches high and six inches wide;
  - d. A separately drained area at least five feet from the curbed-in bleeding area to the siding bed;
  - e. A distance of at least 14 feet from the vertical of the dropoff to the vertical of the hoist where carcasses are eviscerated. For multiple-bed plants, this distance shall be increased to 16 feet;
  - f. A distance of at least 14 feet between the vertical of the hoist where carcasses are eviscerated and the header rail leading to the cooler. This distance may be shortened when a single rail hang-off is used;
  - g. A distance of at least three feet from the header rail to the adjacent wall;
  - h. A bleeding rail with its top at least 16 feet above the floor or a traveling hoist on an I-beam which will provide an equivalent distance of the carcass from the floor;
  - i. Floor space for a head-flushing cabinet and head inspection rack with removable hooks;
  - j. When hides are dropped to a room below, a hide chute near the point where hides are removed from the carcasses. The chute shall have a vented hood with a self-closing, push-in door. The vent shall be approximately 10 inches in diameter and extend to a point above the roof. Additional chutes, which meet the requirements of this subsection, for inedible and condemned materials shall be provided separate from the hide chutes;

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- k. A two-level viscera inspection truck for evisceration, except when a moving top viscera inspection table is used;
  - l. An area for washing and shrouding carcasses which shall be curbed and sloped to a separate drain or have a slope of approximately 1/2 inch to the foot leading to a separate drain;
  - m. Dressing rails and cooler rails at least 11 feet in height.
2. Calves and sheep.
    - a. A bleeding rail with its top approximately 11 feet from the floor. The floor of the bleeding area shall be curbed and separately drained;
    - b. Dressing and cooler rails of such height as to provide a clearance of at least eight inches from the carcasses to the floor. Calves which are of such size that there is not a clearance of at least eight inches above the floor, or whose viscera cannot be transferred manually and unaided to the inspection stand, shall be skinned and eviscerated as cattle;
    - c. Facilities for washing hides of calves before any incision is made (except the sticking wound) when carcasses are dressed hide on. The heads of calves and veal slaughtered by the Kosher method shall be skinned prior to the washing of the carcasses;
    - d. Facilities for flushing, washing, and inspecting calf heads, including head-flushing cabinet and head inspection rack with removal calf loops;
    - e. Facilities for the inspection of the viscera. A hopped metal stand shall be provided which accommodates two removal inspection pans. One inspection pan is for the thoracic viscera; the other is for the abdominal viscera. The pans shall have perforated bottoms and handles or hand holes for removal. A sterilizing receptacle shall be provided for sterilization of contaminated pans;
    - f. Facilities for washing sheep carcasses after removal of the pelt. Calves and sheep shall be washed again after they have been eviscerated.
  3. Hogs.
    - a. Facilities for bleeding hogs in a hanging position, over a separately drained, curbed-in bleeding area;
    - b. A scalding vat and gambreling table, including the platforms, of metal construction;
    - c. A shaving rail to assure that carcasses are cleaned;
    - d. A hopped metal stand for the inspection of viscera. A sterilizing receptacle shall be provided at a convenient location for the sterilization of contaminated pans;
    - e. Dressing and cooler rails at least nine feet high or of such height as to provide a clearance of at least eight inches between the lowest point of the carcass, or head if left attached, and the floor.
  4. Coolers. A chill cooler and separate holding coolers may be provided or both may be combined in one room. The chill cooler shall have floors of concrete sloped to a drain. The walls shall be smooth, light colored, impervious, and the room shall be sealed. The other coolers shall have floors of concrete; the walls shall be smooth, free of cracks, light colored, impervious, and the room shall be sealed. The door between the slaughtering department and the chill cooler shall be clad with rust-resistant metal. Rails shall be spaced at least two feet from walls, columns, refrigerating equipment, or other fixed equipment to prevent contact with the carcasses. Header rails shall be three feet from the walls. When overhead refrigerating facilities are provided, insulated drip pans must be installed beneath them and the pans connected to the drainage system. If wall coils are installed, a drip gutter of impervious material and connected with the drainage system shall be installed beneath the coils. When edible offal is chilled or stored in a cooler other than a separate offal cooler, that area shall be separately drained.
  5. Other edible products departments.
    - a. Floors, walls, and ceilings in the various edible products departments of the plant shall be constructed of material that can be readily kept clean. Wooden structures and equipment shall be kept at a minimum. Floors requiring drainage shall be constructed of dense concrete or floor brick laid on a concrete base. The interior walls and, where practical, ceiling surfaces shall be smooth and flat. Walls shall be constructed of glazed tile, smooth cement plaster, or other USDA-approved impervious material. Walls shall be free of cracks and crevices, and, where brick or tile is used, the mortar joints shall be flush with the surface of the walls. Walls shall be light colored.
    - b. The floors of the plant shall be well-drained; a slope of not less than 1/4 inch to the foot to drainage inlets is required. The floors shall be smooth, impervious, and in good repair; they shall be free from cracks and depressions which could hold floor liquids. Wooden floors are not permitted. Junctions of floors and walls shall be coved.
    - c. Walls, ceilings, beams, and hangers shall be cleaned. Rails may be oiled instead of painted. Rust and scale shall be removed from hangers and meat trolleys. Smooth Portland cement plaster walls shall not be painted.
  6. Hide room. The floor of the hide room, if provided, shall be of concrete and drained. Walls shall be smooth and impervious to at least the highest point of the hide pile. The hide room shall not connect with the slaughtering department except for one opening which shall be equipped with a tight-fitting, self-closing door. The hide room shall not connect with any other room in which edible products are stored, processed, or handled.
  7. Disposal of blood. When blood is not permitted to drain into the sewage system, it may be collected in a metal tank and removed from the premises or blown to the blood drier in a manner that will not mask odors or create a harborage for pests.
  8. Other inedible products departments.
    - a. An inedible products department, completely separate and apart from edible products departments, shall be provided. Walls shall be of smooth, finished, Portland cement plaster, glazed tile, or other USDA-approved material impervious to moisture. Floors shall be constructed of dense concrete or floor tile, sloped to drain. Hot and cold water connections shall be provided. With the exception of one opening to the slaughtering department, there shall be no openings between an inedible products department and an edible products department. This one opening shall be approximately five feet in width to allow the free passage of materials and shall be equipped with a close-fitting, self-closing door of solid construction. This door shall be kept closed at all times, except when in actual use, to prevent the entrance of undesirable odors to the slaughtering department. The area at the loading dock shall be paved, drained,

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- and of sufficient size to accommodate the largest truck used. If inedible offal is stored in an edible offal room, the room is classed as an inedible products department. Paunches may be opened in the slaughtering department only when a hydraulic mechanically operated paunch lift table is provided and used for this purpose. Otherwise, the paunches shall be opened in the inedible offal rooms.
- b. Requests for permission for rendering of shop scraps and outside dead animals shall be made to the inspector who shall grant or deny the request pursuant to Article 2.
9. Pens.
- a. Holding pens shall be surfaced with an impervious material, sloped to drains. A curb shall be installed around the outside of the pens to prevent the wash from escaping. Water under pressure shall be available for washing out the pens. Feeding pens shall be at least 300 feet from the plant and shall not be located in front of the plant.
- b. Holding and shackling pens shall be located outside of, or separated from, the slaughtering department.
10. Drainage
- a. Floors which require flushing during operations shall have sloped floor drains to carry off the floor drainage. Each floor drain shall be equipped with a deep-seal trap; the drainage lines shall be vented to the outside in accordance with local plumbing codes. In no case shall a drain line be less than four inches in diameter.
- b. Sewage may be disposed of into a municipal sewer system, if permitted by local ordinance, or it may be disposed of into a stream or other similar body of water, provided that:
- i. This method is acceptable to local health authorities having jurisdiction over sewage disposal, and
- ii. The flow of the stream or other body of water is sufficient to carry the sewage away from the plant at all seasons of the year. When cesspools are used, they shall be of sufficient size to receive the sewage from the plant at all times; they shall be so constructed that they do not create a nuisance by breeding flies or other insects.
- c. Grease recovery basins shall not mask odors or create a harborage for pests.
11. Equipment and utensils.
- a. Equipment shall be constructed of metal and shall be so constructed that it can be easily cleaned. Cutting boards may be of hard wood or synthetic material, but equipment, such as the framework of boning or cutting tables, scalding vats, offal racks and trees, product storage racks, and product trucks shall be of metal construction. Rusty or worn-out equipment shall be replaced.
- b. All equipment shall be thoroughly cleaned following each day's operations. The use of a clear, colorless, odorless, tasteless, edible mineral oil may be used on metal equipment, such as choppers, grinders, mixers, tables, meat trucks, offal racks, hooks, and trolleys. Scale shall not be permitted to accumulate on metal equipment.
- c. Sterilizing receptacles equipped with drains to permit draining and cleaning shall be placed at convenient locations in the slaughtering department for the cleaning and sterilization of contaminated tools and equipment. Water wasting from equipment shall not flow across the floor.
- d. Shovels used for transferring ice or other edible materials from one container to another shall not touch the floor.
12. Ventilation and lighting. Natural ventilation may be supplemented by artificial means and shall be sufficient to assure the absence of dust, masking odors, or steam vapors. Points where inspection is conducted may require special lighting. The glass area shall be at least 1/4 of the floor area in all nonrefrigerated work rooms. To assure adequate lighting at all times and at all places, natural lighting must be supplemented by well-distributed artificial lighting.
13. Water supply, wash basins, sterilizing facilities.
- a. Hot and cold running water, under pressure, shall be available at all parts of the establishment and in conformity with the requirements of the Arizona Department of Health Services. The hot water used for sterilizing equipment, floors, and walls that may be contaminated by the dressing procedure or handling of diseased carcasses, viscera, and other animal parts, shall be at least 180° F. A thermometer shall be installed to verify the temperature of the water at the point of use. A cleanup hose shall be available for use.
- b. Foot-pedal operated wash basins shall be placed in or near dressing rooms. These wash basins shall be equipped with running hot and cold water, delivered through a combination mixing faucet with an outlet at least 12 inches above the rim of the bowl. The drainage outlet shall lead directly into the sewage lines. Soap and towels, and a receptacle for dirty paper towels or other trash, shall be convenient to the wash basin.
- c. One or more wash basins shall be located in the slaughtering department, and one or more in the sausage manufacturing room and at any other place in the establishment essential to ensure cleanliness of all persons handling products. The wash basins shall be equipped with hot and cold running water, delivered through a combination mixing faucet with an outlet at least 12 inches above the rim of the bowl. The water delivery shall be foot-pedal operated, and the drainage outlet shall lead directly into the sewage lines. Soap and disposable towels shall be convenient to the wash basins.
- d. Water for sterilizing purposes shall be maintained at a temperature of at least 180° F. One or more sterilizing receptacles of rust-resisting, impervious material shall be placed at convenient locations in the slaughtering department for the sterilization of all implements that have been contaminated or used on a diseased carcass or part of a diseased carcass. The sterilizer shall be equipped with a cold water and steam line, or other means to maintain water at a temperature of at least 180° F during slaughtering operations. The sterilizer shall contain a drain so that water may be completely drained out for daily cleaning. Boilers and water heaters shall not be located in the slaughtering department or in any edible products department. To prevent possible back siphonage, vacuum breakers shall be provided on all steam and water lines when open ends are submerged or connected to equipment.

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14. Protection against flies, rodents, or other vermin.
  - a. Plants must be kept free of flies, rats, mice, roaches, and other pests or vermin. The plant shall be constructed to prevent entrance of rodents to the premises and to eliminate their breeding places from the surrounding areas and in the establishment. Construction of the plant shall be such as to eliminate roach and other insect harbors. Windows, doors, and other openings to the plant shall be provided with insect screens, or other measures to prevent entrance of flies or other insects. The screens shall be kept in good repair. Sprays containing residual-acting chemicals shall not be used in edible products departments.
  - b. Animal-handling facilities such as stock pens and runways shall be cleaned as often as necessary and the manure or other waste materials removed shall not be permitted to accumulate at or near the plant.

**Historical Note**

Adopted effective August 19, 1983 (Supp. 83-4). Section R3-2-204 renumbered from Section R3-9-204 (Supp. 91-4). Amended effective July 13, 1995 (Supp. 95-3). Amended by final rulemaking at 5 A.A.R. 1593, effective May 5, 1999 (Supp. 99-2).

**R3-2-205. Expired****Historical Note**

Adopted effective August 19, 1983 (Supp. 83-4). Section R3-2-205 renumbered from Section R3-9-205 (Supp. 91-4). Amended effective July 13, 1995 (Supp. 95-3). Section expired under A.R.S. § 41-1056(J) at 23 A.A.R. 135, effective December 15, 2016 (Supp. 16-4).

**R3-2-206. Purchase, Sale, Collection, Transportation, Disposition, and Use of Meat or Meat Food Products; Dead Animals; Animal Bone, Animal Fat, Animal Offal**

- A. A person shall not buy, sell, offer for sale, store, transport, receive, or collect any meat or meat food product except as provided in this subsection.
  1. Any of the following meat or meat food products may be bought, sold, or offered for sale as animal food and may be stored, transported, received, or collected anywhere within the state:
    - a. Any meat or meat food product that is processed in an animal food manufacturing plant licensed by the Department;
    - b. Any meat or meat food product that comes from an animal that died by slaughter or is approved or passed for animal food by either state or federal meat inspectors;
    - c. Any meat or meat food product that is thoroughly cooked at a minimum temperature of 180° F for 30 minutes and is certified by a state or a federal meat inspector having jurisdiction at the place of processing.
  2. A carcass with the hide, hair, or pelt still on the carcass may be bought, sold, offered for sale, collected and transported to or received by the following only:
    - a. A rendering or tallow plant;
    - b. A state or county diagnostic laboratory, a veterinarian's clinic, or crematory;
    - c. An animal food manufacturing plant;
    - d. A landfill regulated by the Arizona Department of Environmental Quality;
    - e. An out-of-state landfill regulated by that state's landfill regulatory authority; or

- f. A landfill located on a Native American reservation that is regulated by equivalent standards to those prescribed by the Arizona Department of Environmental Quality.
3. Any meat or meat food product described in subsection (A)(1) or a carcass with the hide, hair, or pelt still on the carcass from an official state or federal slaughter establishment shall be denatured with a denaturant that will not leave a toxic residue and is removable when steam-distilled at atmospheric pressure.
4. Any meat or meat food product that has been condemned by state or federal meat inspectors shall be treated as provided in 9 CFR 314.3, which has been incorporated by reference in R3-2-202, and may be disposed of as provided in that rule or may be collected and transported to or received by a rendering or tallow plant or a state or county diagnostic laboratory or crematory.
- B. A person engaged commercially in the collection or transportation of dead animal carcasses or inedible meat shall register with the Department as a dead animal hauler as prescribed in R3-2-203(B) and shall maintain and keep all records for the time required by R3-2-203(C).
- C. A vehicle or other means of conveyance used to transport a dead animal carcass or inedible meat shall be:
  1. Leak-proof,
  2. Constructed of impervious materials that permit thorough cleaning and sanitizing,
  3. Equipped to control insects and odors and prevent the spread of disease, and
  4. Comply with the Department of Environmental Quality vehicle requirements prescribed in R18-13-310(A) and (B).
- D. Except as provided in subsection (E), a dead animal carcass may be rendered or made into animal food only at a licensed rendering or animal food manufacturing plant as prescribed in A.R.S. § 3-2088 and this Article.
- E. Dead animals diagnosed with anthrax or an animal disease foreign to the United States shall be handled as directed by the State Veterinarian.
- F. Discarded animal bone, animal fat, and animal offal generated by a wholesale food manufacturer shall be transported to and received by only a:
  1. Licensed rendering plant, or
  2. Landfill, as prescribed in subsections (A)(2)(d), (A)(2)(e), and (A)(2)(f).

**Historical Note**

Adopted effective August 19, 1983 (Supp. 83-4). Section R3-2-206 renumbered from Section R3-9-206 (Supp. 91-4). Amended effective July 13, 1995 (Supp. 95-3). Citation in subsection (B) corrected to R3-2-203(C) from R3-2-208(C) under R1-1-109(C) (Supp. 01-2). Amended by final rulemaking at 8 A.A.R. 3015, effective July 10, 2002 (Supp. 02-3).

**R3-2-207. Meat from Dead Animals Processed and Decharacterized for Use as Animal Food**

- A. The following are minimum requirements for animal food manufacturing plants:
  1. Hot and cold water shall be provided with facilities for its distribution in the plant which shall conform with the minimum requirements of the state Department of Health Services. The hot water shall be at least 180° F and shall be used for the cleaning of equipment, floors, and walls.
  2. There shall be a drainage and plumbing system and a sewage disposal system that will not serve as a breeding place for flies, constitute a hazard, or endanger public

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health. Both systems shall meet the minimum requirements of the state Department of Health Services.

3. The floors, walls, ceilings, partitions, posts, doors, and other parts of all structures shall be of materials, construction, and finish that are capable of being thoroughly cleaned. The floors shall be tile, cement or other material impervious to water and shall have sufficient drainage to preclude stagnant accumulations of moisture.
  4. All outside windows and doors shall be screened.
  5. All rooms shall have natural or artificial lighting and well-distributed ventilation sufficient to prevent uncontrolled mold growth and filth or bacteria that may endanger health.
  6. The plant shall be kept free from flies, rats, mice, and other vermin. Dogs and cats shall be excluded from the plants.
  7. Tables, benches, and other equipment shall be provided so that processing can be performed free from filth or bacteria that may endanger health.
  8. Each plant shall provide toilets, wash basins, towels, hot and cold running water, and soap for the employees with separate facilities when both sexes are employed. Toilets and wash basins shall be kept free from filth or bacteria that may endanger health. The rooms in which the toilet facilities are located shall be ventilated and shall be separated from the rooms in which the animal food is manufactured.
  9. Coolers shall be maintained below 40° F. Freezers shall be maintained below 10° F.
- B. Decharacterizing or denaturant agents:** The following USDA-approved denaturant agents may be used: Charcoal (finely powdered) with a minimum 1 lb. per 100 lbs. meat, F-D & C Blue 1, F-D & C Blue 2, F-D & C Green 3, or liquid charcoal.
1. In addition to the application of the denaturing agents listed, meat or meat products shall be identified with the following information:
    - a. The kind of animal,
    - b. The following phrases:
      - i. For pet food only from dead animals,
      - ii. Denatured with \_\_\_\_\_,
    - c. The correct statement of net weight, and
    - d. The name and address of processor or manufacturer.
  2. Before the denaturing agents are applied to pieces more than four inches in diameter, the pieces shall be freely slashed or sectioned. The application of any of the denaturing agents listed in this Section to the outer surfaces of molds or blocks of boneless meat, meat by-products, or meat food products shall not be considered adequate. The denaturing agent shall be mixed thoroughly with all of the material to be denatured and shall be applied in such quantity and manner that it cannot easily and readily be removed by washing or soaking. Denaturant shall be used to give the meat, meat by-products, raw animal fat, or rendered animal fats and oils, a distinctive color, odor, or taste so that such material cannot be confused with an article of human food.
  3. All denaturing shall be done immediately upon condemnation of the meat or product, or immediately after the meat or product is prepared or during preparation.
  4. True containers shall be legibly marked with the words "Beef or horse meat from dead animals for pet food only and not for human consumption" in letters at least 3/4 inch in height, on all sides and in at least two places if the container has less than four sides.
  5. Every carrying container in which meat obtained from a dead animal is packaged shall have an exterior surface

sufficiently absorbent so that the markings on at least two sides, in letters two inches high "Pet food only," will not become illegible during handling, storage, or transportation of the container.

- C. Sales of meat obtained from a dead animal are permitted only to kennels, zoos, and animal food manufacturing plants registered by the Department, and records of sales shall be maintained by the purchaser and animal food manufacturing plant.
- D. Each vehicle used for the transportation of fresh or frozen pet food shall be clearly and legibly marked with the name of the manufacturer in letters not less than four inches in height on both sides of the cab or body.

**Historical Note**

Adopted effective August 19, 1983 (Supp. 83-4). Section R3-2-207 renumbered from Section R3-9-207 (Supp. 91-4). Amended effective July 13, 1995 (Supp. 95-3).

**R3-2-208. Diseased and Injured Animals**

- A. Diseased animals.**
1. No meat from any diseased animal shall be processed, sold or stored at premises where food is sold or prepared for human consumption, unless it is decharacterized and clearly identified "Not for Human Consumption."
  2. Subsection (A)(1) does not apply to meat from animals affected by any disease that does not render the meat unfit for human consumption if the affected animals are slaughtered in establishments where meat inspection is maintained under A.R.S. § 3-2051 and 9 CFR, Chapter III, Subchapter A, which is incorporated by reference in R3-2-202(A).
- B. Injured animals.** An injured animal may be slaughtered by:
1. The animal's owner at the owner's premises if the meat is used solely for consumption by the owner, the owner's immediate family, or employees. The owner shall keep the animal's hide until it has been inspected and marked or tagged by a livestock officer under A.R.S. § 3-2011.
  2. An official slaughter establishment, if:
    - a. The animal is inspected by a livestock officer at origin; or
    - b. The animal is transported to the official slaughter establishment with a self-inspection certificate; or
    - c. The animal is transported to an official slaughter establishment with a waiver from the Associate Director and the waiver is documented by the livestock officer.
  3. An exempt slaughterer, if the meat is used solely for consumption by the animal's owner, the owner's immediate family or employees, and if:
    - a. The animal's body temperature is 103° F or less and except for the injury its condition appears normal; and
    - b. The animal is inspected by a livestock officer at origin who verifies the temperature and condition of the animal and approves it for slaughter; or
    - c. The Associate Director waives the inspection and the waiver is documented by the livestock officer, and the exempt slaughterer verifies the temperature and condition of the animal.
- C. Non-ambulatory disabled cattle.** Non-ambulatory disabled cattle shall not be slaughtered by any official or exempt slaughterer. Non-ambulatory disabled cattle are cattle that cannot rise from a recumbent position or that cannot walk, including, but not limited to, those with broken appendages, severed tendons or ligaments, nerve paralysis, fractured vertabral column, or metabolic conditions.

**Historical Note**



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Adopted effective August 19, 1983 (Supp. 83-4). Section R3-2-203 renumbered from Section R3-9-203 (Supp. 91-4). Amended effective July 13, 1995 (Supp. 95-3). Former Section R3-2-208 renumbered to R3-2-203; new Section R3-2-208 renumbered from Section R3-2-203 and amended by final rulemaking at 5 A.A.R. 1593, effective May 5, 1999 (Supp. 99-2). Amended by final rulemaking at 26 A.A.R. 781, effective June 8, 2020 (Supp. 20-2).

**R3-2-209. Exempt Non-mobile Slaughter Establishments**

In addition to A.R.S. § 3-2050 and the material incorporated in R3-2-202(A), the following shall be provided when slaughtering animals in an exempt non-mobile slaughter establishment:

1. General.
  - a. A metal knocking box or concrete box with metal door to confine the animal before stunning;
  - b. A distance of at least three feet from the header rail to the adjacent wall;
  - c. A bleeding rail with its top at least 16 feet above the floor; and
  - d. Dressing rails and cooler rails placed so the lowest part of the carcass is at least 12 inches from the floor.
2. Coolers. A chill cooler and separate holding cooler may be provided or both may be combined in one unit. The walls shall be light colored, smooth, free from cracks, and impervious to moisture. The door between the slaughtering department and the chill cooler shall be clad with rust-resistant material. Rails shall be spaced at least two feet from walls, columns, refrigeration equipment, or other fixed equipment to prevent contact with the carcasses.
3. Disposal of blood. If blood is not permitted to drain into the sewage system, it may be collected in a metal tank and removed from the premises.
4. Drainage.
  - a. Floors that require flushing during operations shall have sloped floor drains to carry off the effluent. Drainage systems shall conform to state and local plumbing codes.
  - b. Grease recovery systems shall not mask odors or create a harborage for pests.
5. Ventilation and lighting. Natural ventilation may be supplemented by artificial means and shall be sufficient to ensure the absence of dust, masking odors, or steam vapors. To ensure adequate lighting at all times and at all places, natural lighting shall be supplemented by well-distributed artificial lighting.
6. Potable water supply, wash basins, sterilizing facilities.
  - a. Hot and cold running water, under pressure, shall be available in all parts of the plant and in conformity with the requirements of the Arizona Department of Health Services. The hot water used for sterilizing equipment, floors, and walls that may be contaminated by the dressing procedure or handling of diseased carcasses, viscera, and other animal parts, shall be at least 180° F. A thermometer shall be installed to verify the temperature of the water at the point of use. A cleanup hose shall be available for use.
  - b. One or more wash basins shall be located in the slaughtering department. The wash basins shall be equipped with hot and cold running water, delivered through a combination mixing faucet with an outlet at least 12 inches above the rim of the bowl. The water delivery shall be foot-pedal operated, and the

drainage outlet shall lead directly into the sewage lines. Soap and disposable towels shall be convenient to the wash basins.

- c. The tool sterilizer shall be maintained at 180° F and be in operation at all times during slaughter activities.
7. Protection against flies, rodents, or other vermin.
  - a. Establishments shall be free of flies, rats, mice, roaches, and other pests or vermin. The establishment shall be constructed and maintained to prevent entrance of pests to the premises and to eliminate breeding places from the surrounding area and in the establishment.
  - b. Animal handling facilities such as stock pens and runways shall be clean and manure or other waste materials removed shall not accumulate at or near the establishment.

**Historical Note**

New Section adopted by final rulemaking at 5 A.A.R. 1593, effective May 5, 1999 (Supp. 99-2).

**ARTICLE 3. FEEDING OF ANIMALS****R3-2-301. Repealed****Historical Note**

Adopted effective August 19, 1983 (Supp. 83-4). Section R3-2-301 renumbered from Section R3-9-301 (Supp. 91-4). Amended by final rulemaking at 8 A.A.R. 4043, effective November 9, 2002 (Supp. 02-3). Section repealed by final rulemaking at 26 A.A.R. 781, effective June 8, 2020 (Supp. 20-2).

**R3-2-302. Permit to Feed Garbage to Swine; Requirements**

A swine garbage feeding permit holder or applicant for a permit to feed garbage to swine shall comply with the following requirements:

1. An approved cooker is installed, is in operating condition on the premises, and fenced off from all swine.
2. A concrete slab, trough, or other easily cleanable area, and equipment for feeding garbage is provided.
3. Premises utilized for swine garbage feeding are reasonably clean, free of litter, adequately drained, and provide for removal of animal excrement and garbage not consumed.
4. Individually operated swine garbage feeding premises are separated from other swine premises by a minimum distance of 200 feet in all directions and constructed to prevent the escape of any swine.
5. In addition, all swine garbage feeding permit holders shall follow all federal garbage feeding regulations as outlined in 9 CFR Part 166 as revised on January 1, 2018.

**Historical Note**

Adopted effective August 19, 1983 (Supp. 83-4). Section R3-2-302 renumbered from Section R3-9-302 (Supp. 91-4). Amended by final rulemaking at 8 A.A.R. 4043, effective November 9, 2002 (Supp. 02-3). Amended by final rulemaking at 26 A.A.R. 781, effective June 8, 2020 (Supp. 20-2).

**ARTICLE 4. ANIMAL DISEASE PREVENTION AND CONTROL****R3-2-401. Definitions**

The following terms apply to this Article:

"Biologics" means medical preparations made from living organisms and their products, including serums, vaccines, antigens, and antitoxins.

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“Foreign Animal Disease” means a transboundary animal disease or pest, or an aquatic animal disease or pest, not known to exist in the United States.

**Historical Note**

Adopted effective August 19, 1983 (Supp. 83-4). Section R3-2-401 renumbered from Section R3-9-401 (Supp. 91-4). Former Section R3-2-401 renumbered to R3-2-402; new Section R3-2-401 adopted by final rulemaking at 6 A.A.R. 25, effective December 8, 1999 (Supp. 99-4). December 8, 1999 effective date corrected to reflect what is on file in the Office of the Secretary of State; correct effective date is January 1, 2000 (Supp. 01-1). Amended by final rulemaking at 8 A.A.R. 4043, effective November 9, 2002 (Supp. 02-3). Amended by final rulemaking at 26 A.A.R. 781, effective June 8, 2020 (Supp. 20-2).

**R3-2-402. Mandatory Disease Reporting by Veterinarians and Veterinary Laboratories**

- A. All veterinarians and laboratories performing diagnostic services on animals shall:
- B. Notify the State Veterinarian at (602) 542-4293 and [diseasereporting@azda.gov](mailto:diseasereporting@azda.gov), within four hours of diagnosing or suspecting any disease or clinical signs of disease listed below:
  1. African horse sickness
  2. African swine fever
  3. African trypanosomiasis
  4. Anthrax
  5. Avian influenza
  6. Bovine Babesiosis
  7. Bovine spongiform encephalopathy
  8. Classical Swine Fever
  9. Contagious agalactia
  10. Contagious bovine pleuropneumonia
  11. Contagious caprine pleuropneumonia
  12. Crimean Congo Hemorrhagic Disease
  13. Dourine
  14. Enterovirus encephalomyelitis
  15. Equine infectious anaemia
  16. Equine Neurologic Diseases (Eastern, Western, Venezuelan, West Nile Virus, Equine Herpesvirus-1/ Equine Herpesvirus Myeloencephalopathy)
  17. Foot and Mouth Disease
  18. Glanders
  19. Heartwater (*Ehrlichia ruminantium*)
  20. Hemorrhagic septicemia (*Pasteurella multocida*)
  21. Hendra virus (Equine morbillivirus)
  22. Infectious haematopoietic necrosis of fish
  23. Japanese encephalitis
  24. Lumpy skin disease
  25. Malignant catarrhal fever
  26. Melioidosis (*Burkholderia pseudomallei*)
  27. Nairobi sheep disease
  28. Newcastle Disease
  29. Nipah
  30. Peste des Petits Ruminants
  31. Rabies
  32. Rabbit Hemorrhagic Disease
  33. Rift Valley Fever
  34. Rinderpest
  35. Schmallenberg virus/ Akabane
  36. Senecavirus A
  37. Screwworm myiasis
  38. Sheep and goat pox
  39. Surra (*Trypanosoma evansi*)
  40. Swine Vesicular Disease
  41. Theileriosis (*T. parva* or *T. annulata*)

42. Tuberculosis (*Mycobacterium bovis*)
  43. Tularemia
  44. Turkey rhinotracheitis (Avian metapneumovirus)
  45. Trypanosomiasis
  46. Viral hemorrhagic septicemia of fish
  47. Vesicular exanthema of swine virus
  48. Vesicular stomatitis
- B. Notify the State Veterinarian at (602) 542-4293 and [diseasereporting@azda.gov](mailto:diseasereporting@azda.gov), within 24 hours of diagnosing or suspecting any disease or clinical signs of disease listed below:
1. Brucellosis (*Brucella* spp.)
  2. Chronic Wasting Disease in Cervids
  3. Contagious Equine Metritis
  4. Epizootic Lymphangitis
  5. Equine Piroplasmiasis
  6. Equine Viral Arteritis
  7. Fowl typhoid (*Salmonella gallinarum*)
  8. Ornithosis (Psittacosis, Avian Chlamydiosis, Chlamydophila psittaci)
  9. Pigeon Fever (*Corynebacterium pseudotuberculosis*)
  10. Pseudorabies (Aujeszky's disease)
  11. Q fever
  12. Pullorum disease (*Salmonella pullorum*)
  13. Scrapie
  14. Sheep scabies
  15. Strangles (*Streptococcus equi* spp. *equi*)
  16. Swine enteric coronavirus diseases
  17. Trichomoniasis (*Trichomonas foetus*)

**Aquatic Diseases**

1. Crayfish plague
  2. Epizootic hematopoietic necrosis disease
  3. Epizootic ulcerative syndrome
  4. Gyrodactylosis
  5. Abalone Viral Ganglioneuritis
  6. Bonamiosis (*B. exitiosa*/ *ostreae*)
  7. Marteiliiosis (*M. refringens*)
  8. Perkinsosis (*P. marinus* / *olseni*)
  9. Salmonid alphavirus infection
  10. Infection with *Xenohalotus californiensis*
  11. Infectious hematopoietic necrosis
  12. Infectious hypodermal and haematopoietic necrosis
  13. Infectious myonecrosis
  14. Infectious salmon anemia
  15. Koi herpesvirus disease
  16. Necrotizing hepatopancreatitis
  17. Red sea bream iridoviral disease
  18. Spring viremia of carp
  19. Taura syndrome
  20. Tilapia Lake Virus (TiLV)
  21. Viral hemorrhagic septicemia
  22. Viral nervous necrosis (VNN)
  23. White spot disease
  24. White tail disease
  25. Yellowhead
- C. Notify the State Veterinarian by email at [diseasereporting@azda.gov](mailto:diseasereporting@azda.gov) or facsimile at (602) 542-4290 within 30 days after diagnosing any of the diseases listed below:
1. Anaplasmosis
  2. Avian infectious bronchitis
  3. Avian infectious laryngotracheitis
  4. Bluetongue
  5. Bovine cysticercosis
  6. Bovine genital campylobacteriosis
  7. Bovine viral diarrhea
  8. Camelpox
  9. Caprine arthritis/encephalitis

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10. Duck viral hepatitis
11. Echinococcosis/hydatidosis
12. Enzootic abortion of ewes
13. Enzootic bovine leukosis (BLV)
14. Epizootic hemorrhagic disease
15. Equine Herpesvirus - 4
16. Equine influenza
17. Infectious bovine rhinotracheitis
18. Infectious bursal disease
19. John's disease
20. Leishmaniasis
21. Leptospirosis
22. Maedi-visna (OPP)
23. Marek's disease
24. Mycoplasma Gallisepticum
25. Mycoplasma Synoviae
26. Myxomatosis in rabbits
27. Porcine cysticercosis
28. Porcine Reproductive and Respiratory Syndrome
29. Paratyphoid abortion in Ewes (Salmonella abortusovis)
30. Swine influenza
31. Trichinellosis (Trichinella spiralis)

**Historical Note**

Adopted effective August 19, 1983 (Supp. 83-4). Section R3-2-402 renumbered from Section R3-9-402 (Supp. 91-4). Former Section R3-2-402 renumbered to R3-2-403; new Section R3-2-402 renumbered from R3-2-401 and amended by final rulemaking at 6 A.A.R. 25, effective December 8, 1999 (Supp. 99-4). December 8, 1999 effective date corrected to reflect what is on file in the Office of the Secretary of State; correct effective date is January 1, 2000 (Supp. 01-1). Amended by final rulemaking at 26 A.A.R. 781, effective June 8, 2020 (Supp. 20-2).

**R3-2-403. Quarantine for Diseased Animals**

- A. A quarantine order shall be issued by the Director or his designee when the presence of a Foreign Animal Disease is suspected or diagnosed.
- B. A quarantine order may be issued by the Director or his designee on the advice of the State Veterinarian when the presence of a disease is suspected or diagnosed.
- C. The quarantine order may isolate specific animals, premises, counties, districts, or sections of the state and shall restrict the movement of animals.

**Historical Note**

Adopted effective August 19, 1983 (Supp. 83-4). Section R3-2-403 renumbered from Section R3-9-403 (Supp. 91-4). Former Section R3-2-403 repealed; new Section R3-2-403 renumbered from Section R3-2-402 and amended by final rulemaking at 6 A.A.R. 25, effective December 8, 1999 (Supp. 99-4). December 8, 1999 effective date corrected to reflect what is on file in the Office of the Secretary of State; correct effective date is January 1, 2000 (Supp. 01-1). Section expired under A.R.S. § 41-1056(J) at 23 A.A.R. 135, effective December 15, 2016 (Supp. 16-4). New Section made by final rulemaking at 26 A.A.R. 781, effective June 8, 2020 (Supp. 20-2).

**R3-2-404. Importation, Manufacture, Sale, and Distribution of Biologics**

- A. Any person importing, manufacturing, selling, or distributing any biologic intended for diagnostic or therapeutic treatment of animals shall request, in writing, permission from the State Veterinarian.

- B. The State Veterinarian shall not approve the importation, manufacture, sale, or distribution of any biologic that will interfere with the state's animal disease control programs.

**Historical Note**

Adopted effective August 19, 1983 (Supp. 83-4). Section R3-2-404 renumbered from Section R3-9-404 (Supp. 91-4). Section repealed; new Section adopted by final rulemaking at 6 A.A.R. 25, effective December 8, 1999 (Supp. 99-4). December 8, 1999 effective date corrected to reflect what is on file in the Office of the Secretary of State; correct effective date is January 1, 2000 (Supp. 01-1). Amended by final rulemaking at 26 A.A.R. 781, effective June 8, 2020 (Supp. 20-2).

**R3-2-405. Depopulation of Animals Infected with a Foreign Animal Disease**

When a Foreign Animal Disease is diagnosed, the State Veterinarian may order the owner, agent, or feedlot operator to immediately depopulate and dispose of all infected and exposed animals on the premises if necessary to prevent the spread of the disease among animals.

**Historical Note**

Adopted effective August 19, 1983 (Supp. 83-4). Section R3-2-405 renumbered from Section R3-9-405 (Supp. 91-4). Amended by final rulemaking at 6 A.A.R. 25, effective December 8, 1999 (Supp. 99-4). December 8, 1999 effective date corrected to reflect what is on file in the Office of the Secretary of State; correct effective date is January 1, 2000 (Supp. 01-1). Amended by emergency rulemaking at 22 A.A.R. 1750, effective immediately upon filing, June 22, 2016, as determined by the attorney general, for 180 days at 22 A.A.R. 1750 (Supp. 16-2). Emergency expired December 19, 2016 (Supp. 16-4). Amended by final rulemaking at 26 A.A.R. 781, effective June 8, 2020 (Supp. 20-2).

**R3-2-406. Disease Control; Designated Feedlots**

- A. Designated feedlots are subject to the following restrictions:
- B. A designated feedlot shall have a restricted feeding pen. A restricted feeding pen shall:
  1. Be isolated from all other pens,
  2. Have separate loading and unloading chutes, alleys, and handling facilities from all other pens,
  3. Not share water or feeding facilities accessible to other areas,
  4. Be posted at all corners with permanently affixed signs stating "Restricted Feeding Area,"
  5. Have a minimum of eight feet between restricted and other pens and facilities, and
  6. Have no common fences or gates with other pens.
- C. An operator may place diseased cattle or bison that are under state quarantine into a restricted feeding pen as follows:
  1. All cattle or bison, except steers and spayed heifers, shall be branded with an "F" at least two inches in height, adjacent to the tailhead before entering the pen; and
    - a. Imported cattle or bison, of any age and from any area shall be transported under seal and shall be accompanied by an entry permit number and a Certificate of Veterinary Inspection or federal restricted movement document; or
    - b. Native Arizona cattle or bison shall be accompanied by an Arizona livestock inspection certificate, as approved by the State Veterinarian or designee.
- D. An operator may move cattle or bison from a restricted feeding pen to slaughter or to another designated feedlot only by prior

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written approval of the State Veterinarian or APHIS veterinarian.

**Historical Note**

Adopted effective August 19, 1983 (Supp. 83-4). Section R3-2-406 renumbered from Section R3-9-406 (Supp. 91-4). Amended by final rulemaking at 8 A.A.R. 4043, effective November 9, 2002 (Supp. 02-3). Amended by final rulemaking at 26 A.A.R. 781, effective June 8, 2020 (Supp. 20-2).

**R3-2-407. Disease Control; Equine Infectious Anemia**

- A. The Arizona official test for EIA is either the agar-gel immunodiffusion test, known as the Coggins Test, or the Competitive Enzyme-Linked Immunosorbent Assay test, known as the CELISA test. The test shall be performed in a laboratory approved by APHIS, and required samples shall be drawn by an accredited veterinarian, the State Veterinarian, the State Veterinarian's designee, or an APHIS veterinarian.
- B. Disposal of equine testing positive.
  1. When an Arizona equine tests positive to EIA, the testing laboratory shall notify the State Veterinarian by telephone at (602) 542-4293 and email at [diseasereporting@azda.gov](mailto:diseasereporting@azda.gov), within four hours.
  2. The EIA-positive equine shall be quarantined at its current location, segregated from other equine, and shall not be moved unless authorized by the State Veterinarian. The equine shall be retested by the State Veterinarian, the State Veterinarian's designee, or an APHIS veterinarian within two weeks of the notification.
  3. Within 14 days of being notified by the testing laboratory of a positive test conducted under subsection (B)(2), the State Veterinarian or the State Veterinarian's designee shall brand the equine on the left side of its neck with "86A" not less than two inches in height.
  4. Within 10 days after being branded, the EIA-positive equine shall be:
    - a. Humanely destroyed,
    - b. Confined to a screened stall marked "EIA Quarantine" that is at least 200 yards from other equine, or
    - c. Consigned to slaughter at a slaughtering establishment. If consigned to slaughter, the equine shall be accompanied by a Permit for Movement of Restricted Animals, VS 1-27, issued by the State Veterinarian, the State Veterinarian's designee, or an APHIS veterinarian.
  5. Offspring of mares testing EIA-positive shall be quarantined, segregated from other equine, and tested for EIA at six months of age. Offspring testing positive shall be handled as prescribed in subsections (B)(3) and (B)(4).
  6. If an EIA-positive equine is located on premises other than those of the owner at the time a quarantine under this Section, the State Veterinarian may authorize movement of the EIA-positive equine to the owner's premises if requested by the owner. Movement shall be under the direct supervision of the State Veterinarian or the State Veterinarian's designee. If the owner lives in another state, the owner may move the equine to that state with the permission of the chief livestock health official of the state and APHIS.
- C. The State Veterinarian shall require testing of any equine located in the same facility as the EIA-positive equine or any equine considered exposed to the EIA-positive equine. The owner of the equine tested shall pay the expenses for the testing.

- D. The owner of any equine found to be EIA-positive shall not be indemnified by the state for any loss caused by the destruction or loss of value of the equine.

**Historical Note**

Adopted effective August 19, 1983 (Supp. 83-4). Section R3-2-407 renumbered from Section R3-9-407 (Supp. 91-4). Amended effective February 4, 1998 (Supp. 98-1). Amended by final rulemaking at 6 A.A.R. 25, effective December 8, 1999 (Supp. 99-4). December 8, 1999 effective date corrected to reflect what is on file in the Office of the Secretary of State; correct effective date is January 1, 2000 (Supp. 01-1). Amended by final rulemaking at 8 A.A.R. 4043, effective November 9, 2002 (Supp. 02-3). Amended by final rulemaking at 26 A.A.R. 781, effective June 8, 2020 (Supp. 20-2).

**R3-2-408. Disposition of Livestock Exposed to Rabies**

Livestock bitten by a known or suspected rabid animal shall be handled using the methods prescribed in the National Association of State Public Health Veterinarians' Compendium of Animal Rabies Control, 2016 Part I, Section B. This material is incorporated by reference, does not include any later amendments or editions of the incorporated matter, and is on file with the Department.

**Historical Note**

Adopted effective August 19, 1983 (Supp. 83-4). Section R3-2-408 renumbered from Section R3-9-408 (Supp. 91-4). Amended by final rulemaking at 6 A.A.R. 25, effective December 8, 1999 (Supp. 99-4). December 8, 1999 effective date corrected to reflect what is on file in the Office of the Secretary of State; correct effective date is January 1, 2000 (Supp. 01-1). Amended by final rulemaking at 26 A.A.R. 781, effective June 8, 2020 (Supp. 20-2).

**R3-2-409. Rabies Vaccines for Animals**

All animals in Arizona vaccinated against rabies shall be vaccinated as prescribed in the National Association of State Public Health Veterinarians' Compendium of Animal Rabies Control, 2016 Part I Section A. This material is incorporated by reference, does not include any later amendments or editions of the incorporated matter, and is on file with the Department.

**Historical Note**

Adopted effective August 19, 1983 (Supp. 83-4). Amended effective October 16, 1986 (Supp. 86-5). Amended effective January 6, 1989 (Supp. 89-1). Section R3-2-409 renumbered from Section R3-9-409 (Supp. 91-4). Amended by final rulemaking at 6 A.A.R. 25, effective December 8, 1999 (Supp. 99-4). December 8, 1999 effective date corrected to reflect what is on file in the Office of the Secretary of State; correct effective date is January 1, 2000 (Supp. 01-1). Amended by final rulemaking at 26 A.A.R. 781, effective June 8, 2020 (Supp. 20-2).

**R3-2-410. Trichomonas Testing Requirements**

- A. Definitions. For purposes of this Section, the following definitions shall apply.
 

"Accredited Veterinarian" means an individual who is currently licensed to practice veterinary medicine in the State of Arizona and is an Accredited Level II by the United States Department of Agriculture, Animal Plant Health Inspection Service.

"Approved Laboratory" means any laboratory designated and approved by the State Veterinarian for examining *T.*

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*foetus* samples and reporting all results to the State Veterinarian.

“Bull” means an intact male bovine 12 months of age and older and is not confined to a drylot dairy.

“Change of Ownership” means when a bull is sold, leased, gifted, or exchanged and changes premises for breeding purposes in Arizona.

“Commingling” means cattle of opposite sex in the same enclosure or pasture with a reasonable opportunity for sexual contact.

“Direct to Slaughter” means transporting an animal from site of testing to a sale yard or directly to a slaughter plant without unloading or commingling prior to arrival.

“Official *T. foetus* bull test” means the sampling of a bull by a licensed, accredited veterinarian. Such test must be conducted after at least seven days separation from all female bovine. The bull and sample must be officially and individually identified and documented for laboratory submission. The official laboratory test shall be a polymerase chain reaction (PCR), or other technologies as approved by the State Veterinarian and adopted through a Director’s Administrative Order. The test is not considered official until results are reported by the testing laboratory.

“Official *T. foetus* laboratory testing” means the laboratory procedures that shall be approved by the State Veterinarian for identification of *T. foetus*.

“Positive *T. foetus* bull” means a bull that has had a positive official *T. foetus* bull test.

“*Trichomonas foetus*” OR “*T. foetus*” means a protozoan parasite that is the causative agent to the contagious venereal disease Trichomoniasis.

**B. Testing requirements for Official *T. foetus*.**

1. All Arizona origin bulls sold, leased, gifted, exchanged or otherwise changing possession for breeding purposes in Arizona shall be tested for *T. foetus* via Official *T. foetus* bull test prior to sale or change of ownership in the state, unless going to direct slaughter. *T. foetus* testing shall be performed on bulls prior to change of ownership of that bull.
2. The Official *T. foetus* test shall be collected by an Accredited Veterinarian and performed through an Approved Laboratory.
3. Pooled testing is not an official test.
4. The *T. foetus* negative test is valid for 60 days after the test is performed, providing the bull is kept separated from all female bovine.

**C. Positive bull identification.**

1. When a positive *T. foetus* bull is identified, the Accredited Veterinarian shall notify the producer upon receipt of the positive test results.
2. Regardless of R3-2-402, the Accredited Veterinarian and Approved Laboratory shall notify the State Veterinarian of a positive *T. foetus* bull within 24 hours of receiving the results. The State Veterinarian’s Office, working in coordination with the regional livestock inspection staff, shall to the best of their ability notify the regional bovine producers about the positive test within 14 days upon notification of positive test. The State Veterinarian and/or livestock inspection staff is not required to reveal any details of the test just that there is a positive test in the region.

3. The Accredited Veterinarian that performed the test shall return to place of testing to verify the Official Identification of the positive bull.
4. The Accredited Veterinarian, or a person under direct supervision of the Veterinarian, shall brand the bull with an official “S” brand adjacent to the tailhead on the right hip.
5. If the bull testing positive is not at the premises where the *T. foetus* testing occurred, the Accredited Veterinarian will immediately notify the State Veterinarian’s Office.
6. If an Accredited Veterinarian is unable to return to the premises in a time that is reasonable for sale of the bull, the producer shall take the positive *T. foetus* bull directly to the regional livestock sale yard.
  - a. The producer shall immediately notify the sale yard of the positive *T. foetus* bull. Failure to notify the sale yard of the positive *T. foetus* bull will result in a violation of this Section and the producer shall be subject to the penalties of A.R.S. § 3-1205(D).
  - b. Prior to sale at the sale yard, a Livestock Officer shall verify the official identification of the positive *T. foetus* test bull.
  - c. After the official identification is verified, the bull shall be branded with an official “S” brand adjacent to the tailhead on the right hip. The branding shall be done under direct supervision of a Livestock Officer or Livestock Inspector.
7. If a bull arrives at a livestock auction without an Official *T. foetus* bull test, the bull shall be quarantined at the auction and tested at the expense of the owner or shall be branded with an “S” brand and be sold only for slaughter.

**D. Disposal of bull testing positive.**

1. A bull testing positive for *T. foetus* or branded with the official “S” brand shall go direct to slaughter or shall be placed under State Quarantine and fed in a restricted feeding pen within a designated feedlot according to R3-2-406.
2. The *T. foetus* positive bull shall not be commingled with any other female bovine. The bull shall go from the testing premises to direct slaughter or to the restricted feeding pen within 30 days of the positive *T. foetus* test.
3. All remaining herd bulls shall be under a *Trichomonas* Herd Management Program overseen by the Herd Veterinarian until two negative *T. foetus* tests are performed and documented.
4. “S” branded bulls purchased at a sale yard shall go direct to a slaughter plant without unloading or commingling prior to arrival.

**E. Trespassing or Stray Bulls.**

1. In the event of a trespassing or stray bull, the herd owner who locates the bull, may request an Official *T. foetus* bull test for that bull. In the event of a positive Official *T. foetus* bull test, subsections (B) and (C) shall apply.
2. The cost of the veterinary services and Official *T. foetus* bull test shall be the responsibility of the herd owner. In the event of a stray bull, the animal will be subject to A.R.S. §§ 3-1401 et seq.

**Historical Note**

New Section adopted by final rulemaking at 6 A.A.R. 25, effective December 8, 1999 (Supp. 99-4). December 8, 1999 effective date corrected to reflect what is on file in the Office of the Secretary of State; correct effective date is January 1, 2000 (Supp. 01-1). Repealed by final rulemaking at 26 A.A.R. 781, effective June 8, 2020; new Section made by final rulemaking at 26 A.A.R. 812,

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effective June 8, 2020 (Supp. 20-2).

**R3-2-411. Repealed****Historical Note**

New Section adopted by final rulemaking at 6 A.A.R. 25, effective December 8, 1999 (Supp. 99-4). Amended by final rulemaking at 6 A.A.R. 4812, effective December 7, 2000 (Supp. 00-4). December 8, 1999 effective date corrected to reflect what is on file in the Office of the Secretary of State; correct effective date is January 1, 2000 (Supp. 01-1). Amended by exempt rulemaking under Laws 2016, Ch. 160, § 9 at 22 A.A.R. 2400, effective August 6, 2016 (Supp. 16-3). Repealed by final rulemaking at 26 A.A.R. 781, effective June 8, 2020 (Supp. 20-2).

**R3-2-412. Repealed****Historical Note**

New Section made by final rulemaking at 8 A.A.R. 3628, effective August 7, 2002 (Supp. 02-3). Repealed by final rulemaking at 26 A.A.R. 781, effective June 8, 2020 (Supp. 20-2).

**R3-2-413. Sheep and Goats; Intrastate Movement**

- A. Before intrastate movement of a sheep more than 18 months of age, or a sheep or goat of any age not in a slaughter channel, the producer shall identify the animal to the flock of birth using official identification before leaving the flock of birth. A sheep or goat not in a slaughter channel includes an animal not for sale, transfer, or movement to:
1. A slaughter facility,
  2. Custom slaughter, or
  3. A feeding operation before movement to slaughter.
- B. Subsection (A) does not apply if the first point of commingling with animals other than those in the flock of birth is an Arizona auction market that is an approved tagging site.

**Historical Note**

New Section made by final rulemaking at 8 A.A.R. 3628, effective January 1, 2003 (Supp. 02-3). Amended by final rulemaking at 26 A.A.R. 781, effective June 8, 2020 (Supp. 20-2).

**ARTICLE 5. STATE-FEDERAL COOPERATIVE DISEASE CONTROL PROGRAM****R3-2-501. Tuberculosis Control and Eradication Procedures**

- A. Procedures for tuberculosis control and eradication in cattle, bison, and goats shall be as prescribed in 9 CFR Part 77 as revised on January 1, 2018. This material is incorporated by reference, does not include any later amendments or editions of the incorporated matter, and is on file with the Office of the Secretary of State.
- B. Procedures for tuberculosis control and eradication in cervidae not listed as restricted live wildlife in A.A.C. R12-4-406 shall be as prescribed in 9 CFR 77 Subpart C as revised on January 1, 2018. This material is incorporated by reference, does not include any later amendments or editions of the incorporated matter, and is on file with the Office of the Secretary of State.

**Historical Note**

Adopted effective August 19, 1983 (Supp. 83-4). Amended subsection (A) effective October 16, 1986 (Supp. 86-5). Section R3-2-501 renumbered from Section R3-9-501 (Supp. 91-4). Amended effective March 5, 1997 (Supp. 97-1). Amended by final rulemaking at 26 A.A.R. 781, effective June 8, 2020 (Supp. 20-2).

**R3-2-502. Repealed****Historical Note**

Adopted effective August 19, 1983 (Supp. 83-4). Section R3-2-502 renumbered from Section R3-9-502 (Supp. 91-4). Amended effective March 5, 1997 (Supp. 97-1). Section repealed by final rulemaking at 6 A.A.R. 25, effective December 8, 1999 (Supp. 99-4). December 8, 1999 effective date corrected to reflect what is on file in the Office of the Secretary of State; correct effective date is January 1, 2000 (Supp. 01-1).

**R3-2-503. Brucellosis Control and Eradication Procedures**

- A. Procedures for brucellosis control and eradication in cattle and bison shall be as prescribed in 9 CFR 78 as revised on January 1, 2018. This material is incorporated by reference, does not include any later amendments or editions of the incorporated matter, and is on file with the Department.
- B. Procedures for brucellosis control and eradication in swine shall be as prescribed in 9 CFR 78 Subpart D as revised on January 1, 2018. This material is incorporated by reference, does not include any later amendments or editions of the incorporated matter, and is on file with the Department.
- C. Procedures for brucellosis control and eradication in animals not listed as restricted live wildlife in A.A.C. R12-4-406, shall be as prescribed in the USDA publication, Brucellosis in Cervidae: Uniform Methods and Rules, effective September 30, 2003. This material is incorporated by reference, does not include any later amendments or editions of the incorporated matter, and is on file with the Department.

**Historical Note**

Adopted effective August 19, 1983 (Supp. 83-4). Amended effective October 16, 1986 (Supp. 86-5). Amended effective January 6, 1989 (Supp. 89-1). Section R3-2-503 renumbered from Section R3-9-503 (Supp. 91-4). Amended March 5, 1997 (Supp. 97-1). Amended by final rulemaking at 6 A.A.R. 25, effective December 8, 1999 (Supp. 99-4). December 8, 1999 effective date corrected to reflect what is on file in the Office of the Secretary of State; correct effective date is January 1, 2000 (Supp. 01-1). Amended by final rulemaking at 26 A.A.R. 781, effective June 8, 2020 (Supp. 20-2).

**R3-2-504. Pseudorabies Procedures for Eradication**

Procedures for pseudorabies control and eradication in swine shall be as prescribed in 9 CFR 85 as revised on January 1, 2018. This material is incorporated by reference, does not include any later amendments or editions of the incorporated matter, and is on file with the Department.

**Historical Note**

Adopted effective March 5, 1997 (Supp. 97-1). Amended by final rulemaking at 6 A.A.R. 25, effective December 8, 1999 (Supp. 99-4). December 8, 1999 effective date corrected to reflect what is on file in the Office of the Secretary of State; correct effective date is January 1, 2000 (Supp. 01-1). Amended by final rulemaking at 26 A.A.R. 781, effective June 8, 2020 (Supp. 20-2).

**R3-2-505. Scrapie Procedures for Eradication**

The Department controls and eradicates scrapie using the procedures outlined in 9 CFR 79 as revised on January 1, 2018. This material is incorporated by reference, does not include any later amendments or editions, and is on file with the Department.

**Historical Note**

New Section made by final rulemaking at 8 A.A.R. 3628, effective August 7, 2002 (Supp. 02-3). Amended by final rulemaking at 26 A.A.R. 781, effective June 8, 2020 (Supp. 20-2).

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**ARTICLE 6. HEALTH REQUIREMENTS GOVERNING  
ADMISSION OF ANIMALS****R3-2-601. Repealed****Historical Note**

Adopted effective August 19, 1983 (Supp. 83-4). Section R3-2-601 renumbered from Section R3-9-601 (Supp. 91-4). Amended effective March 5, 1997 (Supp. 97-1). Amended by final rulemaking at 6 A.A.R. 25, effective December 8, 1999 (Supp. 99-4). December 8, 1999 effective date corrected to reflect what is on file in the Office of the Secretary of State; correct effective date is January 1, 2000 (Supp. 01-1). Amended by final rulemaking at 8 A.A.R. 4043, effective November 9, 2002 (Supp. 02-3). Amended by final rulemaking at 14 A.A.R. 876, effective May 3, 2008 (Supp. 08-1). Amended by emergency rulemaking at 22 A.A.R. 1750, effective immediately upon filing, June 22, 2016, as determined by the attorney general, for 180 days at 22 A.A.R. 1750 (Supp. 16-2). Emergency expired December 19, 2016 (Supp. 16-4). Repealed by final rulemaking at 26 A.A.R. 781, effective June 8, 2020 (Supp. 20-2).

**R3-2-602. Importation Requirements**

- A. All animals transported or moved into the state of Arizona, shall be accompanied by a valid, official Certificate of Veterinary Inspection from the state of origin, or a VS 9-3 form for National Poultry Improvement Plan flocks. All animals shall be imported in accordance with this Section and the species-specific Section in this Article. Any violation of this Article is subject to a hold order pursuant to R3-2-605.
- B. Livestock may not enter the state of Arizona unless accompanied by an Arizona entry permit number documented on the Certificate of Veterinary Inspection. This requirement applies regardless of the species, breed, sex, class, age, point of origin, place of destination, or purpose of the movement of the livestock entering the state, except:
  1. Equine;
  2. Livestock consigned directly to slaughter at a state or federally licensed slaughter establishment; or
  3. Livestock being transported through the state.
- C. An animal affected with or recently exposed to any infectious, contagious, or communicable disease, or which originates in a state or federal quarantine area, shall not be transported or moved into the state of Arizona unless a permit for the entry is first obtained from the Arizona State Veterinarian's Office. All conditions for the movement of animals from a quarantined area established by the quarantining authority or APHIS shall be met. Animals imported from a quarantine area may be subject to additional import requirements by the State Veterinarian prior to entry into Arizona.
- D. The owner or owner's agent shall obtain prior permission from the State Veterinarian to ship or move into the state of Arizona any animal from a lot or herd from which an animal shows clinical signs of disease or positive reaction to a test required for admission to Arizona.
- E. The Director may enter into an agreement to allow New Mexico livestock consigned directly to an Arizona livestock auction to enter the state on a New Mexico brand inspection certificate in place of a Certificate of Veterinary Inspection. If the agreement is entered, it shall be posted on the Arizona Department of Agriculture's website. In the event the agreement is terminated or expires, the Department shall put notice of the termination on the website. The livestock owner or owner's agent is responsible for ensuring that the agreement is current prior to shipping the livestock. This process is subject to the restrictions included in the agreement.

**Historical Note**

Adopted effective August 19, 1983 (Supp. 83-4). Section R3-2-602 renumbered from Section R3-9-602 (Supp. 91-4). Amended by final rulemaking at 8 A.A.R. 4043, effective November 9, 2002 (Supp. 02-3). Amended by emergency rulemaking at 22 A.A.R. 1750, effective immediately upon filing, June 22, 2016, as determined by the attorney general, for 180 days at 22 A.A.R. 1750 (Supp. 16-2). Emergency expired December 19, 2016 (Supp. 16-4). Amended by final rulemaking at 26 A.A.R. 781, effective June 8, 2020 (Supp. 20-2).

**R3-2-603. Repealed****Historical Note**

Adopted effective August 19, 1983 (Supp. 83-4). Section R3-2-603 renumbered from Section R3-9-603 (Supp. 91-4). Amended by final rulemaking at 8 A.A.R. 4043, effective November 9, 2002 (Supp. 02-3). Amended by emergency rulemaking at 22 A.A.R. 1750, effective immediately upon filing, June 22, 2016, as determined by the attorney general, for 180 days at 22 A.A.R. 1750 (Supp. 16-2). Emergency expired December 19, 2016 (Supp. 16-4). Repealed by final rulemaking at 26 A.A.R. 781, effective June 8, 2020 (Supp. 20-2).

**R3-2-604. Repealed****Historical Note**

Adopted effective August 19, 1983 (Supp. 83-4). Section R3-2-604 renumbered from Section R3-9-604 (Supp. 91-4). Amended by final rulemaking at 8 A.A.R. 4043, effective November 9, 2002 (Supp. 02-3). Repealed by final rulemaking at 26 A.A.R. 781, effective June 8, 2020 (Supp. 20-2).

**R3-2-605. Hold Order for Animals Entering Illegally**

- A. Animals entering the state in violation of any Section under this Article, may be placed under a hold order at the risk and expense of the owner until released by an authorized representative of the State Veterinarian. Animals placed under a hold order for noncompliance with this Article may be released only after the State Veterinarian is satisfied by testing, dipping, or observation over time, that the animals are not a threat to the livestock industry.
- B. The State Veterinarian may order that an imported animal failing to meet entry requirements be returned to the state of origin, consigned directly to slaughter, confined to a designated feedlot, or consigned to a feedlot in another state within two weeks of the request. Any extension to this time-frame must be approved in writing by the State Veterinarian.
- C. If the owner or owner's agent fails to comply with an order to return an animal to the state of origin within the time-frame required in subsection (B), the Department shall require that the animal be immediately gathered and tested at the owner's risk and expense to avoid exposure of Arizona animals to disease. The owner shall pay the expenses no later than five days after receipt of the bill. Failure to do so will result in an auction of sufficient livestock to pay the expenses which shall be held within 10 days at public auction. If additional expenses occur due to lack of cooperation by the owner or the owner's agent, the Director shall order the further sale of livestock.

**Historical Note**

Adopted effective August 19, 1983 (Supp. 83-4). Former Section R3-9-605 renumbered to R3-2-605 (Supp. 91-4). Amended by final rulemaking at 6 A.A.R. 25, effective December 8, 1999 (Supp. 99-4). December 8, 1999 effective date corrected to reflect what is on file in the Office

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of the Secretary of State; correct effective date is January 1, 2000 (Supp. 01-1). Amended by emergency rulemaking at 22 A.A.R. 1750, effective immediately upon filing, June 22, 2016, as determined by the attorney general, for 180 days at 22 A.A.R. 1750 (Supp. 16-2). Emergency expired December 19, 2016 (Supp. 16-4). Amended by final rulemaking at 26 A.A.R. 781, effective June 8, 2020 (Supp. 20-2).

**R3-2-606. Certificate of Veterinary Inspection**

- A. A Certificate of Veterinary Inspection is valid for not more than 30 days after the date of issue, except where otherwise noted in this Article, and shall contain:
  - 1. The name and address of the Consignor and Consignee;
  - 2. The physical address of the origin of the animal;
  - 3. The physical address of the animal's final destination;
    - a. Entry permit number if applicable;
    - b. Official identification if applicable; and
    - c. Certificate of Veterinary Inspection individual certificate number.
    - d. Qualifying required tests with completion dates.
- B. The Certificate of Veterinary Inspection shall be forwarded to the State Veterinarian in Arizona within 14 days of issue.
- C. A VS form 17-30 is deemed a valid international CVI if the following conditions are met:
  - 1. Accompanied by a valid brand inspection certificate from a southern border state with an entry permit number; and
  - 2. Official identification as documented on the VS form 17-30.
- D. Official Certificates of Veterinary Inspection may be used in electronic or paper form.
- E. Additions, deletions, and unauthorized or uncertified changes inserted or applied to a Certificate of Veterinary Inspection renders the certificate void and may be subject to state or federal penalties.
- F. The veterinarian issuing a Certificate of Veterinary Inspection shall certify that the animals shown on the Certificate of Veterinary Inspection are free from evidence of any infectious, contagious, or communicable disease or known exposure.
- G. An accredited veterinarian shall inspect animals for entry into the state.
- H. The Director may limit the period for which a Certificate of Veterinary Inspection is valid to less than 30 days if advised by the State Veterinarian of the occurrence of a disease that constitutes a threat to the livestock industry.

**Historical Note**

Adopted effective August 19, 1983 (Supp. 83-4). Section R3-2-606 renumbered from Section R3-9-606 (Supp. 91-4). Amended by final rulemaking at 6 A.A.R. 25, effective December 8, 1999 (Supp. 99-4). December 8, 1999 effective date corrected to reflect what is on file in the Office of the Secretary of State; correct effective date is January 1, 2000 (Supp. 01-1). Amended by final rulemaking at 8 A.A.R. 3628, effective August 7, 2002 (Supp. 02-3). Amended by final rulemaking at 14 A.A.R. 884, effective May 3, 2008 (Supp. 08-1). Amended by final rulemaking at 14 A.A.R. 876, effective May 3, 2008 (Supp. 08-1). Amended by emergency rulemaking at 22 A.A.R. 1750, effective immediately upon filing, June 22, 2016, as determined by the attorney general, for 180 days at 22 A.A.R. 1750 (Supp. 16-2). Emergency expired December 19, 2016 (Supp. 16-4). Amended by final rulemaking at 26 A.A.R. 781, effective June 8, 2020 (Supp. 20-2).

**R3-2-607. Entry Permit Number**

- A. An entry permit number for interstate movement may be obtained from the Office of the State Veterinarian, by calling (602) 542-4293 during the hours of 8 a.m. to 5 p.m. Monday through Friday, excluding state holidays. Any person applying for an entry permit number shall provide the following information:
  - 1. The name and address of the Consignor and Consignee;
  - 2. The number and kind of animals;
  - 3. The physical address of the origin of shipment;
  - 4. The physical address of the shipment's final destination;
  - 5. The method of transportation; and
  - 6. Any other information required by the State Veterinarian.
- B. An entry permit number is valid for a maximum of 30 calendar days from the date of issuance unless otherwise indicated on the CVI.
- C. An entry permit number shall be issued if the animals listed on the Certificate of Veterinary Inspection are in compliance with this Article. To cope with changing disease conditions, the State Veterinarian may refuse to issue an entry permit number or may require additional conditions not specifically established in this Article if necessary to protect animal health in Arizona.
- D. The entry permit number issued shall be affixed or written on the Certificate of Veterinary Inspection, brand inspection certificate, and any other official documents as follows: "Arizona Permit No. \_\_\_\_\_" followed by the serialized number.
- E. The State Veterinarian shall refuse to grant an entry permit number to any person who repeatedly commits the following:
  - 1. Giving false information concerning an entry permit number for transportation of animals,
  - 2. Failing to fulfill the conditions of an entry permit number, or
  - 3. Failing to obtain an entry permit number.

**Historical Note**

Adopted effective August 19, 1983 (Supp. 83-4). Section R3-2-607 renumbered from Section R3-9-607 (Supp. 91-4). Amended by final rulemaking at 6 A.A.R. 25, effective December 8, 1999 (Supp. 99-4). December 8, 1999 effective date corrected to reflect what is on file in the Office of the Secretary of State; correct effective date is January 1, 2000 (Supp. 01-1). Amended by final rulemaking at 26 A.A.R. 781, effective June 8, 2020 (Supp. 20-2).

**R3-2-608. Repealed****Historical Note**

Adopted effective August 19, 1983 (Supp. 83-4). Section R3-2-608 renumbered from Section R3-9-608 (Supp. 91-4). Amended by final rulemaking at 8 A.A.R. 4043, effective November 9, 2002 (Supp. 02-3). Amended by emergency rulemaking at 22 A.A.R. 1750, effective immediately upon filing, June 22, 2016, as determined by the attorney general, for 180 days at 22 A.A.R. 1750 (Supp. 16-2). Emergency expired December 19, 2016 (Supp. 16-4). Repealed by final rulemaking at 26 A.A.R. 781, effective June 8, 2020 (Supp. 20-2).

**R3-2-609. Diversion; Prohibitions**

A person consigning, transporting, or receiving an animal into the state of Arizona shall not authorize, order, or carry out diversion of the animal to a destination or consignee other than as set forth on the Certificate of Veterinary Inspection and entry permit, if required, without first obtaining permission from the State Veterinarian.

**Historical Note**

Adopted effective August 19, 1983 (Supp. 83-4). Section



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R3-2-609 renumbered from Section R3-9-609 (Supp. 91-4). Amended by final rulemaking at 8 A.A.R. 4043, effective November 9, 2002 (Supp. 02-3). Amended by emergency rulemaking at 22 A.A.R. 1750, effective immediately upon filing, June 22, 2016, as determined by the attorney general, for 180 days at 22 A.A.R. 1750 (Supp. 16-2). Emergency expired December 19, 2016 (Supp. 16-4). Amended by final rulemaking at 26 A.A.R. 781, effective June 8, 2020 (Supp. 20-2).

**R3-2-610. Tests; Official Confirmation**

A state or federal animal diagnostic laboratory or APHIS-approved laboratory shall perform or confirm any animal testing required by a state or federal authority as a condition for entry into Arizona.

**Historical Note**

Adopted effective August 19, 1983 (Supp. 83-4). Section R3-2-610 renumbered from Section R3-9-610 (Supp. 91-4). Amended by final rulemaking at 8 A.A.R. 4043, effective November 9, 2002 (Supp. 02-3). Amended by emergency rulemaking at 22 A.A.R. 1750, effective immediately upon filing, June 22, 2016, as determined by the attorney general, for 180 days at 22 A.A.R. 1750 (Supp. 16-2). Emergency expired December 19, 2016 (Supp. 16-4).

**R3-2-611. Transporter Duties**

- A. All owners and operators of railroads, trucks, airplanes, or other conveyances transporting animals into or through the state shall possess all of the importation documents required by this Article. These documents shall be attached to the waybill, or be in the possession of the vehicle driver, or person in charge of the animals. When a single Certificate of Veterinary Inspection and entry permit number is issued for animals being moved in more than one vehicle, the driver of each vehicle shall possess the original or a copy of the Certificate of Veterinary Inspection containing the entry permit number, if required.
- B. The owner or operator of a railroad car, truck, airplane, or other conveyance used to transport animals into or through the state shall maintain the conveyance in a clean and sanitary condition.
- C. The owners and operators of railroads, trucks, airplanes, or other conveyances who transport animals into the state in violation of this Section shall clean and disinfect the conveyance in which the animals were illegally brought into the state before using the conveyance for transporting more animals. The cleaning and disinfection shall be performed under the supervision of an authorized representative of the State Veterinarian or the USDA.
- D. The owners or operators of railroads, trucks, airplanes, or other conveyances shall follow the USDA requirements and Arizona Department of Agriculture rules and statutes, in the humane transport of animals into, within, or through the state.

**Historical Note**

Adopted effective August 19, 1983 (Supp. 83-4). Section R3-2-611 renumbered from Section R3-9-611 (Supp. 91-4). Amended by final rulemaking at 6 A.A.R. 25, effective December 8, 1999 (Supp. 99-4). December 8, 1999 effective date corrected to reflect what is on file in the Office of the Secretary of State; correct effective date is January 1, 2000 (Supp. 01-1). Amended by emergency rulemaking at 22 A.A.R. 1750, effective immediately upon filing, June 22, 2016, as determined by the attorney general, for 180 days at 22 A.A.R. 1750 (Supp. 16-2). Emergency expired December 19, 2016 (Supp. 16-4). Amended by final rulemaking at 26 A.A.R. 781, effective

June 8, 2020 (Supp. 20-2).

**R3-2-612. Importation of Cattle and Bison**

- A. The Certificate of Veterinary Inspection for cattle and bison shall include:
  1. A valid entry permit number.
  2. The number of cattle and bison covered by the Certificate of Veterinary Inspection, an accurate description and official identification, if applicable except for "F" branded heifers consigned to a designated feedlot identified by brand.
  3. The health status of the cattle and bison including:
    - a. The date of the inspection;
    - b. The dipping date, if applicable;
    - c. The date of negative results for required testing under this Article; and
    - d. The vaccination status as required by this Article.
  4. The method of transportation; and
  5. For bulls subject to testing under R3-2-612(I), a statement that the bulls:
    - a. Tested negative for *Tritrichomonas foetus* within 30 days prior to shipment using a polymerase chain reaction test; and
    - b. Have had no breeding activity during the interval between the collection of the samples and the date of shipment.
- B. The owner of cattle and bison entering Arizona or the owner's agent shall comply with the requirements in this Article. Failure to comply with entry requirements will incur the following conditions:
  1. Pay the expenses incurred by a hold order to test and retest the imported cattle or bison or return them to the state of origin.
  2. For imported beef breeding cattle, breeding bison, and dairy cattle, ensure that an accredited veterinarian applies official identification to each bovine or bison.
- C. Arizona shall not accept:
  1. Cattle or bison from brucellosis infected, exposed, or quarantined herds regardless of their vaccination or test status, or both, except:
    - a. Steers and spayed females, and
    - b. Cattle or bison shipped directly for immediate slaughter to an official state or federal slaughter establishment;
  2. Cattle or bison of unknown brucellosis exposure status, unless consigned for feeding purposes to a designated feedlot;
  3. Dairy cattle from a state or region within a foreign country without brucellosis status comparable to a Class-Free State, or without tuberculosis status comparable to an Accredited-Free State;
  4. Dairy and dairy cross steers, and dairy and dairy cross spayed heifers from Mexico;
  5. Beef breeding cattle or breeding bison from a state or region within a foreign country without brucellosis status comparable to a Class A State, or without tuberculosis status comparable to a Modified Accredited State.
- D. Brucellosis testing requirements for beef breeding cattle, breeding bison, and dairy cattle imported into Arizona from other states.
  1. Brucellosis testing is not required in dairy and beef cattle from a brucellosis Class-Free State that does not have free-ranging brucellosis infected bison or wildlife.
  2. Brucellosis not required for any cattle or bison consigned to a designated feedlot that are branded with an "F" adjacent to the tail head as long as the State Veterinarian grants permission to apply the "F" brand upon arrival. All

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- "F" branded cattle or bison that leave the designated feedlot shall be shipped directly to:
- An official state or federal slaughter establishment for immediate slaughter,
  - Another designated feedlot, or
  - Another state if shipping is permitted by the State Veterinarian in the state of destination.
- All female dairy cattle four months of age or older, imported into Arizona, shall be official calfhood vaccinates, officially identified, certified, and legibly tattooed except for the following:
    - Show cattle for exhibition,
    - Cattle consigned directly to an official state or federal slaughter establishment for immediate slaughter, and
    - Cattle consigned for feeding purposes to a designated feedlot with an entry permit number.
  - For beef breeding cattle, breeding bison, and dairy breeding cattle from a Class A state the owner or owner's agent:
    - Shall ensure that the cattle remain under quarantine and isolation until the cattle test negative for brucellosis. The test shall be performed no earlier than 45 days and no later than 120 days after entry.
    - Shall retest dairy cattle if the State Veterinarian determines there is a potential risk of the introduction of brucellosis in the state.
    - Is not required to quarantine or test for brucellosis official calfhood vaccinates less than 18 months of age, if permission is granted by the State Veterinarian.
  - The owner or owner's agent:
    - Shall notify the State Veterinarian within seven days of moving cattle or bison that are under quarantine from the destination listed on the import permit and Certificate of Veterinary Inspection.
    - Shall notify the State Veterinarian at the time animals are retested for brucellosis, if the animals are under quarantine and are not moved from the destination listed on the import permit and Certificate of Veterinary Inspection.
    - Is not required to notify the State Veterinarian if the cattle or bison are shipped directly to an official state or federal slaughter establishment for immediate slaughter.
- E.** Tuberculosis testing requirements for beef breeding cattle, breeding bison, and dairy cattle imported into Arizona from other states.
- No tuberculosis test is required for:
    - Beef breeding cattle or breeding bison, from a tuberculosis accredited Free State if the state accredited status is documented on the Certificate of Veterinary Inspection and entry permit; or
    - Steers and spayed heifers.
  - Beef breeding cattle and breeding bison from a Tuberculosis Modified Accredited State or Tuberculosis Class Free State with a Tuberculosis Quarantine in effect, shall test negative for Bovine Tuberculosis within 60 days prior to entry into Arizona.
  - All dairy breeding cattle greater than 120 days of age shall test negative for Bovine Tuberculosis within 60 days prior to entry into Arizona.
- F.** Brucellosis testing requirements for beef breeding cattle, breeding bison, and dairy cattle imported into Arizona from Mexico.
- Prior to entry into Arizona, beef breeding cattle, breeding bison, or dairy cattle from Mexico shall meet the requirements of 9 CFR 93.424 through 93.427, as revised on January 1, 2018. This material is incorporated by reference, does not include any later amendments or editions of the incorporated matter, and is on file with the Department at 1688 W. Adams St., Phoenix, AZ 85007.
  - The owner or owner's agent shall ensure that beef breeding cattle, breeding bison, and dairy cattle from Mexico remain under import quarantine and isolation until tested negative for brucellosis. The test shall not be performed earlier than 60 days nor later than 120 days after entry into Arizona. All cattle or bison consigned to a designated feedlot shall be branded with an "F" adjacent to the tail head before entry into Arizona unless the State Veterinarian grants permission to apply the "F" brand on arrival. Unless neutered, all beef breeding cattle, breeding bison, and dairy cattle leaving the designated feedlot shall go directly to an official state or federal slaughter establishment for immediate slaughter or to another designated feedlot. The owner of the designated feedlot shall ensure that official identification records are kept on all incoming consignments and then submit the records monthly to the State Veterinarian. An accredited veterinarian shall identify, on a form approved by the State Veterinarian, all cattle and bison leaving the designated feedlot. A copy of the form shall accompany the cattle or bison to slaughter and a copy shall be submitted to the State Veterinarian.
  - Dairy cattle from Mexico shall test for brucellosis again 30 days after calving, unless the dairy cattle were consigned directly to a feedlot.
- G.** Tuberculosis testing requirements for cattle and bison imported into Arizona from Mexico.
- Prior to entry into Arizona, cattle and bison from Mexico shall meet the requirements of 9 CFR 93.424 through 93.427 as revised on January 1, 2018, incorporated by reference in subsection (F)(1).
  - Steers and spayed heifers from states or regions in Mexico shall not enter the state if they have not been determined by the State Veterinarian to have fully implemented the Control, Eradication, or Free Phase of the bovine tuberculosis eradication program of Mexico.
  - Steers and spayed heifers from states or regions in Mexico determined by the State Veterinarian to have fully implemented the Control Phase of the bovine tuberculosis eradication program of Mexico shall not be imported into Arizona without permission of the State Veterinarian.
  - Steers and spayed heifers from states or regions in Mexico determined by the State Veterinarian to have fully implemented the Eradication Phase of the bovine tuberculosis eradication program of Mexico may be imported into Arizona, if they have either:
    - Tested negative for tuberculosis in accordance with procedures equivalent to the 9 CFR Part 77 as amended on January 9, 2013 within 60 days before entry into the United States, or
    - Originated from a herd that is equivalent to an accredited herd in the United States and are moved directly from the herd of origin across the border as a single group and not commingled with other cattle or bison before arriving at the border.
  - Steers and spayed heifers from states or regions in Mexico determined by the State Veterinarian to have achieved the Free Phase of the bovine tuberculosis eradication program of Mexico may move directly into Arizona without testing or further restrictions if they are moved as a single

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group and not commingled with other cattle before arriving at the border.

6. Beef breeding cattle and breeding bison from states or regions in Mexico may be imported into Arizona if the State Veterinarian determines the Eradication or Free Phase of the bovine tuberculosis eradication program of Mexico has been fully implemented and the breeding cattle and breeding bison remain under quarantine and isolation until retested negative for tuberculosis in accordance 9 CFR Part 77 as revised on January 1, 2018. The test shall be performed not earlier than 60 days but not later than 120 days after entry unless consigned to a designated feedlot for feeding purposes only. Unless neutered, all beef breeding cattle or breeding bison consigned to a designated feedlot shall be branded with an "F" adjacent to the tail head before entry into Arizona, unless permission is granted by the State Veterinarian to apply the "F" brand on arrival. All beef breeding cattle or breeding bison leaving the designated feedlot shall go directly to an official state or federal slaughter establishment for immediate slaughter or to another designated feedlot. The owner of the designated feedlot shall ensure that official identification records are kept on all incoming consignments and submit the records monthly to the State Veterinarian. An accredited veterinarian shall identify, on a form approved by the State Veterinarian, all beef breeding cattle and breeding bison leaving the designated feedlot. A copy of the form shall accompany the cattle and bison to slaughter and a copy shall be submitted to the State Veterinarian.

#### H. Bovine scabies requirements.

1. The owner or owner's agent shall ensure that no cattle or bison affected with or exposed to scabies is shipped, trailed, driven, or otherwise transported or moved into Arizona except cattle or bison identified and moving under a VS Form 1-27 and seal for immediate slaughter at an official state or federal slaughter establishment.
2. The owner or owner's agent of cattle or bison from an official state or federal scabies quarantined area shall comply with the requirements of 9 CFR 73, Scabies in Cattle, as revised on January 1, 2018, before moving the cattle or bison into Arizona. This material is incorporated by reference, does not include any later amendments or editions of the incorporated matter, and is on file with the Department.
3. The State Veterinarian may require that breeding and feeding cattle and bison from known scabies infected areas and states be dipped or treated even if the animals are not known to be exposed. The State Veterinarian shall require that dairy cattle be dipped only if the animals are known to be exposed; otherwise an accredited veterinarian's examination and certification shall be sufficient.

#### I. Trichomoniasis requirements for bulls imported into Arizona from other states.

1. The owner or owner's agent shall ensure bulls:
  - a. Test negative for *Tritrichomonas foetus* within 30 days prior to shipment using a polymerase chain reaction test or a diagnostic test approved by the state veterinarian, except for bulls:
    - i. Less than 12 months of age,
    - ii. Consigned directly to a state or federal licensed slaughter facility,
    - iii. Consigned directly to a dairy,
    - iv. Consigned directly to an exhibition or rodeo,
    - v. Consigned directly to a licensed feedlot for castration on arrival,

- vi. Branded with an "F" adjacent to the tailhead and consigned directly to a designated feedlot for feeding and later movement directly to slaughter, and
- b. Have no breeding activity during the interval between the collection of a sample and the date of shipment.
- c. The following statements documented on the CVI in reference to R3-2-612(A)(5):
  - i. Test negative for *Tritrichomonas foetus* within 30 days prior to shipment using a polymerase chain reaction test; and
  - ii. Have had no breeding activity during the interval between the collection of the samples and the date of shipment.
2. An accredited veterinarian approved to collect samples for *Tritrichomonas foetus* testing by the state animal health official in the state of origin shall collect the *Tritrichomonas foetus* test samples.
3. A laboratory approved to conduct tests for *Tritrichomonas foetus* by the state animal health official in the state of origin shall perform the test for *Tritrichomonas foetus*.

#### J. For purposes of this Section beef breeding cattle means intact beef cattle.

##### Historical Note

Adopted effective August 19, 1983 (Supp. 83-4). Section R3-2-612 renumbered from Section R3-9-612 (Supp. 91-4). Amended effective March 5, 1997 (Supp. 97-1). Amended effective February 4, 1998 (Supp. 98-1). Amended by final rulemaking at 14 A.A.R. 884, effective May 3, 2008 (Supp. 08-1). Amended by final rulemaking at 14 A.A.R. 876, effective May 3, 2008 (Supp. 08-1). Amended by final rulemaking at 26 A.A.R. 781, effective June 8, 2020 (Supp. 20-2).

#### R3-2-613. Importation of Swine

- A. A Certificate of Veterinary Inspection for swine shall include:
  1. A valid entry permit number;
  2. The following statements recorded on the CVI:
    - a. The swine listed on this CVI have never been fed garbage; and
    - b. The swine listed on this CVI have not been vaccinated for pseudorabies;
  3. Official Identification; and
  4. If applicable, the validated brucellosis-free herd number and last test date for swine originating from a validated brucellosis-free herd.
- B. Brucellosis test requirements. Swine imported into Arizona from other states shall:
  1. Originate from a validated swine brucellosis-free herd or from a swine brucellosis-free state; or
  2. Test negative for brucellosis within 30 days before entry.
- C. For purposes of this Section, breeding swine means intact swine that have had breeding activity.
- D. It is unlawful for any person to import into the state of Arizona live feral swine. Any person or corporation owning or possessing a live feral swine in this state shall at all times keep such feral swine in a safe and suitable enclosure so that it may not run at large or damage the person or property of others. For purposes of this Section, feral swine means a hog, boar, or pig that appear to be untamed, undomesticated, or in a wild state; or appear to be contained for commercial hunting or trapping.

##### Historical Note

Adopted effective August 19, 1983 (Supp. 83-4). Amended effective June 29, 1984 (Supp. 84-3). Section

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R3-2-613 renumbered from Section R3-9-613 (Supp. 91-4). Amended by final rulemaking at 6 A.A.R. 25, effective December 8, 1999 (Supp. 99-4). Amended by final rulemaking at 6 A.A.R. 4812, effective December 7, 2000 (Supp. 00-4). December 8, 1999 effective date corrected to reflect what is on file in the Office of the Secretary of State; correct effective date is January 1, 2000 (Supp. 01-1). Amended by final rulemaking at 26 A.A.R. 781, effective June 8, 2020 (Supp. 20-2).

**R3-2-614. Importation of Sheep and Goats**

- A. A Certificate of Veterinary Inspection for sheep and goats shall include:
1. A valid entry permit number; and
  2. A statement that:
    - a. The sheep or goats are not infected with bluetongue, or exposed to scrapie, and do not originate from a scrapie-infected or source flock; and
    - b. The sheep or goats test negative for *Brucella ovis* if a test is required by subsection (B); and if applicable
    - c. Breeding rams have been individually examined and are free of gross lesions of ram epididymitis.
- B. A breeding ram six months of age or older shall test negative for *Brucella ovis* within 30 days of entry or originate from a certified brucellosis-free flock. An exhibition ram that returns to the out-of-state flock of origin within five days of the conclusion of the exhibit is exempt from the testing requirement of this subsection.
- C. Arizona native commercial flocks participating in a *Brucella ovis* control program through testing performed by an accredited and licensed veterinarian may return to Arizona from another state without testing, provided the flock has not commingled with other flocks.

**Historical Note**

Adopted effective August 19, 1983 (Supp. 83-4). Section R3-2-614 renumbered from Section R3-9-614 (Supp. 91-4). Amended by final rulemaking at 6 A.A.R. 25, effective December 8, 1999 (Supp. 99-4). December 8, 1999 effective date corrected to reflect what is on file in the Office of the Secretary of State; correct effective date is January 1, 2000 (Supp. 01-1). Amended by final rulemaking at 8 A.A.R. 3628, effective August 7, 2002 (Supp. 02-3). Amended by final rulemaking at 14 A.A.R. 876, effective May 3, 2008 (Supp. 08-1). Amended by final rulemaking at 26 A.A.R. 781, effective June 8, 2020 (Supp. 20-2).

**R3-2-615. Importation of Equine**

- A. A Certificate of Veterinary Inspection for equine shall include:
1. An accurate identification for each equine including age, sex, breed, color, name, brand, tattoo, scars, microchip if any, and distinctive markings; and
  2. A statement that the equine has a negative test for EIA, including:
    - a. The date and results of the test;
    - b. The name of the testing laboratory; and
    - c. The laboratory accession number.
- B. Equine entering the state are not required to obtain an entry permit number.
- C. All equine six months of age or older shall, using a test established in R3-2-407(A), test negative for EIA within 12 months before entry. Testing expenses shall be paid by the owner.
- D. Extended Equine Certificates of Veterinary Inspection (EECVI) are valid for the life of the certificate (up to 6 months) in the state of Arizona. The equine listed on the EECVI shall be officially identified with a microchip.

**Historical Note**

Adopted effective August 19, 1983 (Supp. 83-4). Section R3-2-615 renumbered from Section R3-9-615 (Supp. 91-4). Amended effective February 4, 1998 (Supp. 98-1). Amended by final rulemaking at 8 A.A.R. 3628, effective August 7, 2002 (Supp. 02-3). Amended by final rulemaking at 26 A.A.R. 781, effective June 8, 2020 (Supp. 20-2).

**R3-2-616. Importation of Cats and Dogs**

A dog or cat shall be accompanied by a Certificate of Veterinary Inspection that documents the animal is currently vaccinated against rabies if older than three months of age according to the requirements of the National Association of State Public Health Veterinarians' Compendium of Animals Rabies Control, incorporated by reference in R3-2-409.

**Historical Note**

Adopted effective August 19, 1983 (Supp. 83-4). Section R3-2-616 renumbered from Section R3-9-616 (Supp. 91-4). Section repealed; new Section adopted by final rulemaking at 6 A.A.R. 25, effective December 8, 1999 (Supp. 99-4). December 8, 1999 effective date corrected to reflect what is on file in the Office of the Secretary of State; correct effective date is January 1, 2000 (Supp. 01-1). Amended by final rulemaking at 14 A.A.R. 876, effective May 3, 2008 (Supp. 08-1). Amended by final rulemaking at 26 A.A.R. 781, effective June 8, 2020 (Supp. 20-2).

**R3-2-617. Importation of Poultry**

Poultry entering the state shall appear healthy, not originate from a poultry quarantine area, comply with all interstate requirements of APHIS, and be accompanied by a Certificate of Veterinary Inspection or Form 9-3 from the National Poultry Improvement Program.

**Historical Note**

Adopted effective August 19, 1983 (Supp. 83-4). Section R3-2-617 renumbered from Section R3-9-617 (Supp. 91-4). Amended by final rulemaking at 8 A.A.R. 4043, effective November 9, 2002 (Supp. 02-3). Amended by final rulemaking at 14 A.A.R. 876, effective May 3, 2008 (Supp. 08-1). Repealed by emergency rulemaking at 22 A.A.R. 1750, effective immediately upon filing, June 22, 2016, as determined by the attorney general, for 180 days at 22 A.A.R. 1750 (Supp. 16-2). Emergency expired December 19, 2016 (Supp. 16-4). Amended by final rulemaking at 26 A.A.R. 781, effective June 8, 2020 (Supp. 20-2).

**R3-2-618. Importation of Psittacine Birds**

- A. The owner or the owner's agent of a psittacine bird entering Arizona shall obtain a Certificate of Veterinary Inspection issued by a veterinarian within 30 days of entry, certifying:
1. The bird is not infected with the agent that causes avian chlamydiosis, and
  2. The bird was not exposed to birds known to be infected with avian chlamydiosis within the past 30 days.
- B. The Certificate of Veterinary Inspection shall accompany the psittacine bird at the time of entry into Arizona.

**Historical Note**

Adopted effective August 19, 1983 (Supp. 83-4). Section R3-2-618 renumbered from Section R3-9-618 (Supp. 91-4). Amended by final rulemaking at 8 A.A.R. 4043, effective November 9, 2002 (Supp. 02-3). Amended by final rulemaking at 14 A.A.R. 876, effective May 3, 2008 (Supp. 08-1). Repealed by emergency rulemaking at 22 A.A.R. 1750, effective immediately upon filing, June 22, 2016, as determined by the attorney general, for 180 days

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at 22 A.A.R. 1750 (Supp. 16-2). Emergency expired December 19, 2016 (Supp. 16-4). Amended by final rulemaking at 26 A.A.R. 781, effective June 8, 2020 (Supp. 20-2).

**R3-2-619. Repealed****Historical Note**

Adopted effective August 19, 1983 (Supp. 83-4). Section R3-2-619 renumbered from Section R3-9-619 (Supp. 91-4). Section repealed by final rulemaking at 6 A.A.R. 25, effective December 8, 1999 (Supp. 99-4). December 8, 1999 effective date corrected to reflect what is on file in the Office of the Secretary of State; correct effective date is January 1, 2000 (Supp. 01-1).

**R3-2-620. Importation of Zoo Animals**

- A. An owner or owner's agent may transport or move zoo animals into the state of Arizona if the animals are accompanied by an official Certificate of Veterinary Inspection, and consigned to a zoo or in the charge of a circus or show.
- B. The owner, or owner's agent, of livestock except swine and equine in a "Petting Zoo" shall have the livestock tested for tuberculosis within 12 months before importation. A negative test result is required for entry into Arizona.
- C. A business that transports or exhibits zoo animals shall be licensed by the Arizona Game and Fish Department.

**Historical Note**

Adopted effective August 19, 1983 (Supp. 83-4). Section R3-2-620 renumbered from Section R3-9-620 (Supp. 91-4). Amended by final rulemaking at 8 A.A.R. 4043, effective November 9, 2002 (Supp. 02-3). Amended by final rulemaking at 14 A.A.R. 876, effective May 3, 2008 (Supp. 08-1). Amended by final rulemaking at 26 A.A.R. 781, effective June 8, 2020 (Supp. 20-2).

**R3-2-621. Expired****Historical Note**

New Section adopted by final rulemaking at 6 A.A.R. 25, effective December 8, 1999 (Supp. 99-4). December 8, 1999 effective date corrected to reflect what is on file in the Office of the Secretary of State; correct effective date is January 1, 2000 (Supp. 01-1). Amended by final rulemaking at 14 A.A.R. 876, effective May 3, 2008 (Supp. 08-1). Section expired under A.R.S. § 41-1056(J) at 23 A.A.R. 135, effective December 15, 2016 (Supp. 16-4).

**R3-2-622. Expired****Historical Note**

New Section adopted by final rulemaking at 6 A.A.R. 25, effective December 8, 1999 (Supp. 99-4). December 8, 1999 effective date corrected to reflect what is on file in the Office of the Secretary of State; correct effective date is January 1, 2000 (Supp. 01-1). Section expired under A.R.S. § 41-1056(J) at 23 A.A.R. 135, effective December 15, 2016 (Supp. 16-4).

**ARTICLE 7. LIVESTOCK INSPECTION****R3-2-701. Department Livestock Inspection**

- A. A Division employee shall inspect range cattle, as defined in R3-2-702(A), at a ranch if the owner or agent of livestock is:
  1. Moving cattle out-of-state,
  2. Transferring cattle ownership, or
  3. Shipping cattle for custom slaughter.
- B. An owner or agent of cattle cannot be issued both non-range and range self-inspection certificates.

- C. With prior approval from a Division employee, livestock can be moved to a licensed custom slaughter facility using the livestock owner's or agent's or feedlot operator's self-inspection certificate. A Division employee must validate the self-inspection certificate prior to slaughter.
- D. The Department shall not issue a self-inspection certificate to an owner or agent of livestock or feedlot operator if that individual has been convicted of a felony under A.R.S. Title 3 within the three-year period before the date on the self-inspection application. The Department may deny self-inspection to an applicant if within the five-year period before the date on the self-inspection application, the applicant was convicted of any A.R.S. Title 3 offense or an A.R.S. Title 13 offense related to livestock. A Division employee shall inspect livestock if an applicant is denied self-inspection authority.
- E. During fiscal year 2020, livestock officers and inspectors shall collect from the person in charge of cattle, dairy cattle, or sheep inspected a service charge of \$10 plus the per head inspection fee set out in A.R.S. § 3-1337 for making inspections for the transfer of ownership, sale, slaughter or transportation of the animals.

**Historical Note**

Adopted effective August 19, 1983 (Supp. 83-4). Section R3-2-701 renumbered from Section R3-9-701 (Supp. 91-4). Section R3-2-701 repealed; new Section R3-2-701 adopted effective February 4, 1998 (Supp. 98-1). Error in subsection (A)(3) corrected under R1-1-109, filed with the Office of the Secretary of State October 18, 2001 (Supp. 01-3). Amended by final rulemaking at 9 A.A.R. 513, effective April 6, 2003 (Supp. 03-1). Amended by exempt rulemaking at 16 A.A.R. 1331, effective June 29, 2010 (Supp. 10-2). Amended by exempt rulemaking at 17 A.A.R. 1756, effective July 20, 2011 (Supp. 11-3). Amended by exempt rulemaking at 18 A.A.R. 2060, effective August 2, 2012 (Supp. 12-3). Amended by exempt rulemaking at 19 A.A.R. 3127, effective September 14, 2013 (Supp. 13-3). Amended by exempt rulemaking at 20 A.A.R. 2449, effective July 24, 2014 (Supp. 14-3). Amended by exempt rulemaking pursuant to Laws 2015, Ch. 10, § 14, at 21 A.A.R. 2404, effective July 3, 2015 (Supp. 15-3). Amended by final exempt rulemaking at 23 A.A.R. 1937, effective August 9, 2017 (Supp. 17-2). Amended by final exempt rulemaking at 24 A.A.R. 2219, effective August 3, 2018 (Supp. 18-3). Amended by final exempt rulemaking at 25 A.A.R. 2081, effective August 27, 2019 (Supp. 19-3). Amended by final rulemaking at 26 A.A.R. 781, effective June 8, 2020 (Supp. 20-2).

**R3-2-702. Livestock Self-inspection**

- A. Definitions.
 

"Dairy" means an owner or agent of a place or premise where one or more lactating animals are kept for milking purposes and from which a part or all of the milk is provided, sold, or offered for sale that meets both of the following conditions: the livestock is not permitted to range and the dairy is permitted by the Department. If these conditions are met, then a Division employee may grant the applicant dairy status.

"Description" means sex, breed, color, and markings, as applicable to the type of livestock.

"Exhibition" means an event including a fair, show, or field day that has as its primary purpose the opportunity for a member of a livestock organization, including 4-H and FFA, to display an animal raised by the individual in a judged competition.

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"Feedlot" means an operator of a beef cattle feedlot or feed yard in which the livestock is not permitted to range and that is licensed by the Department. If these conditions are met, then a Division employee may grant the applicant feedlot status.

"Livestock" means cattle, sheep, goats, and swine.

"Livestock broker" means an owner or agent who engages in the business of buying and selling livestock and has immediate possession of the livestock for 10 days or less in which the livestock is not permitted to range. If these conditions are met, then a Division employee may grant the applicant livestock broker status.

"Non-range" means any owner or agent of an enclosed property that is 100 acres or less that meets all of the following conditions: the fence enclosing the livestock is well maintained, the livestock is not permitted to range, and the owner or agent of the livestock lives where the livestock are kept. If these conditions are met, then a Division employee may grant the applicant non-range status.

*"Range" means every character of lands, enclosed or unenclosed, outside of cities and towns, upon which livestock is permitted by custom, license or permit to roam and feed.* A.R.S. § 3-1201(7)

*"Range cattle" means cattle customarily permitted to roam upon the ranges of the state, whether public domain or in private control, and not in the immediate actual possession or control of the owner although occasionally placed in enclosures for temporary purposes.* A.R.S. § 3-1201(8)

#### B. Application.

1. Owners or agents of livestock or feedlot operators shall request a book of self-inspection certificates from the Department. The applicant shall submit a written application form obtained from the Department and provide the following information:
  - a. Name, mailing address, physical address, telephone number, and email address;
  - b. Name of business and type of livestock operation;
  - c. Whether the applicant has been convicted of a violation of A.R.S. Title 3, or a violation of A.R.S. Title 13 related to livestock within the past five years, and if so, the case number, court, charge, and sentence;
  - d. Recorded brand number;
  - e. Individual or individuals designated to sign self-inspection certificates, if applicable; and
  - f. Signature and date.
2. The holder of a self-inspection book shall advise the Department within 30 days of any change to the information provided on an application form.
3. The holder of a self-inspection book shall renew registration with the Department every three years from the date the initial or renewal application form is signed.
4. If a holder with self-inspection privileges has been convicted of a criminal violation under A.R.S. Title 3, or a violation of Title 13 related to livestock, that holder shall notify the Department immediately and their privileges shall be revoked.
5. Prior to a Department employee issuing a book of self-inspection certificates, the owner shall submit the following payment amount and the Department shall receive the payment in full prior to issuing the book:
  - a. \$25.00 for a twenty five page feedlot or livestock broker book;
  - b. \$20.00 for a twenty page dairy book; or

- c. \$10.00 for a ten page non-range, range, sheep, goat, or swine book.

#### C. Self-inspection certificate.

1. An owner or agent of livestock or feedlot operator shall provide the following information, as applicable, on a self-inspection certificate whenever livestock subject to self-inspection are moved or ownership is transferred:
  - a. Name, address, and signature, of the owner or agent of livestock or feedlot operator;
  - b. Date of the shipment or transfer of ownership;
  - c. If moved, location from which and to which the livestock are moved, including the name of the auction, feedlot, arena, slaughter establishment, pasture, or other premises, and physical location;
  - d. Name of transporter;
  - e. Number and description of livestock;
  - f. Official identification of each dairy cattle and sexually intact cattle over 18 months of age shipped out of state and back tag numbers of culled dairy cattle;
  - g. Brand number, expiration date, and location;
  - h. Name and address of buyer;
  - i. Number of head of cattle sold for which Beef Council fees are payable under A.R.S. §§ 3-1236 and 3-1238.
2. The owner or agent of livestock or feedlot operator shall complete a self-inspection certificate, except when livestock are subject to inspection by a Division employee under R3-2-701, and distribute copies of the certificate as follows:
  - a. One copy and any fees that are owed under subsection (C)(1)(i) shall be sent to the Department within 10 days after the end of the month in which it was used;
  - b. If the livestock are shipped, the original certificate shall accompany the livestock whenever they are in transit and one copy shall be retained by the person transporting the livestock; or
  - c. If ownership of the livestock is transferred without shipment, two copies shall be provided to the new owner or agent of livestock or feedlot operator; and one copy shall be retained by the seller.
3. A certificate may be used once to either transfer livestock ownership or to move livestock to a specific destination. If the livestock are diverted to a destination other than that stated on the self-inspection certificate, the certificate is void. The owner or agent of livestock, or feedlot operator shall complete a new certificate and send both the voided and new certificates to the Department within 10 days after the end of the month in which the certificates are used or voided.
4. An owner or agent of livestock or feedlot operator shall use a self-inspection certificate only with a shipment of livestock matching the description for which the certificate is issued and only for the self-inspection issued date. If any of the information on the self-inspection certificate changes, the certificate is void and the owner or agent of livestock or feedlot operator shall complete a new certificate.
5. An altered, erased, completed but unused, or defaced self-inspection certificate is void. A voided certificate shall be returned to the Department within 10 days after the end of the month in which it is voided.
6. Upon request, certificates shall be returned to the Department by the owner or agent of livestock or feedlot operator. If an operation licensed for self-inspection is sold, leased, transferred, or otherwise disposed of, the owner or

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agent of livestock or feedlot operator shall notify the Department and return all self-inspection certificates to the Department within 30 days of the transaction.

7. If the owner or agent of livestock or feedlot operator cannot find an unused or used certificate, they must sign an affidavit provided by the Department verifying the certificate is lost and cannot be found. New certificates will not be issued until the signed affidavit has been received by the Department.
- D. Sale of livestock. A seller shall document a sale by completing a self-inspection certificate as prescribed in subsection (C) and providing a bill of sale to the purchaser as required under A.R.S. § 3-1291.
- E. Feedlot receiving form.
  1. The operator of a feedlot shall document receipt of incoming cattle on a form obtained from the Department. The operator shall include the following information on the form:
    - a. Name of feedlot and location;
    - b. Month and year for which report is made;
    - c. Number of cattle received, date received, and name and address of owner;
    - d. Description of the cattle;
    - e. If not Arizona native cattle, the import permit and Certificate of Veterinary Inspection numbers;
    - f. If native Arizona cattle, self-inspection certificate number or Department inspection certificate number; and
    - g. Pen number to which cattle are initially assigned.
  2. The operator shall return the completed form within 10 days after the end of the month of the reporting period.
- F. Quarantine. Livestock under quarantine by the Department shall not be shipped or sold by use of a self-inspection certificate.
- G. Violations. The Department shall process violations of this Section as prescribed under A.R.S. § 3-1203(D).

**Historical Note**

Adopted effective August 19, 1983 (Supp. 83-4). Section R3-2-702 renumbered from Section R3-9-702 (Supp. 91-4). Section R3-2-702 repealed; new Section R3-2-702 adopted effective February 4, 1998 (Supp. 98-1). Amended by final rulemaking at 9 A.A.R. 513, effective April 6, 2003 (Supp. 03-1). Amended by exempt rulemaking under Laws 2016, Ch. 160, § 9 at 22 A.A.R. 2400, effective August 6, 2016 (Supp. 16-3). Amended by final rulemaking at 26 A.A.R. 781, effective June 8, 2020 (Supp. 20-2).

**R3-2-703. Seasonal Self-inspection Certificate**

Exhibition cattle, sheep, goats, and swine.

1. An applicant for a seasonal self-inspection certificate prescribed under A.R.S. § 3-1346 shall request a seasonal self-inspection certificate from the Department. The applicant shall provide the following information, as applicable:
  - a. Name, mailing address, physical address if different from mailing address, telephone number, and email address;
  - b. Name of 4-H or FFA group, and group leader;
  - c. Physical description of livestock;
  - d. Official identification of livestock, except for native cattle born and raised in Arizona;
  - e. Permit number and Certificate of Veterinary Inspection number for livestock imported from another state;

- f. Name of seller and self-inspection certificate number or Department inspection certificate number for livestock purchased from an Arizona seller; and
- g. Signature and date of signature of the owner or lessee. If the owner or lessee is under 18 years of age, a signature of the parent or guardian and date of signature are required.
2. The Department employee who records the information required in subsection (1) shall advise the applicant of the required fee prescribed under A.R.S. § 3-1346(A). The Department shall issue a seasonal self-inspection certificate upon receipt of the fee.
3. An exhibitor shall provide the following information, as applicable, on a seasonal self-inspection certificate whenever livestock subject to seasonal self-inspection is moved or ownership is transferred:
  - a. Name, address, telephone number, email address, and signature;
  - b. Date of movement;
  - c. Name of exhibition and location;
  - d. Final disposition of the livestock (sale, death, or retention) and date of occurrence; and
  - e. If the livestock is sold, name, address, and phone number of purchaser (person or slaughter plant).
4. The holder of a seasonal self-inspection certificate shall return the certificate to the Department within two weeks of the sale or slaughter of the livestock or at the end of the show season if the livestock is retained.

**Historical Note**

Adopted effective November 27, 1987 (Supp. 87-4). Section R3-2-703 renumbered from Section R3-9-703 (Supp. 91-4). Section R3-2-703 repealed; new Section R3-2-703 adopted effective February 4, 1998 (Supp. 98-1). Section repealed; new Section made by final rulemaking at 9 A.A.R. 513, effective April 6, 2003 (Supp. 03-1). Amended by exempt rulemaking under Laws 2016, Ch. 160, § 9 at 22 A.A.R. 2400, effective August 6, 2016 (Supp. 16-3). Amended by final rulemaking at 26 A.A.R. 781, effective June 8, 2020 (Supp. 20-2).

**R3-2-704. Emergency Expired****Historical Note**

Adopted effective February 4, 1998 (Supp. 98-1). Section repealed by final rulemaking at 9 A.A.R. 513, effective April 6, 2003 (Supp. 03-1). Section made by emergency rulemaking at 24 A.A.R. 3589, with an immediate effective date of December 13, 2018, valid for 180 days (Supp. 18-4). Emergency expired (Supp. 20-2).

**R3-2-705. Repealed****Historical Note**

Adopted effective February 4, 1998 (Supp. 98-1). Amended by final rulemaking at 8 A.A.R. 3628, effective August 7, 2002 (Supp. 02-3). Section repealed by final rulemaking at 9 A.A.R. 513, effective April 6, 2003 (Supp. 03-1).

**R3-2-706. Repealed****Historical Note**

Adopted effective February 4, 1998 (Supp. 98-1). Section repealed by final rulemaking at 9 A.A.R. 513, effective April 6, 2003 (Supp. 03-1).

**R3-2-707. Ownership and Hauling Certificate for Equines; Fees**

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The fee for a new, transferred, or replacement Ownership and Hauling Certificate for Equines as prescribed under A.R.S. §§ 3-1344(B) and 3-1345(B) is \$10 per certificate.

**Historical Note**

New Section made by exempt rulemaking at 8 A.A.R. 3932, effective August 22, 2002 (Supp. 02-3).

**R3-2-708. Equine Rescue Facility Registration**

- A. "Arizona Equine Rescue Standards" means the American Association of Equine Practitioners Care Guidelines for Equine Rescue and Retirement Facilities, 2004 Edition. This material, which includes the Veterinary Checklist for Rescue/Retirement Facilities, is incorporated by reference, does not include any later amendments or editions, and is available for inspection at the Department of Agriculture, 1688 W. Adams St., Phoenix, Arizona 85007. A copy of this material may also be obtained from the American Association of Equine Practitioners web site at [http://www.aaep.org/pdfs/rescue\\_retirement\\_guidelines.pdf](http://www.aaep.org/pdfs/rescue_retirement_guidelines.pdf). The American Association of Equine Practitioners is located at 4033 Iron Works Parkway, Lexington, Kentucky 40511.
- B. An equine rescue facility shall pay the annual registration fee and file the following documents with the Department's Animal Services Division for the facility to be included on the Department's registry of equine rescue facilities:
1. An application form containing the facility's name, physical and mailing address, and contact person and the contact person's phone number and email address.
  2. A copy of documents filed with the Arizona Corporation Commission demonstrating the facility's current status as a nonprofit corporation in good standing in this state.
  3. A letter from a licensed veterinarian, dated within 15 days of filing, certifying that the facility is not inadequate with respect to any of the Arizona Equine Rescue Standards and attaching a signed copy of the completed Arizona Equine Rescue Standards' veterinary checklist.
- C. Registration is valid for one year. Registration may be renewed annually by complying with subsection (B).
- D. The annual registration fee is \$75.
- E. A nonprofit corporation owning multiple equine rescue facilities must file the letter and checklist described in subsection (B)(3) and pay the annual registration fee for each location it wants included on the registry.
- F. The Department shall remove a facility from the registry if it determines that the facility is not presently incorporated as a nonprofit corporation in this state or is inadequate with respect to any of the Arizona Equine Rescue Standards.

**Historical Note**

New Section made by final rulemaking at 16 A.A.R. 876, effective July 3, 2010 (Supp. 10-2). Amended by final rulemaking at 26 A.A.R. 781, effective June 8, 2020 (Supp. 20-2).

**ARTICLE 8. DAIRY AND DAIRY PRODUCTS CONTROL****R3-2-801. Definitions**

In addition to the definitions in A.R.S. §§ 3-601 and 3-661, the following terms apply to this Article:

"3-A Sanitary Standards" and "3-A Accepted Practices," as published by the International Association for Food Protection, effective on or before October 15, 2017, means the criteria for design, materials, construction and use of dairy processing equipment. This material is incorporated by reference, does not include any later amendments or editions, and is on file with the Department at 1688 W. Adams St., Phoenix, AZ 85007 and is also available at <http://www.3-A.org>.

"C-I-P" means a procedure by which equipment, pipelines, and other facilities are cleaned-in-place as prescribed in the 3-A Accepted Practices.

"Converted" means the process by which a frozen dessert is changed from a frozen to semi-frozen form without any change in the ingredients.

"Fluid milk" means milk and any other product made by the addition of a substance to milk or to a liquid form of milk product if the milk or other product is produced, processed, distributed, sold or offered or exposed for sale for human consumption.

"Fluid trade product" means any trade product as defined in A.R.S. § 3-661(5) that resembles or imitates any fluid milk product.

"Food establishment" means any establishment, except a private residence, that prepares or serves food for human consumption, regardless of whether the food is consumed on the premises.

"Frozen desserts mix" or "mix" means any frozen dessert before being frozen.

"Grade A raw milk" means raw milk produced on a dairy farm that conforms to Section 7 of the PMO and the requirements of R3-2-805.

"Parlor" and "milk room" mean the facilities used for the production of Grade A raw milk for pasteurization or Grade A raw milk.

"Plant" means any place, premise, or establishment, or any part, including specific areas in retail stores, stands, hotels, restaurants, and other establishments where frozen desserts are manufactured, processed, assembled, stored, frozen, or converted for distribution or sale, or both. A plant may consist of rooms or space where utensils or equipment is stored, washed, or sanitized and where ingredients used in manufacturing frozen desserts are stored. Plant includes:

"Manufacturing plant" means a location where frozen desserts are manufactured, processed, pasteurized, and converted.

"Handling plant" means a location that is not equipped or used to manufacture, process, pasteurize, or convert frozen desserts, but where frozen desserts are sold or offered for sale other than at retail.

"PMO" means the Grade A Pasteurized Milk Ordinance, 2017 Revision. This material is incorporated by reference, does not include any later amendments or editions, and is on file with the Department at 1688 W. Adams St., Phoenix, AZ 85007. A copy of the incorporated material may also be viewed at <http://agriculture.az.gov>.

"Retail food store" means any establishment offering packaged or bulk goods for human consumption for retail sale.

**Historical Note**

Former Regulations 1-11. Section R3-2-801 renumbered from R3-5-01 (Supp. 91-4). R3-2-801 renumbered to R3-2-803; new Section R3-2-801 adopted effective December 2, 1998 (Supp. 98-4). Amended by final rulemaking at 7 A.A.R. 2215, effective May 9, 2001 (Supp. 01-2). Amended by final rulemaking at 9 A.A.R. 2089, effective August 2, 2003 (Supp. 03-2). Amended by final rulemaking at 12 A.A.R. 3030, effective September 30, 2006 (Supp. 06-3). Amended by final rulemaking at 14 A.A.R. 889, effective May 3, 2008 (Supp. 08-1). Amended by



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emergency rulemaking at 20 A.A.R. 1134, effective May 2, 2014, for 180 days (Supp. 14-2). Emergency expired.

Amended by exempt rulemaking at 21 A.A.R. 2407, effective September 22, 2015 (Supp. 15-3). Amended by final rulemaking at 22 A.A.R. 2169, effective October 2, 2016 (Supp. 16-3). Amended by final rulemaking at 26 A.A.R. 781, effective June 8, 2020 (Supp. 20-2).

**R3-2-802. Milk and Milk Products Standards**

Unless specifically mentioned in A.R.S. Title 3, Chapter 4, Article 1, or in this Article, all milk and milk products, except frozen desserts, sold or distributed for human consumption shall meet the PMO standards for production, processing, storing, handling, and transportation.

**Historical Note**

Former Regulations 1, 2. Section R3-2-802 renumbered from R3-5-02 (Supp. 91-4). Section repealed; new Section adopted effective December 2, 1998 (Supp. 98-4).

**R3-2-803. Milk and Milk Products Labeling**

- A.** The manufacturer or processor shall ensure that milk and milk products listed in A.R.S. § 3-601(10), and Sections 1 and 2 of the PMO are designated by the name of the product and shall conform to its definition.
- B.** The manufacturer or processor of milk and milk products shall conform with the labeling requirements in A.R.S. §§ 3-601.01 and 3-627, Section 4 of the PMO, and 21 CFR 101, 131, and 133, amended April 1, 2017. This CFR material is incorporated by reference, does not include any later amendments or editions, and is on file with the Department.
- C.** The name of the manufacturer or processor shall be on all cartons or closures where it can be easily seen. A manufacturer or processor that has plants in other states shall use a code number or letter to designate the state in which a carton or closure is manufactured or processed. If a manufacturer or processor has a plant within Arizona, the Dairy Supervisor shall issue a code number or letter for each plant and shall keep a record of the number or letter issued. Manufacturers and processors shall include the Arizona code, 04, with the plant code assigned by the Dairy Supervisor.
- D.** If milk or milk products are manufactured or processed and packaged at a plant for other retailers and the container or closure is not labeled the same as the manufacturer's or processor's like product, the manufacturer or processor shall include the statement "Manufactured or Processed at (name and address of plant or code number or letter)" on the carton or closure. The carton or closure may also contain the statement, "Distributed by: (name of person or firm)."
- E.** Any person planning to use a new or modified label on a container shall submit the proposed label to the Dairy Supervisor for review.
  1. If the proposed label does not meet labeling standards specified in subsection (B), the Dairy Supervisor shall note the required changes on the proposed label, and sign and return the proposed label to the applicant.
  2. A person who requests additional time to use the inventory amounts of slow moving cartons or closures before using a modified label shall submit a written request to the Dairy Supervisor. The Dairy Supervisor may approve continued use of the existing cartons and closures if:
    - a. The use does not present a public health issue, and
    - b. The information on the cartons and closures is not misleading.

**Historical Note**

Former Regulations 1 - 21; Amended effective August 4, 1978 (Supp. 78-4). Section R3-2-803 renumbered from

R3-5-03 (Supp. 91-4). R3-2-803 renumbered to R3-2-804; new Section R3-2-803 renumbered from R3-2-801 and amended effective December 2, 1998 (Supp. 98-4). Amended by final rulemaking at 9 A.A.R. 2089, effective August 2, 2003 (Supp. 03-2). Amended by final rulemaking at 26 A.A.R. 781, effective June 8, 2020 (Supp. 20-2).

**R3-2-804. Trade Products**

- A.** Any fluid trade product containing milk solids shall be regulated as a fluid milk product.
- B.** Advertising, display, and sale:
  1. Any retail food store may submit its methods and techniques for the advertising, display, and sale of trade products and real products to the Dairy Supervisor to determine compliance with this Section.
  2. No food establishment shall sell or provide any patron or employee, for use as food, any trade product or food whose main ingredient is a trade product, unless one of the following disclosures is posted for each trade product, in a prominent place on the premises, or is plainly visible on each menu where other food items are described:
    - a. "\_\_\_\_\_ served here  
(brand or common name of trade product)  
instead of \_\_\_\_\_,"  
(common name of dairy product)
    - b. "Nondairy products served here."
  3. No food establishment shall advertise or otherwise represent to the public that it serves, or uses in the preparation of a food, a real product when it actually serves or uses a trade product.
- C.** Labeling: Except as follows, all labels shall comply with the PMO and 21 CFR 101, 131, and 133.
  1. The Dairy Supervisor shall approve a new or modified trade product label before the label is used. The applicant shall file a written request with duplicate copies of the proposed label and any supporting materials necessary to establish the truthfulness, reasonableness, relevancy, and completeness of the label.
  2. Unless each ingredient of a trade product is homogenized or pasteurized, the whole product shall not be labeled or advertised as an homogenized or pasteurized product. Individual ingredients that are homogenized or pasteurized may be identified as homogenized or pasteurized in the listing of ingredients.
  3. Except for combined ingredients constituting less than 1% of the whole product or unless each ingredient of a trade product qualifies as grade A, the whole product shall not be labeled or advertised as a grade A product. Ingredients that qualify as grade A may be identified as grade A in the listing of ingredients.
  4. Any trade product produced outside the state and labeled as prescribed in R3-2-802 and R3-2-803, may be sold within the state provided that the product meets the requirements of A.R.S. §§ 3-663 and 3-665.

**Historical Note**

Former Regulations 1 - 8; Amended effective December 7, 1976 (Supp. 76-5). Correction, subsection (A)(2) through (H) omitted, Supp. 76-5 (Supp. 79-4). Section R3-2-804 renumbered from R3-5-04 (Supp. 91-4). R3-2-804 renumbered to R3-2-805; new Section R3-2-804 renumbered from R3-2-803 and amended effective December 2, 1998 (Supp. 98-4). Amended by final rulemaking at 26 A.A.R. 781, effective June 8, 2020 (Supp. 20-2).

**R3-2-805. Grade A Raw Milk For Consumption**

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- A. All cattle and other dairy animals from which Grade A raw milk is produced shall be tested and found free of tuberculosis before any milk is sold. All herds shall be tested for tuberculosis at least every 12 months. All cattle and other dairy animals from which Grade A raw milk is produced shall be tested and found free of brucellosis before any milk is sold, and shall be tested every 12 months or have negative brucellosis ring tests of the milk at least once each month, or both, as determined by the State Veterinarian.
- B. Grade A raw milk shall be cooled immediately after completion of milking to 45° F or less and shall be maintained at that temperature until delivery.
- C. Grade A raw milk shall be bottled on the farm where it is produced. Raw milk products authorized under A.R.S. § 3-606, except for hard cheeses aged 60 days or more as defined in 7 CFR 58.439, shall be processed, manufactured and packaged on the farm where the milk is produced. Bottling and capping shall be done in a sanitary manner on approved equipment. Hand-capping is prohibited. Caps and cap stock shall be kept in sanitary containers until used.
- D. All vehicles used for the distribution of Grade A raw milk shall prominently display the distributor's name.
- E. Grade A raw milk shall be labeled as prescribed in R3-2-803 and A.R.S. § 3-606.

**Historical Note**

Former Regulations 1, 2. Section R3-2-805 renumbered from R3-5-05 (Supp. 91-4). Section R3-2-805 repealed; new Section R3-2-805 renumbered from R3-2-804 and amended effective December 2, 1998 (Supp. 98-4). Amended by final rulemaking at 26 A.A.R. 781, effective June 8, 2020 (Supp. 20-2).

**R3-2-806. Parlors and Milk Rooms**

- A. Construction Plans.
  - 1. Any person constructing or extensively altering a parlor or milk room shall submit the plans and specifications to the Dairy Supervisor for written approval before work begins. The Dairy Supervisor shall approve or deny the plans within 10 business days.
  - 2. Plans shall consist of a scaled plot design with elevations and pertinent dimensions.
  - 3. Any deviations from the requirements in this Section and from approved plans and specifications may be made only after written approval of the Dairy Supervisor.
- B. Site.
  - 1. The parlor and milk room shall be located in a place free from contaminated surroundings.
  - 2. Feed racks, calf pens, bull pens, hog pens, poultry pens, horse stables, horse corrals, and shelter sheds shall not be closer than 100 feet to the milk room or closer than 50 feet to the parlor.
- C. Surroundings.
  - 1. Dirt or unpaved corrals and unpaved lanes shall not be closer than 25 feet to the parlor or closer than 50 feet to the milk room; corrals shall be constructed to remove runoff from the lowest point of the grade.
  - 2. A paved (concrete or equivalent) ramp or corral shall be provided to allow the animals to enter and leave the parlor. This paved area shall be curbed sufficiently high enough to contain waste material and water used to clean this area.
- D. Drains and waste disposal systems shall be adequate to drain the volume of water used in rinsing and cleaning, as well as the waste created by animals in the parlor. Instead of natural drainage, automatic pumps or other means shall be provided for drainage disposal.
- E. Milk room.
  - 1. The milk room shall consist of one or more rooms for the handling of the milk and the cleaning, sanitation, and storage of the milk-handling equipment. Hot and cold running water outlets shall be provided as needed for sanitation. There shall be a minimum of five feet between a farm milk tank at the widest point and the milk room wall where the wash vats are installed. Except for currently installed milk tanks, there shall be at least three feet between any farm tank or farm tank appurtenance and the milk room walls.
  - 2. Passageway. The passageway between the milk room and parlor shall have at least a 3-foot clearance for ingress and egress. Equipment such as milk receivers, dump tanks, or coolers that are part of an enclosed milk line system may be installed in the passageway if:
    - a. A 3-foot clearance is allowed for the walkway;
    - b. Space is provided between walls and equipment to permit the disassembly of equipment for cleaning or inspection;
    - c. The passageway between the parlor and the milk room may be closed at one end. The parlor may be separated from the passageway by a pipe rail fence if the slope of the parlor floor is away from the passageway. If the slope of the parlor floor is toward the passageway, a concrete wall between the passageway and parlor floor of at least 12 inches in height shall be provided.
    - d. Rustless pipe sleeves with tight-fitting flanges and protective closures shall be installed where the milk lines, hoses for tankers, and wash lines go through the walls of the passageway.
  - 3. Floors.
    - a. The floors of the milk room, and passageway, if provided, shall be constructed of four-inch thick concrete, or other impervious material troweled smooth. The milk room floor shall slope at least 1/4 inch per 12 inches to a vented trapped drain. The passageway floor shall slope at least one inch per 10 feet toward a drain or gutter. All floor and wall junctions shall have at least a two-inch radius cove.
    - b. Drainage from the milk room may be independent from or connected to the parlor drainage. Floor drains shall be vented, have a water trap, and a clean-out plug. All floor drains and pipes under the milk room and parlor floor shall meet all applicable plumbing codes.
  - 4. Walls and ceilings.
    - a. All walls and ceilings shall be constructed of a light colored, impervious material with a smooth finish. If concrete block or masonry construction is used, all voids below the floor line shall be filled with concrete.
    - b. The main ceiling height shall allow sufficient room for access to, and sampling from, the bulk milk storage tank.
  - 5. Doors and windows.
    - a. All opening windows shall have at least 16-inch mesh screen.
    - b. Exterior doors of the milk room shall open outward, be solid, self-closing, and tight fitting. Any door from the passageway shall be a solid door, metal covered on both sides of the bottom half. Wooden door jambs or frames shall terminate six inches above the floor, and the concrete floor cove shall extend to the jambs or frames.

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- c. All working areas in the milk room shall contain at least 30 foot-candles of natural and/or artificial lighting.
  - 6. Ventilation. The milk room shall provide adequate ventilation to minimize condensation on ceilings, walls and equipment. Vents shall be protected from the penetration of insects, dust and other contaminants. The milk room shall contain one or more ceiling vents. Ceiling vents shall not be installed directly above bulk milk storage tanks.
  - 7. Tanker loading area. A tanker-loading area, at least 10 feet by 12 feet, paved, curbed, and sloped to drain, shall be provided adjacent to the milk room where milk is transferred from a farm tank to a milk tanker. If a tanker is used instead of a farm tank, a tanker shelter shall be provided that complies with the construction, light, drainage, and general maintenance requirements of the milk room.
  - 8. Farm tank installations. All farm tanks for the cooling and storing of milk shall be installed in the milk room. Bulk milk tanks equipped with agitator shaft opening seals may, if approved by the Dairy Supervisor, be bulk-headed through a wall.
- F. Parlor.
  - 1. Floors.
    - a. The floors shall be constructed of four-inch thick concrete or other, light-colored, impervious material, finished smooth. The floors, alleys, gutters, mangers, and curbs shall slope lengthwise toward a drain or gutter. The cow standing platform in the elevated stall parlor shall slope sufficiently to provide for adequate drainage and cleaning.
    - b. Floor and wall junctions shall have at least a two-inch radius cove and shall be an integral part of the floor.
    - c. The cow standing platform, litter alley, holding corral and concrete lane shall be treated to prevent slipping.
  - 2. Walls. All walls shall be constructed of a light-colored, impervious material. If necessary, means shall be provided to prevent the entrance of swine, fowl and other prohibited animals. All walls shall be finished smooth on the inside with the top ledge rounded on open walls. If a parlor wall forms a part of the holding corral or an entrance or exit lane, it shall be finished smooth on the outside. If a concrete block or masonry construction is used, all voids below the floor line shall be filled with concrete. In elevated stall parlors, the wall under the cow standing platform adjacent to the milking area shall be finished smooth and designed to prevent leakage.
  - 3. Stalls. A tandem stall and a herringbone stall shall have a smooth, flat, non-absorbent splash panel behind each cow.
  - 4. Light. Natural and/or artificial light shall be at least 30 foot-candles at the floor level and located to minimize shadows in the milking area.
  - 5. Gutters.
    - a. All parlors shall have gutters to catch the defecation of cows while in the stall and for any water used for rinsing.
    - b. Pipe used for parlor gutter drainage shall be at least four inches in diameter and meet applicable plumbing codes.
  - 6. Curbs.
    - a. In elevated stall parlors, the cow standing platform shall be curbed on the side next to the milking alley and the curb shall be at least six inches in height with the top rounded to retain the elevated stall floor washings. This curb may be lowered to not less than two inches at the area where the milking machines are applied. Metal curbs shall be free of voids and sealed to stall and floor or wall.
  - b. Floor level parlors shall contain a curb under the stanchion line at least six inches wide, 12 inches high from the stall floor, except if metal mangers are used the top of this curb shall be rounded.
- 7. Stanchions.
  - a. The stanchion shall be metal or other impervious, easily cleanable material.
  - b. Mangers and feed boxes in all types of parlors shall be constructed of impervious materials, finished smooth, and provided with drainage outlets at low points.
- 8. Ventilation. Adequate ventilation shall be provided in the parlor, holding corral, and wash area, if roofed.
- G. Roof drainage from parlors and milk rooms shall not drain into a corral unless the corral is paved and properly drained.
- H. If animals are fed in the parlor, feed storage facilities shall be provided. Feed storage rooms, when installed, shall be partitioned from the parlor and shall be fly and rodent proof. The feed discharge area of the bulk feed storage shall be concrete or other impervious material that is curbed and drained. Bulk feed may discharge directly into the parlor. A bulk feed tank located opposite the passageway shall be at least six feet from the milk room. Overhead feed storage is permissible if it is fly, rodent, and dust tight. Feed shall be conveyed to the manger or feed box in a tightly closed dust-free system. Overhead metal feed tanks may be used.
- I. Facilities to store dairy supplies shall be provided. Only supplies that come in contact with the milk or milk contact surface of the milk-handling equipment may be stored in the milk room and shall be protected from toxic materials, vectors, and dust.

**Historical Note**

Former Regulations 1 - 11. Section R3-2-806 renumbered from R3-5-06 (Supp. 91-4). Section amended effective December 2, 1998 (Supp. 98-4). Amended by final rulemaking at 22 A.A.R. 2169, effective October 2, 2016 (Supp. 16-3).

**R3-2-807. Frozen Dessert Plant and Processing Standards****A. Plant and Processing Standards.**

- 1. The plant area shall be clean, orderly and free from refuse, rubbish, smoke, dust, air pollution and strong or foul odors originating on the premises. A drainage system shall be provided for the rapid drainage of water away from the building. If unsatisfactory conditions occur in the plant area, with respect to smoke, dust, air pollution, or odors, provision shall be made to protect the frozen desserts and ingredients from contamination.
- 2. Sewage and industrial waste shall be disposed in accordance with the provisions of the state or county environmental laws. Refuse, unless in appropriate containers, shall not accumulate on the premises.
- 3. Roads, driveways, yards, and parking areas adjacent to the plant shall be paved or treated to prevent dust and shall be smooth and well drained to prevent accumulation of stagnant liquid.
- 4. Buildings.
  - a. The building exterior and interior shall be kept clean and in good repair.

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- b. In processing and packaging areas, outside doors, windows, skylights, transoms, or other openings shall be protected and operated to preclude the entrance of dust, insects, vermin, rodents, and other animals. Outside doors shall be self-closing whenever practical. Window sills on new construction shall slope inward at least 45-degrees. Outside conveyor openings and other outside openings shall be protected by doors, screens, flaps, fans, or tunnels. Pipes shall be sealed where they extend through exterior walls. Outside pipe openings shall be covered when not in use.
- c. Rooms. All rooms, compartments, coolers, freezers, and dry storage space in which any raw material, packaging or ingredient supplies, or finished products are handled, processed, manufactured, packaged, or stored shall be constructed to ensure clean and orderly operations.
  - i. Boiler and tool rooms shall be separate from rooms where milk products are received, where processing and packaging is done, or where equipment, facilities, and containers are washed and stored.
  - ii. Toilets and dressing rooms shall be conveniently located and toilets shall not open directly into any room where milk products, ingredients, or frozen desserts are handled, processed, packaged, or stored. Toilet and dressing room doors shall be self-closing. Toilets and dressing rooms shall be well vented to the outer air, and contain hand-washing facilities, hot and cold running water, soap, single-service towels or air dryers. Hand-washing signs shall be posted. Fixtures shall be kept clean and in good repair.
  - iii. Rooms for receiving milk and other raw ingredients and materials shall be separated from the processing area to avoid contamination of frozen desserts in the processing operations, except that products in cans or other closed containers may be received and transferred to a cooler or other storage without being received in a separate room.
  - iv. If tank truck deliveries of milk, milk products, or frozen desserts mix are made, other than occasional deliveries, a tank truck room large enough to accommodate the entire truck shall be provided with equipment for cleaning. A covered outside unloading pad may be used for truck tankers with filter dome vents, if washing and sanitizing facilities are provided. If a tank truck room is not located on the premises of an existing plant, facilities for washing and sanitizing tank trucks shall be provided at another location where the washing and sanitizing facility is free from dust and extreme weather conditions.
  - v. Except for existing processing and packaging rooms, there shall be at least three feet clearance between installations and the wall to prevent overcrowding and to facilitate cleaning. Existing facilities not meeting this requirement shall be permitted if cleaning can be accomplished and permission is obtained from the Dairy Supervisor or the Dairy Supervisor's designee. All processing and packaging rooms shall be equipped with hand-washing facilities including hot and cold running water, soap, single-service towels, or air-dryer.
- vi. Refrigeration rooms and units shall be constructed of impervious material and shall be kept clean and sanitary.
- vii. Separate rooms shall be provided so that the manufacturing, processing, and packaging are separate from the cleaning and sterilizing of utensils and containers.
- viii. No person shall reside or sleep in a frozen desserts plant or in any room connected with it. No animal shall be kept or permitted in a frozen desserts plant.
- d. Walls and ceilings shall be constructed of smooth, washable, impervious material. They shall be light-colored, kept clean and sanitary, and refinished when discolored. A darker color material may be used to a height not exceeding 60 inches from the floor.
- e. Floors shall be an impervious, smooth-surfaced material that may be flushed clean with water. Except for hardening rooms, floors shall slope 3/16 to 1/4 inch per foot to one or more trapped outlets. No open channel drainage is permitted in new construction or in extensive remodeling of existing plants. Floor drains are not required in freezers used for storing frozen desserts or frozen ingredients. However, the floors shall be sloped to drain to at least one exit and shall be kept clean. Floors in new construction or extensive remodeling shall be joined and coved with the walls to form water-tight joints. Smooth wood floors may only be permitted in rooms where there will be no spillage of product or ingredients, such as rooms where wrapped or packaged frozen products are packed in multiple-pack containers. Toilets and dressing rooms shall have impervious floors and smooth walls.
- f. Plumbing shall be installed to prevent back-up of sewage or odors into the plant.
- g. All rooms and compartments, including storage space for materials, ingredients, and packages, and toilets and dressing rooms, shall be ventilated to maintain sanitary conditions, and to minimize or eliminate condensation and odors.
- h. Lighting, whether natural or artificial, shall be well distributed in all rooms and compartments. Light bulbs and fluorescent tubes shall be protected so that broken glass cannot fall into any product or equipment.
  - i. Rooms where frozen desserts are handled, processed, manufactured, or packaged, or where equipment or utensils are washed, shall have at least 30 footcandles of light on all working surfaces;
  - ii. Areas where dairy products are examined for condition and quality shall have at least 50 footcandles of light; and
  - iii. All other rooms shall have at least 20 footcandles of light 30 inches above the floor.
- i. Containers for collecting and holding waste other than dry waste paper and other dry packaging material shall be constructed of metal or other impervious material, covered with tight-fitting lids or covers, and emptied or disposed of daily or at least once during the shift. Clothing, tools, equipment, and

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- other material not used with the frozen desserts operations shall not accumulate in the work areas or in the storage rooms.
- j. A room or other space separate from any room or space where milk products or frozen desserts are received, handled, processed, packaged, or stored, shall be provided where employees may change and store clothing. This area shall contain hand-washing facilities, with hot and cold running water, soap or other detergents, and single-service towels or air dryers. Self-closing containers shall be provided for used towels and other wastes.
  - k. Approval of plans. Plans shall be submitted to the Dairy Supervisor, for any new or remodeled frozen dessert manufacturer, to be reviewed for compliance with this Section. The Dairy Supervisor may allow variances to the requirements in this Section, if protection from contamination is provided for all products handled.
5. Water and steam.
    - a. Potable hot and cold water shall be available in sufficient quantity for all plant operations and facilities. Non-potable water may be used for boiler feed and condenser water, if the water lines are separated from the water lines carrying the potable water supply and the equipment is constructed to preclude contamination of any product or product contact surface. If water for washing frozen desserts equipment and utensils and for use in rehydration or as an ingredient in any frozen desserts is obtained from other than a regulated municipal supply, a bacteriological examination shall be made of the water supply at least once every six months by a laboratory acceptable to the Dairy regulatory program to determine potability. If the examination indicates contamination of the water supply, a device shall be installed to eliminate the contamination.
    - b. If steam is used, it shall be provided in sufficient volume and pressure for the operation of equipment or for sterilization, or both. Steam that comes in contact with frozen desserts, ingredients, or with the product contact surface, shall be steam of culinary quality as prescribed in Appendix H, Part III, Culinary Steam – Milk and Milk Products, of the PMO.
  6. Equipment and utensils.
    - a. New equipment shall meet applicable 3-A Sanitary Standards. All equipment, including connections, coming in contact with frozen desserts or ingredients during processing, manufacturing, handling, or packaging, shall be made of stainless steel. No equipment shall be permitted that is rusted, corroded, or in any other condition that may result in contamination of the frozen desserts. Non-metallic parts with product contact surfaces shall consist of material that meets 3-A Sanitary Standards for Plastic or Rubber and Rubber-like Materials or shall be of plastic approved by the United States Food and Drug Administration. Equipment, apparatus, and piping shall be easily accessible for cleaning and shall be kept in good repair and free from cracks and corroded surfaces. Stationary equipment, including welded sanitary lines and apparatus that permit in-place-cleaning, may be used if prior approval from the Dairy Supervisor has been obtained. C-I-P piping and welded sanitary pipeline systems shall be permitted if engineered and installed according to 3-A Accepted Practices for Permanently Installed Sanitary Product and Solution Pipelines and Cleaning Systems. If rigid pipelines are not practical, plastic pipelines listed in the 3-A Accepted Practices may be used. Product pumps shall be sanitary and easily dismantled for cleaning or shall be constructed to allow C-I-P procedures. All parts of interior surfaces of equipment, pipes (except C-I-P piping), or fittings, including valves and connections shall be accessible for inspection. The Dairy Supervisor may require other equipment, apparatus or piping if stationary equipment, apparatus or piping cannot or is not being effectively cleaned-in-place.
    - b. Equipment for storage and distribution of liquid sweetening agents shall be constructed of metals, alloys, or other material that will withstand corrosive action by the ingredient. The equipment and the ingredients shall be protected from contamination.
    - c. Pasteurizing equipment shall meet the standards prescribed in the PMO and 3-A Accepted Practices for Sanitary Construction, Installation, Testing and Operation of High-Temperature-Short-Time Pasteurizers and 3-A Sanitary Standards for Non-Coiled Type Batch Pasteurizers. Batch-type pasteurizers shall be provided with close-coupled outlet valves protected against leakage and shall be equipped with thermometers that record the information of each day's operation on separate charts. Air space thermometers and indicating thermometers shall be provided to check the recording thermometers. The recording thermometer chart shall contain the date, the identity of the pasteurizing number, the batch and product name, and the signature of the employee responsible for this information. The record shall be kept on file at the plant for at least six months. The accuracy of the recording thermometer shall be checked daily using the indicating thermometer and the time and temperature shall be documented on the recording chart. Chart recorders and thermometers for batch pasteurizers shall be tested and sealed by the Dairy Supervisor or the Supervisor's designee after testing and seals shall not be removed without immediately notifying the Dairy Supervisor or the Supervisor's designee.
    - d. Every plant shall contain hardening rooms, refrigerating rooms, or refrigerated cabinets with space for storage of frozen desserts and perishable ingredients.
    - e. All utensils used in the receiving, storing, processing, manufacturing, packaging, and handling of frozen desserts or any ingredients shall be of smooth, stainless steel, or plastic listed in the 3-A Accepted Practices and shall have flush seams. Utensils that are badly worn, rusted, or corroded or that cannot be rendered clean and sanitary by washing shall not be used. Lead solder shall not come in contact with milk or milk products or frozen desserts.
  7. Cleaning and sanitizing.
    - a. Cleaning and sanitizing. Equipment, sanitary piping and utensils used in receiving, storing, processing, manufacturing, packaging, and handling frozen desserts and ingredients, and all product contact surfaces of homogenizers, high pressure pumps, packing glands on agitators, pumps and vats, and lines shall be kept clean. Before use, all equipment coming in contact with milk products or frozen des-

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- serts shall have a bactericidal or sanitizing treatment. Equipment not designed for C-I-P cleaning shall be disassembled, thoroughly cleaned and sanitized. Biodegradable dairy cleaners, wetting agents, detergents, sanitizing agents, or other similar material that does not adversely affect or contaminate the frozen desserts or ingredients may be used. Steel wool or metal sponges shall not be used to clean any equipment or utensils with product contact surfaces. C-I-P cleaning shall be used only on equipment and pipeline systems designed, engineered, and installed for that type of cleaning. Other equipment and areas in the plant shall be thoroughly cleaned with appropriate methods that prevent potential contamination of ingredients, packaging and frozen desserts. Exhaust stacks, elevators and elevator pits, conveyors and similar facilities shall be inspected and cleaned regularly.
- b. Equipment shall be sanitized by using one of the following methods:
    - i. Using 180° F water for at least two minutes.
    - ii. Using steam under pressure for at least two minutes or until all parts of the equipment being sanitized have reached 180° F, or the condensate off the equipment remains at 180° F for at least two minutes.
    - iii. Using chlorine with a residual of at least 50 ppm after one minute contact with equipment, or if sprayed, with a residual of at least 100 ppm after five minutes.
    - iv. Using any other sanitizing substance prescribed in Appendix F of the PMO.
8. Pasteurization and cooling.
- a. All frozen desserts mix, except for flavoring agents used in frozen desserts, shall be pasteurized.
  - b. Frozen desserts mix shall be pasteurized by heating every particle as described in Table 1.
  - c. Continuous flow pasteurizers, high-temperature-short-time and higher-heat-shorter-time, shall have all public health controls sealed against access and alteration. The seals shall be applied by the Dairy Supervisor or the Supervisor's designee after testing and shall not be removed without immediately notifying the Dairy Supervisor or the Supervisor's designee. The system shall be designed to meet the requirements of the PMO.
  - d. After pasteurization all mix shall be cooled immediately to 45° F or less and shall be maintained at that temperature until frozen. Milk, cream, and other fluid milk products other than sterilized, evaporated or sweetened condensed milk in hermetically sealed containers shall be stored at 45° F or less.
    - i. Refrigerated vehicles or approved insulated containers shall be used when transporting frozen desserts mix from the manufacturing or other plant to a retail manufacturer, and
    - ii. Mix shall be moved from coolers or refrigeration units in a manufacturing plant to freezers by using pipes, tubing, or other means listed in the Permanently Installed Product and Solution Pipelines and Cleaning Systems Used in Milk and Milk Product Processing Plants section of the 3-A Accepted Practices.
9. Storage.
- a. Utensils and equipment. Utensils and portable equipment used in processing, handling, or packaging of frozen desserts shall be stored above the floor in clean, dry locations and in a self-draining position on racks constructed of impervious, corrosion-resistant material.
  - b. Supplies and containers. Whenever possible, supplies shall be kept in a room separate from the processing, handling, and packaging of frozen desserts and under conditions that result in keeping the materials clean and free from dust, moisture, insects, rodents, or other possible contamination. Supplies shall be arranged to permit cleaning of the area and easy inspection and access. Insecticides and rodenticides shall be plainly labeled, segregated, and stored in a separate room or cabinet away from the edible material or packaging supplies. Caps, parchment papers, wrappers, liners, gaskets, and single-service sticks, spoons, covers, and containers for frozen desserts or ingredients shall be stored only in sanitary tubes, wrappings, or cartons and kept in a clean, dry place until used and shall be handled in a sanitary manner.
  - c. Raw milk products. Raw products for use in frozen desserts that are conducive to bacterial growth shall be handled and stored to minimize bacterial growth. When stored, raw products shall be maintained at 45° F or lower until processing commences.
  - d. Non-refrigerated products. Products such as non-fat dry milk and other frozen desserts ingredients that do not require refrigeration for proper storing shall be placed in dry storage to be easily accessible for inspection and removal, and for adequate cleaning of the room. Dunnage, pallets or other similar method of elevation shall be used. Frozen desserts or ingredients shall not be stored with any product that would damage them or impair their quality. Opened containers of ingredients shall be protected from contamination.
  - e. Refrigerated products. All products that require refrigeration shall, except as otherwise specified, be stored under conditions of temperature and humidity that best maintain quality and condition. Products shall not be stored directly on wet floors or be exposed to foreign odors or conditions such as dripping or condensation that may cause package or product damage.
10. Notification of change in products to be manufactured. Any person manufacturing only frozen desserts with butterfat, or only frozen desserts with fats other than butterfat, and uses the other type of fat shall first notify the Dairy Supervisor.
11. Clearing lines and equipment. If the same equipment is used for processing, pasteurizing, and packaging frozen desserts made with dairy products and frozen desserts made with vegetable fats, oils, or proteins, any remaining product shall be completely removed from the lines and equipment and sanitized before introducing another product into the lines and equipment. All equipment and lines shall be sanitized either at the end or beginning of each day's operations.
12. Packaging and containers.
- a. Frozen desserts shall be packaged in commercial containers using packaging material that protects the product from contamination. The packaging, cutting, molding, dispensing, and other handling or preparation of frozen desserts and their ingredients shall be in a sanitary manner. Frozen dessert con-

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tainers shall be filled at the place of pasteurization using approved mechanical equipment. Existing manual processes may be permitted if done in a manner that prevents all contact surface contamination and is approved by the Dairy Supervisor.

- b. Multi-use containers for frozen desserts shall be kept clean and dry. If used for transporting frozen desserts, the containers shall be:
  - i. Rinsed immediately after emptying,
  - ii. Cleaned upon return to the plant, and
  - iii. Protected from contamination during storage.
- c. Metal cans and containers shall be free from rust and corrosion.
- d. Paper and plastic containers, liners, covers, or other materials coming in contact with frozen desserts shall be free from contamination.
- e. Single-service containers shall not be reused.

**B. Personnel.**

1. Plant employees shall wash their hands before beginning work and upon returning to work after using toilet facilities, eating, smoking, or otherwise soiling their hands. Employees shall keep their hands clean and follow good hygienic practices while on duty. Expectorating or using tobacco in rooms or compartments where frozen desserts or ingredients are exposed is prohibited. Clean, white, or light-colored, washable outer garments shall be worn by all employees engaged in handling dairy products, mix or frozen desserts. Hair coverings for head and facial hair shall be worn by all employees engaged in the processing, pasteurizing, packaging, handling, and storage of frozen desserts, product containers, and utensils.
2. Frozen desserts shall be handled so that there is no direct contact between an employee's hands and the product.
3. A person who has a discharging or infected wound, sore or lesion on hands, arms or other exposed portions of the body shall not work in any plant processing or packaging room or in any capacity resulting in contact with milk products or frozen desserts or equipment used in the processing or handling of milk products or frozen desserts. An employee returning to work following illness from a communicable disease shall provide a certificate from a physician attesting to the employee's complete recovery before processing or handling milk products or frozen desserts.

**C. Quality standards.**

1. Milk products used in the manufacture of frozen desserts shall meet the following standards:

Product	Standard Plate Count Not to Exceed
Raw Milk	500,000 per ml.
Pasteurized Milk	50,000 per ml.
Raw Cream	500,000 per ml.
Pasteurized Cream	100,000 per ml.

2. Butter, 80% cream, plastic cream, mixtures of butterfat, sugar or sweetening agent, moisture and flavoring, condensed milk, mixes and all other similar products shall meet the following standards:

Bacterial Standards	Not to Exceed
Standard Plate Count	50,000 per gram
Coliform Count	20 per gram
Yeast Count	50 per gram
Mold Count	50 per gram

3. Powdered non-fat dry milk, dry whey, and dry buttermilk shall meet the PMO standards.
4. Fats and oils other than from milk shall meet the standards of the United States Food, Drug and Cosmetic Act

as amended, or those of any applicable state regulation for fats and oils of food grade standards.

5. Frozen desserts in broken or opened containers or in containers from which the product has been partially used may be returned to the plant for examination but shall not be used or sold for making frozen desserts.
6. All reconstituted frozen desserts shall be pasteurized before packaging.

**D. Labeling.**

1. All packages of frozen desserts, including cans or other containers of frozen desserts mix but not including frozen desserts packaged in accordance with a customer's request and in the presence of the customer, shall be labeled as prescribed in the federal Food, Drug and Cosmetic Act, as amended.
2. Each frozen dessert package shall contain:
  - a. The code number assigned by the Dairy Supervisor, identifying the specific manufacturing plant; or
  - b. The name and address of the frozen dessert manufacturer.

- E. License suspension.** The Dairy Supervisor may suspend the license of a frozen dessert plant whenever the bacteria count, coliform determination, yeast or mold count exceeds the quality standards for frozen desserts in three out of the last five samples taken on separate days. In addition, the Dairy Supervisor may suspend the permit of a frozen dessert plant for failure to comply with any of the provisions of this Section.

**Historical Note**

Adopted effective December 7, 1976 (Supp. 76-5).  
 Amended effective December 5, 1977 (Supp. 77-6). Section R3-2-807 renumbered from R3-5-07 (Supp. 91-4).  
 Amended effective December 2, 1998 (Supp. 98-4).  
 Amended by final rulemaking at 26 A.A.R. 781, effective June 8, 2020 (Supp. 20-2).

**Table 1.**

Batch (Vat) Pasteurization	
Temperature	Time
69°C (155°F)	30 minutes
Continuous Flow (HTST) Pasteurization	
Temperature	Time
80°C (175°F)	25 seconds
83°C (180°F)	15 seconds
Continuous Flow (HHST) Pasteurization	
89°C (191°F)	1.0 seconds
90°C (194°F)	0.5 seconds
94°C (201°F)	0.10 seconds
96°C (204°F)	0.05 seconds
100°C (212°F)	0.01 seconds

**Historical Note**

Table 1 made by final rulemaking at 26 A.A.R. 781, effective June 8, 2020 (Supp. 20-2).

**R3-2-808. Frozen Desserts Reconstituted from Powdered Mixes**

Except for R3-2-807(A)(8), retail establishments that reconstitute frozen desserts from powdered mixes and dispense the desserts on the premises shall comply with the requirements prescribed in R3-2-807 and the following standards:

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1. All equipment, containers, and utensils shall be washed and air-dried after each use and shall be sanitized before each use, in accordance with the sanitation standards established in subsection R3-2-807(A)(7)(b).
2. When not in use, all equipment, utensils, and containers shall be stored above the floor in a clean, dry location free from dust, moisture, insects, rodents, or other possible sources of contamination.
3. Excess quantities of the reconstituted frozen dessert shall not be made from the powdered mix in advance and stored outside the dispensing machine.
4. Frozen desserts shall be reconstituted according to the directions provided by the powdered mix manufacturer.

**Historical Note**

Adopted effective May 11, 1977 (Supp. 77-3). Section R3-2-808 renumbered from R3-5-08 (Supp. 91-4). Section R3-2-808 renumbered to Section R3-2-809; new Section R3-2-808 adopted effective December 2, 1998 (Supp. 98-4). Amended by final rulemaking at 26 A.A.R. 781, effective June 8, 2020 (Supp. 20-2).

**R3-2-809. Medicinal, Chemical, and Radioactive Residues in Milk**

- A.** All dairies shall comply with the following procedures to exclude medicinal, chemical, and radioactive residues from milk intended for human consumption:
1. Identify all cows that have been treated with or have consumed medicinal, chemical, and radioactive agents capable of being secreted in milk;
  2. Maintain a written record of the date of treatment, type, and quantity of the medicine or chemical administered to each cow;
  3. Milk all treated cows last, or with separate equipment to prevent contamination of the wholesome milk supply;
  4. Clean and sanitize all equipment, utensils, and containers used in the handling of milk from the treated cows before the equipment is used in the handling of any milk intended for human consumption; and
  5. Discard all milk from the treated cows for the period of time recommended by the attending veterinarian or as indicated on the package or label of the medicine used in the treatment of the cow.
- B.** Enforcement.
1. When the residue of a chemical, medicinal, or radioactive agent is found in the milk of a dairy and the Dairy Supervisor determines that the residue may be deleterious to human health, the Director shall immediately suspend the dairy from further selling, offering for sale, or distributing milk for human consumption until:
    - a. The Dairy Supervisor determines that the practice causing the contamination of the milk has been corrected and the dairy is in compliance with the procedures established in subsection (A);
    - b. Any milk that has not been excluded from human consumption as required by subsection (A) is appropriately discarded; and
    - c. The first milk shipment following suspension indicates negative test results for medicinal, chemical, or radioactive residues.
  2. If the Dairy Supervisor determines that a dairy is not in compliance with the procedures established in subsection (A), the Dairy Supervisor may suspend the dairy until the prescribed procedures are observed.

**Historical Note**

Section R3-2-809 renumbered from R3-2-808 and

amended effective December 2, 1998 (Supp. 98-4).

**R3-2-810. License Fees**

During fiscal year 2020, an applicant shall pay the following fee to obtain or renew a dairy license:

1. For a license to operate a milk distributing plant or business: \$300 plus \$2,500 per pasteurizer.
2. For a license to operate a manufacturing milk processing plant: \$100.
3. For a license to engage in the business of producer-distributor as an interstate milk shipper listed facility: \$150 plus \$2,500 per pasteurizer.
4. For a license to engage in the business of producer-distributor: \$150.
5. For a license to engage in the business of producer-manufacturer: \$25.
6. For a license to engage in the manufacture of trade products: \$100.
7. For a license to engage in the business of selling at wholesale milk or dairy products, or both: \$100.
8. For a license to sample milk or cream: an initial fee of \$50 and a renewal fee of \$30.

**Historical Note**

New Section made by exempt rulemaking at 16 A.A.R. 1331, effective June 29, 2010 (Supp. 10-2). Amended by exempt rulemaking at 17 A.A.R. 1756, effective July 20, 2011 (Supp. 11-3). Amended by exempt rulemaking at 18 A.A.R. 2060, effective August 2, 2012 (Supp. 12-3). Amended by exempt rulemaking at 18 A.A.R. 2060, effective August 2, 2012 (Supp. 12-3). Amended by exempt rulemaking at 19 A.A.R. 3127, effective September 14, 2013 (Supp. 13-3). Amended by exempt rulemaking at 20 A.A.R. 2449, effective July 24, 2014 (Supp. 14-3). Amended by exempt rulemaking pursuant to Laws 2015, Ch. 10, § 14, at 21 A.A.R. 2404, effective July 3, 2015 (Supp. 15-3). Amended by final exempt rulemaking at 23 A.A.R. 1937, effective August 9, 2017 (Supp. 17-2). Amended by final exempt rulemaking at 24 A.A.R. 2219, effective August 3, 2018 (Supp. 18-3). Amended by final exempt rulemaking at 25 A.A.R. 2081, effective August 27, 2019 (Supp. 19-3).

**R3-2-811. Dairy Farm Permit**

- A.** A dairy farm, as defined in the PMO, may apply for a PMO milk producer permit by submitting the following information about the dairy farm on a form provided by the Department:
1. Legal name,
  2. Physical and mailing address,
  3. Telephone number,
  4. Owner's name,
  5. Herd size,
  6. Daily milk production,
  7. Water source,
  8. Waste water disposal system,
  9. Number of bulk storage tanks, and
  10. Certification that the dairy farm facilities comply with Grade A requirements.
- B.** An applicant for a dairy farm permit shall demonstrate compliance with the minimum standards set out in the PMO by a Department inspection.
- C.** A permittee shall maintain compliance with the minimum standards set out in the PMO and shall be subject to inspection by the Department in accordance with the PMO.
- D.** The Department may suspend a permit for a permittee's failure to comply with the minimum standards and may revoke a permit if the permittee fails to correct deficiencies within a reasonable time.



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- E. Dairy farm permits are not transferable.

**Historical Note**

New Section made by emergency rulemaking at 20 A.A.R. 1134, effective May 2, 2014, for 180 days (Supp. 14-2). Emergency expired; new Section made by exempt rulemaking at 21 A.A.R. 2407, effective September 22, 2015 (Supp. 15-3).

**ARTICLE 9. EGG AND EGG PRODUCTS CONTROL****R3-2-901. Definitions**

In addition to the definitions provided in A.R.S. §§ 3-701, 3-703 and 3-704, the following shall apply to this Article:

“Check” means an individual egg that has a broken shell or crack in the shell but with its shell membranes intact and its contents do not leak. A “check” is considered to be lower in quality than a “dirty.”

“Dirty” means a shell that is unbroken and that has dirt or foreign material adhering to its surface, which has prominent stains, or moderate stains covering more than 1/32 of the shell surface if localized, or 1/16 of the shell surface if scattered.

“Leaker” means an individual egg that has a crack or break in the shell and shell membranes to the extent that the egg contents are exuding or free to exude through the shell.

“Lot” means any quantity of two or more eggs.

“Lot Consolidation” means the removal of damaged eggs from cartons labeled by a producer or producer dealer and replacement of the damaged eggs with eggs of the same grade, size, brand, expiration date and source.

“Pasteurized in-shell eggs” means eggs that have been pasteurized with the shell intact by any method approved by the Federal Food and Drug Administration or the Department.

“Repacking” means changing the identity of a lot of eggs by removing them from the original container labeled by a packer and placing them into another container not labeled by the packer at the point of origin with the same grade, size, lot number, source and/or brand.

“Spot-check” sample means any sample less than a representative sample described in the chart in R3-2-903(B).

“Ultimate consumer” means a person consuming eggs or egg products and a restaurant using eggs in the preparation of a meal.

“United Egg Producers Animal Husbandry Guidelines” means the United Egg Producers Animal Husbandry Guidelines for U.S. Egg Laying Flocks, 2017 Edition. This material is incorporated by reference, does not include any later amendments or editions, and is available for inspection at the Department of Agriculture, 1688 W. Adams St., Phoenix, AZ 85007, or the United Egg Producers at 1720 Windward Concourse, Ste. 230, Alpharetta, GA 30005.

“United Egg Producers Certified” means a company that has achieved United Egg Producers Certified status pursuant to the requirements prescribed by the United Egg Producers Animal Husbandry Guidelines.

“United Egg Producers Certified logo” means the official symbol and accompanying language used to identify eggs produced by United Egg Producers Certified companies.

**Historical Note**

Former Rule 1; Amended as an emergency effective November 18, 1981, pursuant to A.R.S. § 41-1003, valid

for only 90 days (Supp. 81-6). Former Section R3-6-01 amended as an emergency now adopted and amended as a permanent rule effective February 19, 1982. Section renumbered as R3-2-901 (Supp. 82-1). Section R3-6-101 renumbered to R3-2-901 (Supp. 91-4). Section repealed, new Section adopted effective July 13, 1995 (Supp. 95-3). Amended by final rulemaking at 15 A.A.R. 863, effective October 1, 2009 (Supp. 09-2). Amended by final rulemaking at 26 A.A.R. 781, effective June 8, 2020 (Supp. 20-2).

**R3-2-902. Standards, Grades, and Weight Classes for Eggs; Pasteurized In-Shell Eggs**

- A.** Standards for Eggs. All standards, grades, and weight classes of quality for chicken eggs in the shell shall meet the grades for eggs as prescribed in AMS 56, United States Standards, Grades, and Weight Classes for Shell Eggs, revised as of July 20, 2000. This material is incorporated by reference, does not include any later amendments or editions, and is on file with the Department at 1688 W. Adams St., Phoenix, AZ 85007 and the United States Department of Agriculture, Agricultural Marketing Service, Poultry Programs, STOP 0259, Room 3944-South, 1400 Independence Ave., S.W., Washington, DC 20250-0259, or online at [www.ams.usda.gov/grades-standards/eggs](http://www.ams.usda.gov/grades-standards/eggs). “AMS” means Agricultural Marketing Service, United States Department of Agriculture.
- B.** Standards for Pasteurized In-Shell Eggs. It is unlawful for a producer, producer dealer, dealer, or retailer to sell, offer for sale, or expose for sale pasteurized in-shell eggs that are packed for human consumption unless both of the following conditions are met:
1. Quality and weight classes:
    - a. The eggs used to produce pasteurized in-shell eggs shall meet Consumer Grades A or AA and Weight Classes for Eggs of subsection (A).
    - b. At destination:
      - i. Pasteurized in-shell eggs shall contain no more than 7 percent (9 percent for Jumbo size) Checks and not more than 1 percent Leakers, Dirties, or Loss (due to meat or blood spots) in any combination, except that such Loss may not exceed 0.30 percent. Other types of Loss are not permitted.
      - ii. In lots of two or more cases, no individual case may exceed 10 percent Checks.
    - c. Pasteurized in-shell eggs shall meet the weight classes as indicated in Table I. Weight Classes for Pasteurized In-Shell Eggs.
  2. Labeling requirements. Except as provided in subsection (B)(2)(j), it is unlawful for an egg producer, producer dealer, dealer or retailer to sell, offer for sale, or expose for sale pasteurized in-shell eggs that are packed for human consumption unless each container intended for sale to the ultimate consumer is labeled on one outside top, side, or end with all of the following:
    - a. The consumer container is conspicuously labeled “KEEP REFRIGERATED” or with words of similar meaning as approved by the Department. Consumer container labeling that complies with the safe handling instructions required by Section 101.17 of Title 21 of the Code of Federal Regulations shall be deemed to comply with this subsection.
    - b. The consumer container is conspicuously labeled “produced from” in conjunction with the appropriate consumer grade in letters no smaller than 1/2 size of the labeled consumer grade. The use of the con-

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- sumer grade without the qualifier “produced from” is not permitted.
- c. The words “Best By”, or “Use by” immediately followed by the month and day in bold type. Months shall be abbreviated Jan, Feb, Mar, Apr, May, Jun, Jul, Aug, Sep, Oct, Nov or Dec. The “Use by,” or “Best before” date shall not exceed 75 days from the date on which the pasteurized in-shell eggs were pasteurized, excluding the date of pasteurization. Processors of in-shell eggs that subject the eggs to the pasteurization process shall establish a sell-by date by completion of an appropriate shelf stability study that includes public health and safety criteria. The processor shall retain the study on file at the processing plant and make it available to the Department upon request.
  - d. If the pasteurized in-shell eggs are repacked, the original “Best By” or “Use by” date shall apply.
  - e. A Julian pack date which is the consecutive day of the year on which the pasteurized in-shell eggs were pasteurized.
  - f. The identification number of the plant of origin.
  - g. A conspicuous identification of the eggs as “pasteurized.”
  - h. All state and federal labeling requirements.
- i. This Section does not apply to pasteurized in-shell eggs that are packaged for export.
  - j. Subsection (B) does not apply to pasteurized in-shell eggs that are packaged for interstate commerce or pasteurized in-shell eggs that are packaged for military sales if exported to a state or federal agency that requires a different format for the sell-by or best-if-used-by date on pasteurized in-shell eggs, and the processor is utilizing that format.

**Historical Note**

Former Rule 2; Amended as an emergency effective November 18, 1981, pursuant to A.R.S. § 41-1003, valid for only 90 days (Supp. 81-6). Former Section R3-6-02 amended as an emergency now adopted and amended as a permanent rule effective February 19, 1982. Section renumbered as R3-2-902 (Supp. 82-1). Section R3-6-102 renumbered to R3-2-902 (Supp. 91-4). Section repealed, new Section adopted effective July 13, 1995 (Supp. 95-3). Amended by final rulemaking at 9 A.A.R. 2089, effective August 2, 2003 (Supp. 03-2). Amended by final rulemaking at 14 A.A.R. 892, effective May 3, 2008 (Supp. 08-1). Amended by final rulemaking at 26 A.A.R. 781, effective June 8, 2020 (Supp. 20-2).

**Table I. Weight Classes for Pasteurized In-Shell Eggs**

Weight Classes for Pasteurized In-Shell Eggs			
Size or weight class	Minimum net weight per dozen (ounces)	Minimum net weight 30 per dozen (pounds)	Minimum net weight for individual eggs at rate per dozen (ounces)
Jumbo	30	56	29
Extra large	27	50 1/2	26
Large	24	45	23
Medium	21	39 1/2	20
*A lot average tolerance of 3.3 percent for individual eggs in the next lower weight class is permitted as long as no individual case within the lot exceeds 5 percent.			

**Historical Note**

Table I. Weight Classes for Pasteurized In-Shell Eggs made by final rulemaking at 26 A.A.R. 781, effective June 8, 2020 (Supp. 20-2).

**R3-2-903. Sampling: Schedule and Methods for Evidence**

- A. An inspector may conduct random spot-check sampling of a lot of eggs to determine whether the lot meets minimum quality and weight standards and is in compliance with R3-2-907(B).
- B. Representative egg sampling, under A.R.S. § 3-710(G), shall be based on Table II. A lot that does not meet minimum quality or weight standards or is not in compliance with R3-2-907(B) shall receive a warning notice hold tag.
  1. An inspector may draw additional samples to determine whether the lot meets the minimum requirements.
  2. When loose eggs are out of the case, the sample shall be based on a carton.
  3. Eggs shall be sampled on a 30-dozen-case basis. When eggs are packed in other lot quantities, an inspector shall

convert the quantity of eggs to the equivalent 30-dozen-case basis to establish the official sample size.

**Historical Note**

Former Rule 3; Amended effective March 17, 1976 (Supp. 76-2). Amended as an emergency effective November 18, 1981, pursuant to A.R.S. § 41-1003, valid for only 90 days (Supp. 81-6). Former Section R3-6-03 amended as an emergency now adopted and amended as a permanent rule effective February 19, 1982. Section renumbered as R3-2-903 (Supp. 82-1). Section R3-6-103 renumbered to R3-2-903 (Supp. 91-4). Section repealed, new Section R3-2-903 renumbered from R3-2-906 and amended effective July 13, 1995 (Supp. 95-3). Amended by final rulemaking at 9 A.A.R. 2089, effective August 2, 2003 (Supp. 03-2). Amended by final rulemaking at 15 A.A.R. 863, effective October 1, 2009 (Supp. 09-2).

**Table II. Minimum Number of Cases and Cartons Comprising a Representative Sample**

Lot size of cartons	Minimum eggs for inspection	Lot size of 30 doz. per case	Minimum cases for inspection <sup>1</sup>
1 - 4 cartons	All	1 case	1 case
5 - 30 cartons inclusive	50	2 - 10 cases inclusive	2 cases
31 - 120 cartons inclusive	100	11 - 25 cases inclusive	3 cases

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Lot size of cartons	Minimum eggs for inspection	Lot size of 30 doz. per case	Minimum cases for inspection <sup>1</sup>
120 - 210 cartons inclusive	200	26 - 50 cases inclusive	4 cases
211 - 315 cartons inclusive	300	51 - 100 cases inclusive	5 cases
		101 - 200 cases inclusive	8 cases
		201 - 300 cases inclusive	11 cases
		301 - 400 cases inclusive	13 cases
		401 - 500 cases inclusive	14 cases
		501 - 600 cases inclusive	16 cases
		For each additional 50 cases or fraction of a case in excess of 600 cases	1 case

<sup>1</sup>An inspector shall take 100 eggs from each case for inspection.

**Historical Note**

Table II was made under new Section R3-2-903 renumbered from R3-2-906 and amended effective July 13, 1995 (Supp. 95-3); it was last amended by final rulemaking at 9 A.A.R. 2089, effective August 2, 2003 (Supp. 03-2). The table and historical notes were moved out of R3-2-903 to maintain the numbering codification scheme of tables made at 26 A.A.R. 781 (Supp. 20-2).

**R3-2-904. Quarterly Report Periods**

Quarterly reports are due as prescribed in A.R.S. § 3-716(D). The quarterly report periods for inspection fees are:

1. July 1 to September 30,
2. October 1 to December 31,
3. January 1 to March 31, and
4. April 1 to June 30.

**Historical Note**

Former Rule 4; Amended effective March 17, 1976 (Supp. 76-2). Amended as an emergency effective November 18, 1981, pursuant to A.R.S. § 41-1003, valid for only 90 days (Supp. 81-6). Former Section R3-6-04 amended as an emergency now adopted and amended as a permanent rule effective February 19, 1982. Section renumbered as R3-2-904 (Supp. 82-1). Section R3-6-104 renumbered to R3-2-904 (Supp. 91-4). Section repealed, new Section R3-2-904 renumbered from R3-2-907 and amended effective July 13, 1995 (Supp. 95-3).

**R3-2-905. Inspection Fee Rate**

- A. All dealers, producer-dealers, manufacturers, and producers shall pay an inspection fee at the rate of 3.0 mills (.00300) per dozen on all shell eggs sold as prescribed in A.R.S. § 3-716(A).
- B. All dealers, producer-dealers, manufacturers, and producers shall pay an inspection fee at the rate of 3.0 mills (.00300) per pound on all egg products sold as prescribed in A.R.S. § 3-716(A).

**Historical Note**

Former Rule 5; Former Section R3-6-05 renumbered as Section R3-2-905 (Supp. 82-1). Section R3-6-105 renumbered to R3-2-905 (Supp. 91-4). Section repealed, new Section R3-2-905 renumbered from R3-2-908 and amended effective July 13, 1995 (Supp. 95-3). Amended by emergency rulemaking at 12 A.A.R. 4063, effective October 1, 2006 for 180 days (Supp. 06-4). Emergency renewed at 13 A.A.R. 1509, effective April 9, 2007 for 180 days (Supp. 07-2). Amended by final rulemaking at 13 A.A.R. 1639, effective June 30, 2007 (Supp. 07-2).

**R3-2-906. Violations and Penalties**

- A. A dealer, producer-dealer, manufacturer, producer, or retailer, at each individual location, is subject to the penalties in subsection (B) for any of the following violations:
  1. Category A:

- a. Making a false or misleading statement relating to advertising or selling eggs and egg products;
  - b. Acting as a dealer, producer-dealer, producer, or manufacturer without a valid license;
  - c. Selling shell eggs with an incorrect or incomplete expiration date, or without an expiration date;
  - d. Selling grade AA or grade A eggs after the expiration date on the carton, case, or container. Selling pasteurized in-shell eggs without or past the "Best By" or "Use by" date;
  - e. Failing to maintain records and reports required by this Article;
  - f. Failing to label a carton, case, or container with one size, one grade, one brand name, or, if applicable under R3-2-907(B), the United Egg Producer Certified logo;
  - g. Moving eggs or an egg case, carton, or container with a warning tag or notice, or removing a warning tag or notice without permission from the Director;
  - h. Refusing to submit egg or egg product, an egg case, carton, container, subcontainer, lot, load, or display of eggs to inspection; or
  - i. Refusing to stop, at the request of an authorized representative of the Department, any vehicle transporting eggs or egg products;
  - j. Selling eggs that have not been produced in accordance with the standards prescribed under R3-2-907(B);
  - k. Failing to raise egg-laying hens in this state in accordance with the standards prescribed under R3-2-907(A).
2. Category B:
    - a. Extending the expiration date of shell eggs as defined in A.R.S. § 3-701(13); or
    - b. Advertising, representing, or selling out-of-state eggs as local eggs.
  3. Category C:
    - a. Failing to ensure that shell eggs for human consumption are kept refrigerated at an ambient temperature not higher than 45° F;
    - b. Failing to ensure that frozen egg products for human consumption, labeled for storage at 0° F or below, are kept under refrigeration at a temperature of 0° F or lower;

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- c. Failing to ensure that liquid egg products for human consumption are kept refrigerated at a temperature not higher than 40° F; or
  - d. Failing to meet the sanitary standards egg processing of R3-2-908.
- B.** Any violation of this Article or of A.R.S. Title 3, Chapter 5, Article 1 not listed in subsection (A) is subject to a Category A civil penalty.
- C.** Under A.R.S. § 3-739, the civil penalty for a violation of subsection (A) is in Table III.

**Historical Note**

Former Rule 6; Amended effective February 19, 1982.  
 Former Section R3-6-06 renumbered as Section R3-2-906 (Supp. 82-1). Section R3-6-106 renumbered to R3-2-906 (Supp. 91-4). Former Section R3-2-906 renumbered to R3-2-903, new Section adopted effective July 13, 1995 (Supp. 95-3). Amended by final rulemaking at 5 A.A.R. 4058, effective October 7, 1999 (Supp. 99-4). Amended by final rulemaking at 9 A.A.R. 2089, effective August 2, 2003 (Supp. 03-2). Amended by final rulemaking at 15 A.A.R. 863, effective October 1, 2009 (Supp. 09-2). Amended by made by final rulemaking at 26 A.A.R. 781, effective June 8, 2020 (Supp. 20-2).

**Table III.**

Number of Violations	Category A	Category B	Category C
1	Warning	Warning	Warning
2	\$50	\$50	\$100
3	\$100	\$100	\$200
4		\$150	\$400
5		\$200	\$500
6		\$250	
7		\$300	

**Historical Note**

Table III made by made by final rulemaking at 26 A.A.R. 781, effective June 8, 2020 (Supp. 20-2).

**R3-2-907. Poultry Husbandry; Standards for Production of Eggs and Biosecurity Requirements**

- A.** All egg-laying hens in this state shall be raised according to United Egg Producers Animal Husbandry Guidelines.
- B.** All eggs sold in this state produced by hens shall be from hens raised according to the United Egg Producers Animal Husbandry Guidelines. All eggs shall display the United Egg Producers Certified logo on their cases, cartons, and containers, or the egg dealer shall annually provide the Department with a copy of a current independent third-party audit that demonstrates that the eggs were produced by hens raised according to UEP Animal Husbandry Guidelines.
- C.** Subsections (A) and (B) do not apply to egg producers operating or controlling the operation of one or more egg ranches each having fewer than 20,000 egg-laying hens producing eggs. Subsections (A) and (B) also do not apply to any hens that are raised cage-free or any eggs produced by hens that are raised cage-free.
- D.** All producers and producer dealers with operations within the state shall have a written biosecurity plan in place. At a minimum each producer and producer dealer shall:
1. Restrict access to all areas where poultry are housed or kept.
  2. Take steps to ensure that contaminated material is not transported into any poultry barns.

3. Cover and secure feed in a manner that prevents wild bird, rodents or other animals from accessing the feed.
  4. Cover and properly contain poultry carcasses, used litter, or other disease-containing organic materials that prevents wild birds, rodents or other animals from accessing the material and movement of the materials by the wind.
  5. Keep houses in good repair and all areas to which the birds have access should be kept free of materials hazardous to the birds.
- E.** The biosecurity plan shall contain the following:
1. Methods for the disposal and handling of poultry manure.
  2. Procedures for prevention, control and eradication of vectors for poultry diseases.
  3. Procedures for the detection, control and treatment of poultry diseases.
  4. Methods for the disposal and handling of culled birds and entire flocks under normal cyclic operations and following emergency depletion as a result of disease.
  5. A facility poultry disease control and prevention plan which includes standard operating procedures with respect to specific measures to control and prevent disease including but not limited to structural and operational disease control and prevention provisions.
  6. Procedures to prevent cross contamination between nest run and in line eggs.
  7. Procedures to prevent the introduction and transmittal of diseases by vehicles and any other forms of transportation.
  8. Signed agreements with all employees containing biosecurity procedures regarding contact with outside poultry and wild birds.
- F.** A producer and producer dealer shall allow the Department to enter the premises during normal working hours to inspect the biosecurity plan documents and the biosecurity that is implemented.

**Historical Note**

Former Rule 7; Former Section R3-6-07 renumbered as Section R3-2-907 (Supp. 82-1). Section R3-6-107 renumbered to R3-2-907 (Supp. 91-4). Section R3-2-907 renumbered to R3-2-904 effective July 13, 1995 (Supp. 95-3). New Section made by final rulemaking at 15 A.A.R. 863, effective October 1, 2009 (Supp. 09-2). Amended by made by final rulemaking at 26 A.A.R. 781, effective June 8, 2020 (Supp. 20-2).

**R3-2-908. Sanitary Standards; Egg Processing**

- A.** All egg producers and retail locations where lot consolidation is conducted in this state shall meet the facility and sanitary operation requirements prescribed by the Regulations Governing the Voluntary Grading of Shell Eggs, 7 CFR 56, effective March 30, 2008. This material is incorporated by reference, does not include any later editions, and is available for inspection at the Department of Agriculture, 1688 W. Adams St., Phoenix, AZ 85007.
- B.** No person other than a producer or producer dealer shall repack eggs. All eggs sold to the ultimate consumer must be pre-packaged with all required labeling requirements of this Article and A.R.S. Title 3 Chapter 5. A producer, producer dealer shall not pack or repack eggs that have been in retail distribution channels.
- C.** A retailer may lot consolidate eggs labeled for the ultimate consumer by a packer. A daily log with lot information is required and shall include volume consolidated, grade, size, brand, lot and source.

**Historical Note**

Former Rule 8; Amended effective October 1, 1979

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(Supp. 79-5). Former Section R3-6-08 renumbered as Section R3-2-908 (Supp. 82-1). Amended effective January 1, 1985 (Supp. 84-6). Amended effective December 30, 1987 (Supp. 87-4). Amended effective March 23, 1990 (Supp. 90-1). Section R3-6-108 renumbered to R3-2-908 (Supp. 91-4). Section R3-2-908 renumbered to R3-2-905 effective July 13, 1995 (Supp. 95-3). New Section made by final rulemaking at 15 A.A.R. 863, effective October 1, 2009 (Supp. 09-2). Amended by made by final rulemaking at 26 A.A.R. 781, effective June 8, 2020 (Supp. 20-2).

**R3-2-909. Repealed****Historical Note**

Former Rule 9; Former Section R3-6-09 renumbered as Section R3-2-909 (Supp. 82-1). Section R3-6-109 renumbered to R3-2-909 (Supp. 91-4). Section repealed effective July 13, 1995 (Supp. 95-3).

**ARTICLE 10. AQUACULTURE****R3-2-1001. Definitions**

In addition to the definitions provided in A.R.S. § 3-2901, the following shall apply unless the context otherwise requires:

1. "Certificate of Aquatic Health" is an official document from an issuing state or an equivalent form published by the United States Fish and Wildlife Service or the United States Department of Agriculture attesting that the live aquatic animals described thereon have been inspected and are free of the diseases and causative agents set forth in R3-2-1009.
2. "Department" means the Arizona Department of Agriculture.

**Historical Note**

Adopted effective May 3, 1993 (Supp. 93-2).

**R3-2-1002. Fees for Licenses; Inspection Authorization and Fees**

- A. License fees are established as follows:
  1. Aquaculture facility: \$100 annually.
  2. Fee fishing facility: \$100 annually.
  3. Aquaculture processor: \$100 annually.
  4. Aquaculture transporter: \$100 annually.
  5. Special licenses: \$10 annually.
- B. An expired license may be renewed within 90 days after expiration by payment of a \$50 late fee.
- C. Upon request of the licensee, the Department shall assess the licensed facility and, if applicable, certify the facility is free from infectious diseases and causative agents listed in R3-2-1009 before issuing a Certificate of Aquatic Health. All expenses properly incurred in the certification procedure of the inspection, including time, travel, and laboratory expenses, shall be paid to the Department by the licensee requesting certification.

**Historical Note**

Adopted effective May 3, 1993 (Supp. 93-2). Amended by final rulemaking at 8 A.A.R. 4043, effective November 9, 2002 (Supp. 02-3).

**R3-2-1003. General Licensing Provisions**

- A. An applicant for a license to operate an aquaculture facility or a fee fishing facility, or to operate as an aquaculture processor or aquaculture transporter shall provide the following information on a form furnished by the Department:
  1. Whether the applicant is an individual, corporation, partnership, cooperative, association, or other type of organization;

2. The name and address of the applicant;
  3. A corporation shall specify the date and state of incorporation;
  4. The principal name of the business, and all other business names that may be used;
  5. The name, mailing address, and telephone number of the applicant's authorized agent;
  6. The street address or legal description of the location of the facility to be licensed; and
  7. The signature of the person designated in subsection (A)(5), and the date the application is completed for submission to the Department.
- B. The Department shall grant a license when all conditions are met and assign a Department establishment number to each facility.
  - C. All licenses expire on December 31 for the year issued.
  - D. A licensee shall advise the Department in writing of any change in the information provided on the application during the license year. This information shall be provided within 30 calendar days of the change.
  - E. To prevent the spread of diseases and causative agents listed in R3-2-1009, the Department may inspect and take samples from any facility or shipment being transported. A licensee shall notify the Department within 72 hours of becoming aware of the presence of any disease or causative agent listed in R3-2-1009. Aquatic animals found to be infected with a disease or causative agent listed in R3-2-1009 are prohibited from interstate or intrastate movement without prior written Department approval.
  - F. The Department shall quarantine or seize aquatic animals, alive or dead, plants, or products for examination or diagnostic study when there is a potential for spread of a disease or causative agent listed in R3-2-1009, or any other disease or causative agent that could constitute a threat to aquatic animals or plants of the state. The Department shall issue a written notice to the licensee specifying:
    1. The reason for the Department's action; and
    2. The licensee's right to request a hearing as prescribed in A.R.S. § 3-2906.
  - G. A licensee shall conspicuously mark all quarantined aquatic products and quarantined areas in a manner specified by the Department.
  - H. A licensee shall pay all diagnostic, quarantine, and destruction costs.

**Historical Note**

Adopted effective May 3, 1993 (Supp. 93-2). Amended by final rulemaking at 8 A.A.R. 4043, effective November 9, 2002 (Supp. 02-3).

**R3-2-1004. Specific Licensing Provisions; Aquaculture Facility; Fee Fishing Facility; Special License Facility**

- A. In addition to the application requirements in R3-2-1003, an applicant for a license to operate an aquaculture facility, a fee fishing facility, or a special license facility under A.R.S. § 3-2908(A) shall provide the following information on a form provided by the Department:
  1. Water sources, transmission, and conveyances;
  2. Method used to dispose of tailing waters and solid wastes;
  3. Number and size of ponds, raceways, and tanks, if applicable;
  4. Whether hatchery facilities are included;
  5. A list of all animals and plants to be authorized under the license by genus, species, and common name.
- B. An application to culture or possess an aquatic animal or plant that has not previously occurred in the drainage where the

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facility is located shall be accompanied by a written proposal. The applicant's proposal shall include:

1. Anticipated benefits from introducing the species;
2. Anticipated adverse effects from introducing the species, as it may affect indigenous or game fish, including hybridization;
3. Anticipated diseases inherent to introducing the species;
4. Suggestions for post-introduction evaluation of status and impacts of the introduced species; and
5. Structural and operational methods implemented to prevent escape of the species, if applicable.

C. Each body of water serving a facility shall be contained within the boundaries of the land owned or leased by the licensee.

D. A facility using public waters having natural or artificial inlets, rivers, creeks, washes, or canals shall provide mechanical screening approved by the Department to prevent live aquatic animals and plants, including eggs and fry, from escaping beyond the aquaculture facility boundaries or into public bodies of water.

E. An applicant for a special license under A.R.S. § 3-2908(A) shall also provide the following information to the Department at the time of application:

1. A written narrative describing the project in detail, the project purpose, the hypothesis, and the project duration; and
2. The proposed disposition of the aquatic animals or plants upon completion of the project.

F. The Department shall consider the recommendations of the Arizona Game and Fish Department, under A.R.S. § 3-2903, when determining whether to issue a license or an import permit under R3-2-1010. The Department may issue a license excluding some of the aquatic animal or plant species listed in the application.

#### Historical Note

Adopted effective May 3, 1993 (Supp. 93-2). Amended by final rulemaking at 10 A.A.R. 673, effective April 3, 2004 (Supp. 04-1).

#### R3-2-1005. Fee Fishing Facility

A licensee shall not allow an aquatic animal to be removed from a fee fishing facility unless:

1. The aquatic animal is dead, and
2. The licensee provides the person removing the aquatic animal with written proof of sale identifying the:
  - a. Facility, by name, address, and Department establishment number issued under R3-2-1003(B);
  - b. Date of harvest; and
  - c. Number and species of aquatic animals transported from the facility.

#### Historical Note

Adopted effective May 3, 1993 (Supp. 93-2). Amended by final rulemaking at 10 A.A.R. 673, effective April 3, 2004 (Supp. 04-1).

#### R3-2-1006. Processor License

A. In addition to complying with the application requirements of R3-2-1003, applicants for a license to operate as an aquaculture processor as defined in A.R.S. § 3-2901(12) shall provide the following information on a form furnished by the Department:

1. Water sources, transmission, conveyances, and annual consumption in gallons or acre feet;
2. Method used to dispose of tailing waters and solid wastes;

B. A processing facility shall operate in a clean and sanitary condition during all periods of operation. The following are the minimum requirements for such establishments.

1. Each establishment shall have sanitary floors and walls impervious to water.
2. All outside windows and doors shall be screened.
3. There shall be a supply of potable water.
4. There shall be a sewage disposal system of such a type as not to be a breeding place for insects and not to constitute a hazard or to endanger public health.

#### Historical Note

Adopted effective May 3, 1993 (Supp. 93-2).

#### R3-2-1007. Transporter License; Transport; Delivery

A. In addition to the application requirements in R3-2-1003, an applicant for a license to operate as an aquaculture transporter of live aquatic animals as defined in A.R.S. § 3-2901(15) shall, on a form provided by the Department:

1. Designate whether the license is for interstate or intrastate transport, or both;
2. List aquatic transporting equipment to be used, including tanks and vehicles, and vehicle license number; and
3. State prior year volume or anticipated annual tonnage of live aquatic animals transported.

B. A transporter shall ensure that the aquatic transporting equipment has adequate water and oxygen at a temperature and in a quantity normal for the health of the live aquatic animals and shall be clearly marked, "Live Fish."

C. In addition to a copy of the Certificate of Aquatic Health, a transporter shall transport each container of live aquatic animals within the state with a document identifying:

1. Consignor's name, address, and telephone number;
2. Consignee's name, address, and telephone number;
3. Quantity and size of the aquatic animal being transported;
4. Genus, species, and common name of the aquatic animal being transported;
5. Date of shipment; and
6. Department establishment number.

D. A transporter shall deliver live aquatic animals only to a retail outlet, as prescribed at A.R.S. § 3-2907(J) or to a person listed in R3-2-1010(B).

#### Historical Note

Adopted effective May 3, 1993 (Supp. 93-2). Amended by final rulemaking at 10 A.A.R. 673, effective April 3, 2004 (Supp. 04-1).

#### R3-2-1008. Repealed

#### Historical Note

Adopted effective May 3, 1993 (Supp. 93-2). Section repealed by final rulemaking at 10 A.A.R. 673, effective April 3, 2004 (Supp. 04-1).

#### R3-2-1009. Disease Certification

A. A licensee requesting and receiving a Certificate of Aquatic Health shall have their facility inspected and all live aquatic animals, fertilized eggs and milt shall be found free of, but not limited to, the following diseases and causative agents:

1. Causative agent: Egtved Virus. Disease: VHS, Viral Hemorrhagic Septicemia of Salmonids.
2. Causative agent: Infectious Hematopoietic Necrosis Virus. Disease: IHN, Infectious Hematopoietic Necrosis of Salmonids.
3. Causative agent: Infectious Pancreatic Necrosis Virus. Disease: IPN, Infectious Pancreatic Necrosis of Salmonids.

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4. Causative agent: *Ceratomyxa shasta*. Disease: Ceratomyxosis of Salmonids.
  5. Causative agent: *Rhabdovirus carpio*. Disease: Spring Viremia of carp. Certification is required in this case only when the original origin of the shipment is from outside the United States.
  6. Causative agent: *Renibacterium salmoninarum*. Disease: BKD, Bacterial Kidney Disease of Salmonids.
  7. Causative agent: *Aeromonas salmonicida*. Disease: Furunculosis.
  8. Causative agent: *Myxobolus cerebralis*. Disease: Whirling Disease of Salmonids.
- B. The Department may require inspection for any disease or causative agent not listed in subsection (A) when there is evidence that the disease or causative agent may constitute a threat to aquatic animals or plants, aquatic wildlife or the aquaculture industry. The Department shall send written notice to all licensees pursuant to this Chapter when implementing this subsection, naming the disease or causative agent of concern. Action to quarantine or seize aquatic animals or plants pursuant to this subsection shall not be subject to delay pending such written notice.

**Historical Note**

Adopted effective May 3, 1993 (Supp. 93-2).

**R3-2-1010. Importation of Aquatic Animals**

- A. The owner, or owner's agent, importing live aquatic animals into the state shall ensure the animals are accompanied by the following:
1. A Certificate of Aquatic Health as defined in R3-2-1001, based upon an inspection of the originating facility within the 12 months preceding the shipment;
  2. A transporter license issued under R3-2-1007; and
  3. An import permit number issued by the Department under this Section, legibly written or typed on the certificate of aquatic health.
- B. The owner, or owner's agent, of live aquatic animals, except those imported by a retail outlet as prescribed in A.R.S. § 3-2907(J), shall ensure that the animals are consigned to or in the care of:
1. An Arizona resident;
  2. An aquaculture facility, fee fishing facility, or special license holder licensed by the Department;
  3. A holder of an aquatic wildlife stocking permit issued by the Arizona Game and Fish Department; or
  4. A holder of any aquatic animal license issued by the Arizona Game and Fish Department.
- C. The owner, or owner's agent, may obtain an import permit number from the Department, Office of the State Veterinarian, by providing the following information:
1. Consignor's name, address, and telephone number;
  2. Consignee's name, address, and telephone number;
  3. Consignee's Department establishment number issued by the Department or a copy of an aquatic wildlife stocking permit or the license issued by the Arizona Game and Fish Department;
  4. Origin of the shipment;
  5. Genus, species, and common name of aquatic animals to be imported; and
  6. Quantity and size classification of aquatic animals to be imported.
- D. An import permit number remains valid for 15 calendar days from the date of issuance by the Department.
- E. The Department shall refuse entry to any shipment that does not comply with this rule.
- F. The Department shall quarantine and require destruction of any shipment, after its arrival, that it determines is infected with or was previously exposed to any causative agent or disease listed in R3-2-1009.

**Historical Note**

Adopted effective May 3, 1993 (Supp. 93-2). Amended by final rulemaking at 8 A.A.R. 4043, effective November 9, 2002 (Supp. 02-3).

**ARTICLE 11. VOLUNTARY EGG GRADING PROGRAM****R3-2-1101. Definitions**

For the purpose of this Article, unless the context otherwise requires, the terms in this Section shall have the following meaning:

"Acceptable" means suitable for the purpose intended.

"Administrator" means the supervisor as defined in A.R.S. § 3-701.

"Ambient temperature" means the air temperature maintained in an egg storage facility or transport vehicle.

"AMS" means Agricultural Marketing Service, United States Department of Agriculture.

"Applicant" means any person or entity who requests any grading service.

"Appeal grading" means a re-grading requested by a recipient who is dissatisfied with an initial grading decision.

"Associate Director" means the associate director of the animal service division.

"Auditing services" means the act of providing independent verification of written quality assurance and value added standards for production, processing and distribution of eggs. Auditing services are performed by graders authorized by the Administrator to perform such audits and the service provided will be in accordance with the provisions of this Article for grading services, as appropriate.

"Cage mark" means any stain-type mark caused by an egg coming in contact with a material that imparts a rusty or blackish appearance to the shell.

"Case" means, when referring to containers, an egg case, as used in commercial practice in the United States, holding 30 dozens of eggs.

"Class" means any subdivision of a product based on essential physical characteristics that differentiate between major groups of the same size, kind, species, or method of processing.

"Chick papers" means the papers in which chicks are delivered.

"Condition" means any condition (including, but not being limited to, the state of preservation, cleanliness, soundness, wholesomeness, or fitness for human food) of any product which affects its merchantability.

"Consumer grades" means U.S. Grade AA, A, and B.

"Controlling person" means a person at least 21 years of age legally accountable for operations and management of the egg production plant.

"Department" or "AZDA" means the Arizona Department of Agriculture.

"Director" means the Director of the Arizona Department of Agriculture.

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“Egg grading service” means the personnel who are actively engaged in the administration, application, and direction of egg grading programs and services pursuant to this Article.

“Eggs” means eggs of domesticated chickens.

“Eggs of current production” means eggs that are no more than 21 days old.

“Grademark” means the official identification symbol used to identify eggs officially graded by AZDA in accordance with this Article.

“Grader” means any employee assigned by AZDA to investigate and certify in accordance with this Article, the class, quality, quantity, or condition of products.

“Grading or grading service” means the determination by a grader that a product meets the standards of this Article regarding the class, quality, quantity, or condition of the product for the purpose of issuing a grade or grading certificate. Such determination may be performed by examining all product units or representative samples drawn by the grader; may be performed as a temporary, resident or non-resident grading service; and includes regrading performed in response to an appeal of a previous grading decision.

“Grading certificate” means a statement, either written or printed, issued by a grader pursuant to this Article, relative to the class, quantity, quality, or condition of products.

“Holiday or legal holiday” means the legal public holidays specified by State of Arizona Accounting Manual (SAAM).

“Identify” means to apply a grademark to products or the containers thereof.

“Interested party” means any person financially interested in a transaction involving any grading, appeal grading, or regrading of any product.

“Office of grading” means the office of any resident grader at the plant.

“Official AZDA certificate” means any form of certification, either written or printed, used under this Article to certify with respect to the sampling, class, grade, quality, size, quantity, or condition of products (including the compliance of products with applicable specifications).

“Official AZDA memorandum” means any initial record of findings made by an authorized person in the process of grading or sampling pursuant to this Article, any processing or plant-operation report made by an authorized person in connection with grading or sampling under this Article, and any report made by an authorized person of services performed pursuant to this Article.

“Official AZDA mark” means the grademark and any other mark, or any variations in such marks approved by the Administrator and authorized to be affixed to any product, or affixed to or printed on the packaging material of any product, stating that the product was graded, or indicating the appropriate U.S. grade or condition of the product, or for the purpose of maintaining the identity of products graded under this Article, including but not limited to, those set forth in R3-2-1111.

“Official identification” means any AZDA standard designation of class, grade, quality, size, quantity, or condition specified in this Article or any symbol, stamp, label, logo, or seal indicating that the product has been officially AZDA graded and/or indicating the class, grade, quality, size, quantity, or condition of the product approved by the Supervisor and

authorized to be affixed to any product, or affixed to or printed on the packaging material of any product.

“Official plant” means the facilities used for a shell egg operation that has been approved by AZDA for grading purposes.

“Origin grading” means a grading made on a lot of eggs at a plant where the eggs are graded and packed.

“Packaging” means the primary or immediate container in which eggs are packaged and which serves to protect, preserve, and maintain the condition of the eggs.

“Packing” means the secondary container in which the primary or immediate container is placed to protect, preserve, and maintain the condition of the eggs during transit or storage.

“Person” means any individual, partnership, association, business trust, corporation, or any organized group of persons, whether incorporated or not.

“Plant” means the facilities used for a shell egg operation.

“Potable water” means water that has been approved by the State health authority or agency or laboratory acceptable to the Administrator as safe for drinking and suitable for food processing.

“Product or products” means eggs of the domesticated chicken.

“Quality” means the inherent properties of any product which determine its relative degree of excellence.

“Quality assurance inspector” means any designated company employee other than the plant owner, manager, foreman, or supervisor, authorized by the State supervisor to examine product and to supervise the labeling, dating, and lotting of officially graded eggs and to assure that such product is packaged under sanitary conditions, graded by authorized personnel, and maintained under proper inventory control until released by an employee of the Department.

“Recipient” means the individual or entity whose application for grading services has been approved by the Department.

“Resident grading service” means continuous supervision, in an official plant, of the handling or packaging of any product.

“Sampling” means the act of taking samples of any product for grading or certification.

“SE” means *Salmonella* Enteritidis.

“Shell protected” means eggs which have had a protective covering such as oil applied to the shell surface. The product used shall be acceptable to the Food and Drug Administration.

“Shipped for retail sale” means eggs that are forwarded from the processing facility for distribution to the ultimate consumer.

“State supervisor” means the immediate supervisor of a Grader.

“Washed ungraded eggs” means eggs which have been washed and that are either sized or unsized, but not segregated for quality.

#### Historical Note

Section R3-2-1101 recodified from R3-2-101 (Supp. 97-1). Section expired under A.R.S. § 41-1056(E) at 8 A.A.R. 3755, effective May 10, 2002 (Supp. 02-3). New Section made by final exempt rulemaking at 26 A.A.R. 916, with an immediate effective date of April 9, 2020



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(Supp. 20-2).

**R3-2-1102. General Provisions**

- A.** Administration. The Administrator shall perform such duties as the Associate Director may require in the enforcement or administration of the provisions of this Article. The Administrator is authorized to waive for limited periods any particular provisions of this Article to permit experimentation so that new procedures, equipment, and processing techniques may be tested to facilitate definite improvements and at the same time to determine full compliance with the spirit and intent of this Article. The AZDA and its officers and employees shall not be liable in damages through acts of commission or omission in the administration of this Article.
- B.** Basis of grading service.
1. Grading service with respect to the determination of the quality of products shall be on the basis of the United States Standards, Grades, and Weight Classes for shell eggs. However, grading service may be rendered with respect to products which are bought and sold on the basis of institutional contract specifications or specifications of the recipient; and such service, when approved by the Administrator, shall be rendered on the basis of such specifications. The supervision of packaging shall be in accordance with such instructions as may be approved or issued by the Administrator.
  2. Whenever grading service is performed on a representative sample basis, such sample shall be drawn and consist of not less than the minimum number of cases as indicated in:
    - a. R3-2-903 for stationary lots; or
    - b. QAD 700 Shell Egg Graders Handbook Section 8 on-line sampling of Shell Eggs (8-30-2016).
  3. Accessibility of product. Each product for which grading service is requested shall be so conditioned and placed as to permit a proper determination of the class, quality, quantity, or condition of such product.
- C.** Prerequisites to grading. Grading of products shall be rendered pursuant to this Article and under such conditions and in accordance with such methods as may be prescribed or approved by the Administrator.
- D.** Supervision. All plant grading service shall be subject to supervision at all times by an AZDA grader. Such service shall be rendered in accordance with instructions issued by the Administrator where the facilities and conditions are satisfactory for the conduct of the service and the requisite graders are available.
- E.** Other applicable regulations. Compliance with this Article shall not excuse failure to comply with any other applicable Federal, State, or local laws or regulations.

**Historical Note**

Section R3-2-1102 recodified from R3-2-102 (Supp. 97-1). Amended effective October 8, 1998 (Supp. 98-4).  
 Section expired under A.R.S. § 41-1056(E) at 8 A.A.R. 3755, effective May 10, 2002 (Supp. 02-3). Section made by final exempt rulemaking at 26 A.A.R. 916, with an immediate effective date of April 9, 2020 (Supp. 20-2).

**R3-2-1103. Equipment and Facilities for Graders**

Equipment and facilities to be furnished by the recipient for use of graders in performing service on a resident basis shall include, but not be limited to, the following:

- A. An accurate metal stem thermometer.
- B. An accurate means to determine pH level of wash water.
- C. Test kits for checking the concentration level of the solution used for sanitizing eggs and monitoring the concentration level of potable water treatment compounds in plants having chlori-

nators. The kit must be designed for testing the compound being used.

- D. Protective equipment including, general purpose gloves and safety glasses to all egg graders who are monitoring the strength of potable water treatment compounds and egg sanitizing solutions, unless plant employees are trained to perform the testing under the direct supervision of the grader.
- E. Electronic digital-display scales graduated in increments of 1/10-ounce or less for weighing individual eggs and test weights for calibrating such scales. Plants packing product based on metric weight must provide scales graduated in increments of one gram or less.
- F. Electronic digital-display scales graduated in increments of 1/4-ounce or less for weighing the lightest and heaviest consumer packages packed in the plant and test weights for calibrating such scales.
- G. Scales graduated in increments of 1/4-pound or less for weighing shipping containers and test weights for calibrating such scales.
- H. Test weights sufficient in size to verify the accuracy of the lightest and heaviest unit of measurement weighed on any given scale located in the plant.
- I. Two candling lights that provide a sufficient combined illumination through both the aperture and downward through the bottom to facilitate accurate interior and exterior quality determinations.
- J. A candling booth adequately darkened and located in close proximity to the work area that is reasonably free of excessive noise. The booth must be sufficient in size to accommodate two graders, two candling lights, and other necessary grading equipment.
- K. If deemed necessary by the supervisor, a cart or method of conveyance for the transportation of samples to and from the candling booth.
- L. Furnished office space, suitable wireless internet connection, a desk and file or storage cabinets (equipped with a satisfactory locking device), suitable for the security and storage of official supplies, and other facilities and equipment as may otherwise be required. Such space and equipment must meet the approval of the Administrator.

**Historical Note**

Section R3-2-1103 recodified from R3-2-103 (Supp. 97-1). Section expired under A.R.S. § 41-1056(E) at 8 A.A.R. 3755, effective May 10, 2002 (Supp. 02-3). Section made by final exempt rulemaking at 26 A.A.R. 916, with an immediate effective date of April 9, 2020 (Supp. 20-2).

**R3-2-1104. Schedule of Operation of Official Plants**

Grading operating schedules for services performed pursuant to this Article shall be requested in writing and be approved by the Administrator. Normal operating schedules for a full week consist of a continuous eight-hour period per day (excluding not to exceed one hour for lunch), five consecutive days per week, within the administrative workweek, Saturday through Friday, for each shift required. Less than eight-hour schedules may be requested and will be approved if a grader is available. Clock hours of daily operations need not be specified in the request, although as a condition of continued approval, the hours of operation shall be reasonably uniform from day to day. Graders are to be notified by management one day in advance of any change in the hours grading service is requested.

**Historical Note**

Section R3-2-1104 recodified from R3-2-104 (Supp. 97-1). Section expired under A.R.S. § 41-1056(E) at 8 A.A.R. 3755, effective May 10, 2002 (Supp. 02-3). Section made by final exempt rulemaking at 26 A.A.R. 916,

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with an immediate effective date of April 9, 2020 (Supp. 20-2).

**R3-2-1105. Application for Grading Service**

- A. An application for AZDA grading service may be made by egg producer or a producer dealer with operations located in Arizona.
- B. Form of application. Each application for grading or sampling a specified lot of any product shall include such information as may be required by the Administrator in regard to the product and the premises where such product is to be graded or sampled. The applicant shall designate the employees of the applicant who will be authorized to provide information to the AZDA grader or graders as may be necessary for the performance of the grading service.
- C. Application for grading service in official plants; approval. Any person desiring to process and pack products in a plant under grading service must receive approval of such plant and facilities as an official plant prior to the rendition of such service. When a signed application for service has been received, the State supervisor or the supervisor's assistant shall complete a plant survey pursuant to this Article. An application for grading service shall be approved when the application has been filed for grading service; a successful plant survey is completed; and all required facility or equipment modifications are completed.
- D. Denial of service. An application for grading service may be denied by the Administrator when:
  1. The applicant fails to meet the requirements of this Article prescribing the conditions under which the service is made available.
  2. The product is owned by or located on the premises of a person currently denied the benefits of this Article.
  3. Any individual holding office or a responsible position with or having a substantial financial interest or share in the applicant is currently denied the benefits of the Act or was responsible in whole or in part for the current denial of the benefits of this Article to any person or entity.
  4. The Administrator determines that the application is an attempt on the part of a person currently denied the benefits of this Article to obtain grading services.
  5. The applicant, after an initial survey has been made in accordance with this Article, fails to bring the grading facilities and equipment into compliance with this Article within a reasonable period of time.
  6. Notwithstanding any prior approval whenever, before initiation of service, the applicant fails to fulfill commitments concerning the initiation of the service.
  7. It appears that performing the services specified in this Article would not be in the best interests of the public welfare or of the Government.
  8. It appears to the Administrator, in his sole discretion, that prior commitments of the Department or lack of resources necessitate denial of service.
- E. Debarment. An applicant may be permanently debarred for the following reasons:
  1. The giving or offering, directly or indirectly, of a bribe, or any money, loan, gift, or anything of value to an employee of the Department to obtain any benefit or special treatment;
  2. Taking any action that falsely brings the Department in disrepute or that creates the appearance of impropriety;
  3. Knowingly making a false or misleading statement of a material fact to the Department;
  4. Using any official identification, grademark, stamp, symbol, label, seal, or identification without authority from the Department;

5. Forging, counterfeiting, or falsely simulating any grading certificate, symbol, stamp, label, seal, or identification authorized pursuant to this Article;
  6. Use of an official grademark, certificate, symbol, stamp, label, seal, or identification without authority;
  7. Failure to make an official plant or product accessible for grading service;
  8. Interference with the performance of duty of an AZDA grader, licensee, contractor, or employee.
  9. Failure to pay a Department invoice within 30 days after issuance of the invoice; or
  10. Any other violation of any provision of the statutes, rules and regulations of the Department that threatens the health, safety, or welfare of the public.
- F. Notification. An applicant shall be promptly notified of the reasons for a denial of service. A written petition for reconsideration of such denial may be filed by the applicant with the Administrator if postmarked or delivered within 10 days after the receipt of notice of the denial. Such petition shall state specifically the errors alleged to have been made by the Administrator in denying the application. Within 20 days following the receipt of such a petition for reconsideration, the Administrator shall approve the application or notify the applicant of the reasons for the denial thereof. Service of notice may be accomplished by regular mail and/or email.
  - G. Withdrawal of application. An application for grading service may be withdrawn by the applicant at any time before the service is performed, provided that the applicant pays all expenses incurred by the AZDA in connection with such application.

**Historical Note**

Section R3-2-1105 recodified from R3-2-105 (Supp. 97-1). Section expired under A.R.S. § 41-1056(E) at 8 A.A.R. 3755, effective May 10, 2002 (Supp. 02-3). Section made by final exempt rulemaking at 26 A.A.R. 916, with an immediate effective date of April 9, 2020 (Supp. 20-2).

**R3-2-1106. Authority of Applicant**

- A. Proof that an authorized controlling person is applying for any grading service may be required at the discretion of the Administrator. Such proof may include, but is not limited to:
  1. Documentation, as specified under A.R.S. § 41-1080(A), of the applicant's lawful presence in the U.S.
  2. Proof of business entity structure of the plant.
  3. Proof of ownership interest or position held in the plant.
  4. Documentation of designated authority from the business entity under which the plant operates.
- B. The approved recipient of grading services must notify the Department of a change of control or ownership of the official plant within 15 days after such change is effective.

**Historical Note**

Section R3-2-1106 recodified from R3-2-106 (Supp. 97-1). Section expired under A.R.S. § 41-1056(E) at 8 A.A.R. 3755, effective May 10, 2002 (Supp. 02-3). Section made by final exempt rulemaking at 26 A.A.R. 916, with an immediate effective date of April 9, 2020 (Supp. 20-2).

**R3-2-1107. Order of Service**

AZDA grading service shall be performed, insofar as practicable and subject to the availability of qualified graders, on a first-come, first-served basis, except that precedence may be given to an applicant for an appeal grading.

**Historical Note**

Section R3-2-1107 recodified from R3-2-107 (Supp. 97-

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1). Section expired under A.R.S. § 41-1056(E) at 8 A.A.R. 3755, effective May 10, 2002 (Supp. 02-3). Section made by final exempt rulemaking at 26 A.A.R. 916, with an immediate effective date of April 9, 2020 (Supp. 20-2).

**R3-2-1108. Types of Grading Service**

- A. Scheduled continuous grading service on a resident basis and continuous grading service on a nonresident basis. Service on a resident basis has a scheduled tour of duty, while service on a nonresident basis has a nonscheduled tour of duty, but is of a reoccurring nature. Both of these services are performed when an applicant requests that an AZDA/inspector grader be stationed in the applicant's processing plant and grade eggs in accordance with U.S. Standards. The applicant agrees to comply with the facility, operating, and sanitary requirements of resident service. The charges for resident grading services are based on the hours of the regular tour of duty. Eggs graded under AZDA resident grading service are only eligible to be identified with the official grademarks shown in R3-2-1111 when processed and graded under the supervision of a grader/inspector, or quality assurance inspector as provided in R3-2-1114.
- B. Unscheduled temporary grading service. Temporary grading service is performed when an applicant requests resident grading on a fee basis. The applicant must meet all of the facility, operating, and sanitary requirements of resident service. Charges or fees are based on the time and expenses needed to perform the work. Eggs graded under temporary grading service are only eligible to be identified with the official AZDA grademarks when they are processed and graded under the supervision of a grader or quality assurance inspector as provided in R3-2-1114.
- C. Auditing service. Auditing service is performed when an applicant requests independent verification of written quality assurance and value added standards for production, processing, and distribution of eggs. Charges or fees are based on time, travel, and expenses needed to perform the work.
- D. The Department shall determine the number of graders needed to perform grading services. Recipients shall not ask AZDA graders to assume plant managerial responsibilities.

**Historical Note**

Section R3-2-1108 recodified from R3-2-108 (Supp. 97-1). Section expired under A.R.S. § 41-1056(E) at 8 A.A.R. 3755, effective May 10, 2002 (Supp. 02-3). Section made by final exempt rulemaking at 26 A.A.R. 916, with an immediate effective date of April 9, 2020 (Supp. 20-2).

**R3-2-1109. Suspension of Grading Service or Plant Approval for Correctable Cause**

- A. Provision of grading services is a privilege and not a right. Any plant approval of grading services given pursuant to this Article may be suspended by the Administrator for:
  1. Failure to maintain grading facilities and equipment in a satisfactory state of repair, sanitation, or cleanliness.
  2. The use of operating procedures which are not in accordance with this Article;
  3. Alterations of grading facilities or equipment which have not been approved in accordance with this Article; or
  4. Any reasons listed under R3-2-1105(D) "Denial of Service," or required by any other need to protect public health, safety, or welfare.
- B. Suspension may occur prior to the right to have a hearing in cases in which immediate suspension is required to protect public health, safety, or welfare. Whenever it is feasible to do so, written notice in advance of such suspension of plant

approval shall be given to the person concerned and shall specify a reasonable period of time in which corrective action must be taken. If advance written notice is not given, the action shall be promptly confirmed in writing after the suspension and the reasons therefor shall be stated, except in instances where the person has already corrected the deficiency. During such period of suspension, grading service shall not be rendered. After appropriate corrective action is taken, grading service will be restored immediately, or as soon thereafter as a grader can be made available.

- C. If the grading facilities or methods of operation are not brought into compliance within a reasonable period of time as specified by the Administrator, the Administrator shall send formal notice of the suspension pursuant to A.R.S. Title 41, Chapter 6, Article 10. Any suspension shall continue in effect pending the outcome of a hearing unless otherwise ordered by the Administrator.
- D. Upon suspension of grading service, all grademarks (labels, seals, tags, or packaging material bearing other official identification), shall, under the supervision of a person designated by the AZDA, be destroyed, obliterated, or sequestered in a manner acceptable to the AZDA.
- E. In any case where grading service is suspended under this Section, the person concerned may thereafter apply for grading service once the conditions giving rise to the suspension or withdrawal have been remediated.

**Historical Note**

Section R3-2-1109 recodified from R3-2-109 (Supp. 97-1). Section expired under A.R.S. § 41-1056(E) at 8 A.A.R. 3755, effective May 10, 2002 (Supp. 02-3). Section made by final exempt rulemaking at 26 A.A.R. 916, with an immediate effective date of April 9, 2020 (Supp. 20-2).

**R3-2-1110. Authority to Use Official Insignia**

- A. Authority to use official AZDA grademarks. Authority to use an AZDA grademark on products is granted only to recipients who utilize the services of a grader or quality assurance inspector in accordance with this Article. Packaging materials bearing official identification marks shall be approved pursuant to R3-2-1110 to R3-2-1111, inclusive, and shall be used only for the purpose for which approved and prescribed by the Administrator. Any unauthorized use or disposition of approved labels or packaging materials which bear any official AZDA identification may result in cancellation of grading service, denial of the permission to use of labels or packaging materials bearing official identification, or denial of other benefits of the Act pursuant to the provisions of R3-2-1105 D.
- B. Approval of official identification. No label, container, or packaging material which bears official identification may contain any statement that is false or misleading. No label, container, or packaging material bearing official identification may be printed or prepared for use until the printers' or other final proof has been approved by the Administrator in accordance with this Article. It is the recipient's responsibility to ensure label compliance with the Federal Food, Drug, and Cosmetic Act, the Fair Packaging and Labeling Act, and the regulations promulgated under this Article. The use of finished labels must be approved as prescribed by the Administrator. A grader may apply official identification stamps to shipping containers if they do not bear any statement that is false or misleading. If the label is printed or otherwise applied directly to the container, the principal display panels of such container shall for this purpose be considered as the label. The label shall contain the name, address, and ZIP Code of the packer or

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distributor of the product, the name of the product, a statement of the net contents of the container, and the AZDA grademark.

- C. Nutritional labeling. Nutrition information must be included on the labeling of each unit container of consumer packaged eggs in accordance with the General Regulations for the Enforcement of the Federal Food, Drug, and Cosmetic Act and the Fair Packaging and Labeling Act, located at 21 CFR §§ 101.1 to 101.108. The nutrition information included on labels is subject to review by the Food and Drug Administration prior to approval by the Department.
- D. Refrigeration labeling. All containers bearing official AZDA "Grade AA" or "Grade A" identification shall be labeled to indicate that refrigeration is required, for example, "Keep refrigerated," or words of similar meaning.

**Historical Note**

Section made by final exempt rulemaking at 26 A.A.R. 916, with an immediate effective date of April 9, 2020 (Supp. 20-2).

**R3-2-1111. Form of AZDA Grademark and Information Required**

- A. Form of official identification symbol and grademark. The logo set forth in Illustration 1 shall be the official identification symbol for purposes of this Article and when used, imitated, or simulated in any manner in connection with eggs, shall be *prima facie* evidence that the product has been officially graded in compliance with this Article.
- B. Eggs with consumer grades. Except as otherwise authorized, the AZDA grademark used to officially identify AZDA consumer-graded eggs shall be of the form and design indicated in Illustrations 2 through 4. The logo shall be of sufficient size so that the printing and other information contained therein is legible and in approximately the same proportion as shown in these figures. No variation may be used for the color scheme of Illustration 4.
- C. The "Produced From" AZDA grademark. The Illustration 5 grademark may be used to identify products for which there are no official U.S. grade standards (for example, pasteurized shell eggs, and/or hard boiled eggs), provided that these products are approved by the Department and are prepared from AZDA compliant Consumer Grade AA or A eggs. The Illustration 5 grademark may utilize any one of the designs shown in Illustrations 2 through 4. The "Produced From" text outside the symbol shall be conspicuous, legible, and in approximately the same proportion and close proximity to the symbol as shown in Illustration 5.
- D. Information required on AZDA grademark. Except as otherwise authorized by the Administrator, each AZDA grademark shall include the letters "AZDA" and the U.S. grade of the product it identifies, such as "Grade AA," as shown in Illustration 2. Such information shall be printed with the symbol and the wording within the symbol in contrasting colors in a manner such that the design is legible and conspicuous on the material upon which it is printed.
- E. Product class. The size or weight class of the product, such as "Large," may appear within the grademark as shown in Illustration 3. If the size or weight class is omitted from the grademark, it must appear prominently on the main panel of the carton.
- F. Plant number. The plant number of the official plant preceded by the letter "P" must be shown on each carton or packaging material.

**Historical Note**

Section made by final exempt rulemaking at 26 A.A.R. 916, with an immediate effective date of April 9, 2020

(Supp. 20-2).

**Illustration 1. AZDA****Historical Note**

Illustration 1 made by final exempt rulemaking at 26 A.A.R. 916, with an immediate effective date of April 9, 2020 (Supp. 20-2).

**Illustration 2. AZDA Grade AA****Historical Note**

Illustration 2 made by final exempt rulemaking at 26 A.A.R. 916, with an immediate effective date of April 9, 2020 (Supp. 20-2).

**Illustration 3. AZDA Grade AA Large****Historical Note**

Illustration 3 made by final exempt rulemaking at 26 A.A.R. 916, with an immediate effective date of April 9,

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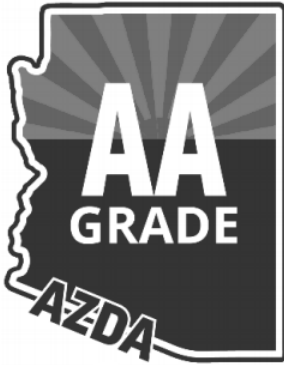
**Illustration 4. AZDA AA Grade****Historical Note**

Illustration 4 made by final exempt rulemaking at 26 A.A.R. 916, with an immediate effective date of April 9, 2020 (Supp. 20-2).

**Illustration 5. AZDA Grade AA Produced From Shell Eggs Produced From****Historical Note**

Illustration 5 made by final exempt rulemaking at 26 A.A.R. 916, with an immediate effective date of April 9, 2020 (Supp. 20-2).

**R3-4-1112. Lot Marking of Officially Identified Eggs**

Each carton identified with the AZDA grademarks shown in R3-2-1111 shall be legibly lot-numbered on the consumer package and the carton, and may also be shown on the individual egg. The lot number shall be the consecutive day of the year (Julian date) on which the eggs were packed (for example, 132), except other lot-numbering systems may be used when submitted in writing and approved by the Administrator.

**Historical Note**

Section made by final exempt rulemaking at 26 A.A.R. 916, with an immediate effective date of April 9, 2020 (Supp. 20-2).

**R3-2-1113. Retention Directives**

A grader may use retention tags or other devices and methods as approved by the Administrator for the identification and control of eggs which are not in compliance with this Article or are held for further examination, and for any equipment, utensils, rooms or compartments which are found unclean or otherwise in violation of this Article. Any such item shall not be released until in compliance

with this Article and retention identification shall not be removed by anyone other than a grader.

**Historical Note**

Section made by final exempt rulemaking at 26 A.A.R. 916, with an immediate effective date of April 9, 2020 (Supp. 20-2).

**R3-2-1114. Prerequisites to Packaging Eggs Identified with Grademarks**

Quality assurance inspector required. The official grademark identification of any product as provided in this Article shall be done only under the supervision of a grader or quality assurance inspector. The grader or quality assurance inspector shall have supervision over the use and handling of all material bearing any official grademark identification.

**Historical Note**

Section made by final exempt rulemaking at 26 A.A.R. 916, with an immediate effective date of April 9, 2020 (Supp. 20-2).

**R3-2-1115. Grading Requirements of Eggs Identified with AZDA Grademarks**

- A. Eggs to be identified with the AZDA grademarks illustrated in R3-2-1111 must be individually graded by a grader.
- B. In order to be officially identified with an AZDA consumer grademark, eggs shall:
  1. Be of current production;
  2. Be produced and processed within the borders of Arizona;
  3. Not possess any undesirable odors or flavors;
  4. Not have previously been shipped for retail sale;
  5. Meet consumer Grade A or Grade AA, as prescribed in AMS 56, United States Standards, Grades, and Weight Classes for Shell Eggs, revised as of July 20, 2000, which is incorporated by reference, does not include any later amendments or editions of the incorporated matter, is on file with the Department at 1688 W. Adams St., Phoenix, AZ 85007, and can be found online at [https://www.ams.usda.gov/sites/default/files/media/Shell\\_Egg\\_Standard%5B1%5D.pdf](https://www.ams.usda.gov/sites/default/files/media/Shell_Egg_Standard%5B1%5D.pdf);
  6. Be produced and packaged in a facility in accordance with the Food and Drug Administration, Department of Health and Human Services' requirements for the Production, Storage, and transportation of Shell Eggs as specified in 21 CFR §§ 118.1 to 118.12, revised as of April 1, 2011, which is incorporated by reference, does not include any later amendments or editions of the incorporated matter, and is on file with the Department at 1688 W. Adams St., Phoenix, AZ 85007;
  7. Be produced and packaged in a facility that meets the Regulations Governing the Inspection of Eggs under the Egg Products Inspection Act (EPIA), as specified in 7 CFR §§ 57.1 to 57.970, revised as of April 12, 2006, which is incorporated by reference, does not include any later amendments or editions of the incorporated matter, and is on file with the Department at 1688 W. Adams St., Phoenix, AZ 85007;
  8. Be produced in a facility that has implemented a SE environmental monitoring program which includes testing for SE in chick papers and in the house environment when the pullets are 14-16 weeks of age, 40-45 weeks of age, four to six weeks post-molt, and pre-depopulation.
  9. Be produced in a facility that has implemented and maintained a vaccination program to protect against SE infection, which includes a minimum of two attenuated live vaccinations and one killed or inactivated vaccination, or

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an alternative vaccination program that has been approved by the Department after having been demonstrated in the Department's estimation to be equally effective.

- C. Management at an official plant is responsible for notifying the AZDA grader whenever contaminated or adulterated eggs are present in the official plant. Any eggs identified as contaminated or adulterated must be properly labeled and controlled by plant management. This includes eggs originating from a layer house with an SE-positive environment or eggs testing positive for the presence of SE. Failure to control, detain and/or notify the grader of the presence of contaminated or adulterated eggs in the official plant will constitute a violation of this Article. Department employees are authorized to inspect lay houses and review plant documents to determine compliance with this Article.

**Historical Note**

Section made by final exempt rulemaking at 26 A.A.R. 916, with an immediate effective date of April 9, 2020 (Supp. 20-2).

**R3-2-1116. Payment of Fees and Charges**

- A. Fees and charges for any grading service shall be paid by the recipient by check, draft, or money order payable to the "Arizona Department of Agriculture Egg Program." AZDA may require that fees and charges shall be paid in advance, and shall include travel, per diem, or other expenses incurred by the Department in connection with providing grading services.
- B. The cost of an appeal grading or review of a grader's decision shall be borne by the appellant on a unscheduled temporary basis at rates set forth in R3-2-1117, plus travel, per diem, or other expenses. If the appeal grading or review of a grader's decision discloses that a material error was made in the original determination, no fee or expenses will be charged for the regrading.
- C. Invoices for services previously rendered will be issued no later than the 10th day following the end of the period in which the service was rendered and are payable in full upon receipt.

**Historical Note**

Section made by final exempt rulemaking at 26 A.A.R. 916, with an immediate effective date of April 9, 2020 (Supp. 20-2).

**R3-2-1117. Charges for Grading Service**

- A. Scheduled continuous grading service. The following rates apply to continuous grading service on a resident basis and continuous grading service on a nonresident basis per grader:
1. Regular rate: \$38.00/hour
  2. Overtime rate: \$57.00/hour
  3. Holiday rate: \$58.00/hour
- B. Plant survey, unscheduled temporary, auditing and appeal grading services. The following rates apply to temporary and auditing service per grader:
1. Regular rate: \$57.00/hour
  2. Overtime rate: \$85.00/hour
  3. Holiday rate: \$87.00/hour
- C. Reapplication after termination of service by recipient. If a recipient causes termination under R3-2-1105(D), and reapplies within 12 months from the date of termination, there will be an additional re-application fee of \$300 in addition to the above fees.
- D. Extra charges. The following extra charges shall be assessed:
1. All hours worked by an assigned grader or another grader in excess of the approved tour of duty, worked on a non-scheduled workday, or worked on a State holiday outside

of the approved tour of duty, will be considered as over-time, at the rate of time and one-half.

2. For all hours of work performed in a plant without an approved tour of duty, the charge will be the temporary grading service.
- E. No charges. No charges will be assessed:
1. Solely because of a change in name or ownership of the official plant, unless the recipient of services fails to notify the Department within the time limit specified in R3-2-1105, in which case the above charges will apply.
  2. When the assigned grader is temporarily reassigned by AZDA to perform grading service for another service recipient.

**Historical Note**

Section made by final exempt rulemaking at 26 A.A.R. 916, with an immediate effective date of April 9, 2020 (Supp. 20-2).

**R3-2-1118. Termination by Recipient**

Grading services under this Article shall be unilaterally terminated by the recipient of such service when:

- A. Service is not installed within six months from the date the application is filed due to inaction by the applicant or recipient on Department requirements.
- B. Service remains inactive for a period of more than six months due to a recipient's request for removal of a grader and the recipient does not accept reassignment of another grader by the Department.
- C. The recipient is terminated for cause based on violations listed in R3-2-1105(D).

**Historical Note**

Section made by final exempt rulemaking at 26 A.A.R. 916, with an immediate effective date of April 9, 2020 (Supp. 20-2).

**R3-2-1119. Mutual Termination**

- A. The Department and the recipient of service may mutually agree to termination of the service, under the following terms:
- B. Previously paid fees will not be returned to the service recipient.
- C. Pending charges will be paid in full for completed work of the Department.
- D. A pending application will be considered terminated, but a new application may be filed at any time, without penalty.
- E. Termination shall not take effect until the end of a 30-days' notice period, unless the parties agree otherwise.
- F. The mutual decision to terminate and any related agreements are documented in writing.

**Historical Note**

Section made by final exempt rulemaking at 26 A.A.R. 916, with an immediate effective date of April 9, 2020 (Supp. 20-2).

**R3-2-1120. Appeals**

- A. Appeal grading. An appeal grading may be requested by any recipient or authorized designee or other interested party ("appellant") who is dissatisfied with the determination by a grader of the class, quality, quantity, or condition of any product as evidenced by the AZDA grademark and accompanying label, or as stated on a grading certificate.
1. The appeal shall be filed with the original grader's immediate supervisor.
  2. Initial review of the appeal shall be made by the original grader's immediate supervisor, or by one or more licensed graders assigned by the immediate supervisor to review the appeal.

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2. An appeal may be made orally or in writing. If made orally, written confirmation is required. The appellant shall clearly state the reasons for requesting the appeal grading and a description of the product, or the decision which is questioned. If such appeal request is based on the results stated on an official certificate, the original and all available copies of the certificate shall be provided to the grader assigned to perform the appeal grading.
  3. The appellant's request for the appeal grading may be refused when it appears to the reviewer that the reasons given in the request are frivolous or not substantial, the quality or condition of the product has undergone a material change since the original grading, the original lot has changed in some manner, or the appellant has not materially complied with the requirements of this Article. In such case, the appellant shall be promptly notified of the reason or reasons for such refusal.
  4. If an appeal grading is granted, it shall be performed by a grader other than the original grader. Whenever practical, an appeal grading shall be conducted jointly by two independent graders.
  5. The following procedures shall be used for appeal grading:
    - a. The appeal sample shall consist of product taken from the original sample container plus an equal number of samples selected at random.
    - b. When the original samples are not available or have been altered, such as the removal of undergrades, the appeal sample size for the lot shall consist of double the samples required in R3-2-1102.
    - c. Eggs shall not have been moved from the original place of grading and must have been maintained under adequate refrigeration.
  6. Immediately after an appeal grading is completed, an appeal certificate shall be issued to show that the original grading was upheld, modified, or rejected. Such certificate shall supersede any previously issued certificate for the product involved and shall clearly identify the number and date of the superseded certificate. The issuance of the appeal certificate may be withheld until any previously issued certificate and all copies have been returned when such action is deemed necessary to protect the interest of the Department. When the appeal grader assigns a different grade to the lot, the existing AZDA grademark shall be changed or obliterated as necessary. When the appeal grader assigns a different class or quantity designation to the lot, the labeling shall be corrected.
- B.** Appeal for suspension, termination or denial of service or debarment. Any person whose grading service is suspended, terminated, denied service, or debarred, may request a hearing before an administrative law judge pursuant to A.R.S. Title 41, Chapter 6, Article 10. The decision of the administrative law judge is subject to review by the Director as provided by A.R.S. Title 41, Chapter 6, Article 10.
- Historical Note**  
Section made by final exempt rulemaking at 26 A.A.R. 916, with an immediate effective date of April 9, 2020 (Supp. 20-2).
- R3-2-1121. AZDA Grading Certificates**
- A.** Forms. AZDA grading certificates and sampling report forms (including appeal grading certificates and regrading certificates) shall be issued on forms approved by the Administrator.
  - B.** Issuance.
    1. Resident grading basis. Certificates will be issued only upon request therefor by the applicant or AZDA. When requested, a grader shall issue a certificate covering product graded by such grader. In addition, a grader may issue a grading certificate covering product graded in whole or in part by another grader when the grader has knowledge that the product is eligible for certification based on personal examination of the product or official grading records.
    2. Other than resident grading. Each grader shall, in person or by the grader's authorized agent, issue a grading certificate covering each product graded by such grader. A grader's name may be signed on a grading certificate by a person other than the grader, if such person has been designated as the authorized agent of such grader by the Administrator, provided that:
      - a. The certificate is prepared from an official memorandum of grading signed by the grader; and
      - b. A notarized power of attorney authorizing such signature has been issued to such person by the grader and is on file in the office of grading. In such case, the authorized agent shall sign both the agent's name and the grader's name, for example, "John Doe by Mary Roe."
- C.** Disposition. The original and required or requested copies of the grading certificate, immediately upon issuance, shall be delivered, mailed, or electronically submitted to the recipient or the recipient's designee. One copy is required to be sent and the recipient may request additional copies. Other copies shall be filed and retained in accordance with the disposition schedule for grading program records.
- Historical Note**  
Section made by final exempt rulemaking at 26 A.A.R. 916, with an immediate effective date of April 9, 2020 (Supp. 20-2).
- R3-2-1122. Minimum Facility and Operating Requirements for Egg Grading and Packing Plants**
- A.** For grading services that are provided on a resident or temporary basis, QAD 700 Shell Egg Graders Handbook Section 02 through Section 08, revised as of August 30, 2016. This material is incorporated by reference, does not include any later amendments or editions of the incorporate matter, and is on file with the Department at 1688 W. Adams St., Phoenix, AZ 85007; and the following minimum facility and operating conditions will be required:
  - B.** Applicants must comply with all applicable Federal, State and local government occupational safety and health regulations.
  - C.** Processing facilities are required to have a documented and implemented Quality Management System that meets Title 21, Part 117 of the U.S. Code of Federal Regulations "Current Good Manufacturing Practice, Hazard Analysis, and Risk-based Preventive Controls for Human Foods," revised as of April 1, 2018. This material is incorporated by reference, does not include any later amendments or editions of the incorporate matter, and is on file with the Department at 1688 W. Adams St., Phoenix, AZ 85007.
  - D.** General requirements for premises, buildings and plant facilities.
    1. The outside premises shall be free from refuse, rubbish, waste, unused equipment, and other materials and conditions which constitute a source of odors or a harbor for insects, rodents, and other vermin.
    2. The outside premises adjacent to grading, packing, cooler, and storage rooms must be constructed to provide proper drainage to prevent conditions that may constitute a source of odors or propagate insects or rodents.



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3. Buildings shall be of sound construction so as to prevent, insofar as practicable, the entrance or harboring of vermin.
  4. Grading and packing rooms shall be of sufficient size to permit installation of necessary equipment and conduct grading and packing in a sanitary manner. These rooms shall be kept reasonably clean during grading and packing operations and shall be thoroughly cleaned at the end of each operating day.
  5. The floors, walls, ceilings, partitions, and other parts of the grading and packing rooms including benches and platforms shall be constructed of materials that are readily cleanable, maintained in a sanitary condition, and impervious to moisture in areas exposed to cleaning solutions or moist conditions. The floors shall be constructed as to provide proper drainage.
  6. Adequate toilet accommodations that are conveniently located and separated from the grading and packing rooms are to be provided. Handwashing facilities shall be provided with hot and cold running water, an acceptable handwashing detergent, and a sanitary method for drying hands. Toilet rooms shall be ventilated to the outside of the building and be maintained in a clean and sanitary condition. Signs shall be posted in the toilet rooms instructing employees to wash their hands before returning to work. In new or remodeled construction, toilet rooms shall be located in areas that do not open directly into processing rooms.
  7. A separate refuse room or a designated area for the accumulation of trash must be provided in plants which do not have a system for the daily removal or destruction of such trash.
  8. Adequate packing and packaging storage areas are to be provided that protect packaging materials and are dry and maintained in a clean and sanitary condition.
- E. Grading and packing room requirements.**
1. The egg grading or candling area shall be capable of adequate darkening to make possible the accurate quality determination of the candled appearance of eggs. There shall be no light source or reflection of light that interferes with, or prohibits the accurate quality determination of eggs in the grading or candling areas.
  2. The grading and candling equipment shall provide adequate light to facilitate quality determinations. When needed, other light sources and equipment or facilities shall be provided to permit the detection and removal of stained and dirty eggs or other undergrade eggs.
  3. The grading and candling equipment must be sanitarily designed and constructed to facilitate cleaning. Such equipment shall be kept reasonably clean during grading and packing operations and be thoroughly cleaned at the end of each operating day.
  4. Egg weighing equipment shall be constructed of materials to permit cleaning; operated in a clean, sanitary manner; and shall be capable of ready adjustment.
  5. Adequate ventilation, heating, and cooling shall be provided where needed.
- F. Cooler room requirements.**
1. Cooler rooms holding eggs that are identified with a consumer grade shall be refrigerated and capable of maintaining an ambient temperature no greater than 45 °F (7.2 °C).
  2. Accurate thermometers shall be provided for monitoring cooler room temperatures.
  3. Cooler rooms shall be free from objectionable odors and from mold, and shall be maintained in a sanitary condition.
- G. Egg protecting operations.**
1. Egg protecting (oil application) operations shall be conducted in a manner to avoid contamination of the product and maximize conservation of its quality.
  2. Component equipment within the egg protecting system, including holding tanks and containers, must be sanitarily designed and maintained in a clean and sanitary manner, and the application equipment must provide an adequate amount of oil for shell coverage of the volume of eggs processed.
  3. Eggs with excess moisture on the shell shall not be shell protected.
  4. Oil having any off odor, or that is obviously contaminated, shall not be used in egg protection operations. Oil is to be filtered prior to application.
  5. The component equipment of the application system shall be washed, rinsed, and treated with a bactericidal agent each time the oil is removed.
  6. Adequate coverage and protection against dust and dirt shall be provided when the equipment is not in use.
- H. Egg cleaning operations.**
1. Egg washing equipment must be sanitarily designed, maintained in a clean and sanitary manner, and thoroughly cleaned at the end of each operating day.
  2. Egg drying equipment must be sanitarily designed and maintained in a clean and sanitary manner. Air used for drying purposes must be filtered. These filters shall be cleaned or replaced as needed to maintain a sanitary process.
  3. The temperature of the wash water shall be maintained at 90 °F (32.2 °C) or higher, and shall be at least 20 °F (6.7 °C) warmer than the internal temperature of the eggs to be washed. These temperatures shall be maintained throughout the cleaning cycle. Accurate thermometers shall be provided for monitoring wash water temperatures.
  4. Approved cleaning compounds shall be used in the wash water.
  5. Wash water shall be maintained at a measurable pH level of 11 or higher. Accurate testing equipment shall be provided and accessible to the grader. If continuous monitoring of pH is not possible, the applicant should devise a monitoring system for documenting pH with a frequency that has been validated.
  6. Wash water shall be changed approximately every four hours or more often if needed to maintain sanitary conditions, and at the end of each shift. Remedial measures shall be taken to prevent excess foaming during the egg washing operation.
  7. Replacement water shall be added continuously to the wash water of washers. Chlorine or quaternary sanitizing rinse water may be used as part of the replacement water, provided, they are compatible with the washing compound. Iodine sanitizing rinse water may not be used as part of the replacement water.
  8. Only potable water may be used to wash eggs. Each official plant shall submit certification to the office of grading stating that their water supply is potable. An analysis of the iron content of the water supply, stated in parts per million, is also required. When the iron content exceeds two parts per million, equipment shall be provided to reduce the iron content below the maximum allowed level. Frequency of testing for potability and iron content



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shall be determined by the Administrator. When the water source is changed, new tests are required.

9. Waste water from the egg washing operation shall be piped directly to drains.
  10. The washing, rinsing, and drying operations shall be continuous and shall be completed as rapidly as possible to maximize conservation of the egg's quality and to prevent sweating of eggs. Eggs shall not be allowed to stand or soak in water. Immersion-type washers shall not be used.
  11. Prewetting eggs prior to washing may be accomplished by spraying a continuous flow of water over the eggs in a manner which permits the water to drain away or other methods which may be approved by the Administrator. The temperature of the water shall be the same as prescribed in this Section.
  12. Washed eggs shall be spray-rinsed with water having a temperature equal to, or warmer than, the temperature of the wash water. The spray-rinse water shall contain a sanitizer that has been determined acceptable for the intended use by the supervisor and of not less than 100 PPM nor more than 200 PPM of available chlorine or its equivalent. Alternate procedures, in lieu of a sanitizer rinse, may be approved by the Administrator.
  13. Test kits shall be provided and used to determine the strength of the sanitizing solution.
  14. During non-processing periods, eggs shall be removed from the washing and rinsing area of the egg washer and from the scanning area whenever there is a buildup of heat that may diminish the quality of the egg.
  15. Washed eggs shall be reasonably dry before packaging and packing.
  16. Steam, vapors, or odors originating from the washing and rinsing operation shall be continuously and directly exhausted to the outside of the building.
- I. Requirements for eggs officially identified with a grademark.**
1. Eggs that are officially identified with an AZDA grademark shall be placed under refrigeration at an ambient temperature no greater than 45 °F (7.2 °C) promptly after packaging.
  2. Eggs that are to be officially identified with the AZDA grademark shall be packed only in new packaging materials that are clean, free of mold, mustiness and off odors, or clean and sanitized packaging material designed to be reused, and must be of sufficient strength and durability to adequately protect the eggs during normal distribution. When packed in other than fiber packing material, the containers must be of sound construction and maintained in a reasonably clean manner.
- J. Use of approved chemicals and compounds.**
1. All egg washing and equipment cleaning compounds, defoamers, destainers, sanitizers, inks, oils, lubricants, or any other compound that comes into contact with the eggs shall be approved by the national supervisor for their specified use and handled in accordance with the manufacturer's instructions.
  2. All pesticides, insecticides, and rodenticides shall be approved for their specified use and handled in accordance with the manufacturer's instructions.
- K. Marking individual eggs.** The marking of individual eggs may be requested by processors as part of a specification requirement or for other marketing purposes.
1. Stamping eggs. Recognizing the difficulty in clearly stamping the rounded surface of an egg, a lot average tolerance of 10-percent for individual eggs with partial, illegible, or no marks in any combination is permitted with no individual case exceeding 20-percent. These tol-

erances may be applied as a moving average when performing online sampling or as a lot average while performing stationary lot gradings. If more than 50% of the image or letter or letters is missing, the symbol is illegible. Stamped eggs are not classified as stains or dirty. They are to be graded without regard to marking. An official grade cannot be assigned to a mixed lot of eggs that contains individually marked and unmarked eggs. If requested, the lot may be graded for all factors except ink stains. Lot averages may be shown on the certificate. The section "Official Grade and Size" shall state "No AZDA Grade." The following statement shall also be placed in the "Remarks" section: "Lot contains marked and unmarked eggs. Eggs graded for all factors except ink stains." Individual eggs with ink blotches or smears from dating devices are to be classified as stains or dirty, depending on the intensity and/or area of the stain [guidance not clear]. Inks used in marking individual eggs which will be officially graded are to be approved by the Administrator prior to their use. The request for approval should be accompanied with a copy of the ink formula, the name of the product, and the name and address of the manufacturer.

2. Laser etching (marking eggs). The use of a laser etching system to mark information is subject to joint review by the Food and Drug Administration (food safety impact evaluation) and AZDA (quality impact evaluation). Only approved laser etching systems may be used to identify eggs to be officially graded and identified with an AZDA grademark. The amount of the shell surface available for laser etching and the information etched on the shell is subject to review by the resident grader and the supervisor. The information etched on the shell must not interfere with the graders ability to evaluate the quality attributes of the egg.
3. When an individual egg is marked, whether an applied ink or laser etched, the information must be consistent with the information on the label, for example, any marketing claims, production code, or packer identity. If this information is not consistent throughout the lot, the eggs are not eligible to be identified with an AZDA grademark.

**Historical Note**

Section made by final exempt rulemaking at 26 A.A.R. 916, with an immediate effective date of April 9, 2020 (Supp. 20-2).

**R3-2-1123. Health and Hygiene of Personnel**

- A.** No person known to be affected by a communicable or infectious disease shall be permitted to come in contact with the product.
- B.** Plant personnel coming into contact with the product shall wear clean clothing.

**Historical Note**

Section made by final exempt rulemaking at 26 A.A.R. 916, with an immediate effective date of April 9, 2020 (Supp. 20-2).

**R3-2-1124. Use of the "Produced From" Labeling**

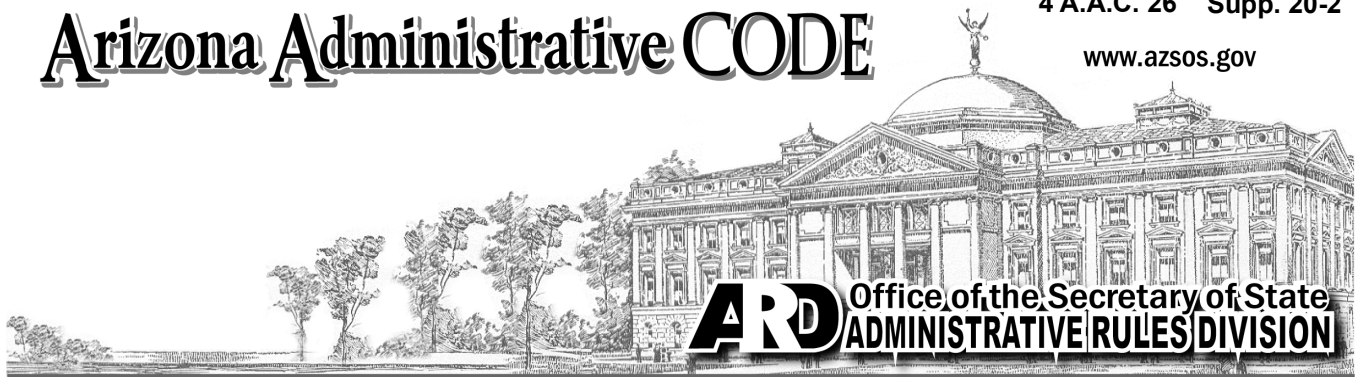
- A.** Use of the wording "Produced From" in conjunction with the AZDA grademark, is limited to products derived from AZDA Grade AA or Grade A eggs for which there are no U.S. grade standards (for example, pasteurized eggs or hard-cooked eggs). The following guidelines are to be used when monitoring the official grade identification of these types of products.

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1. Approval. Applicants interested in utilizing the “Produced From” labeling must submit a written proposal to the Administrator. The proposal is to include the type or types of product to be labeled and the applicant’s plan for controlling the use and labeling of officially identified product. After review by the supervisor, the supervisor is to forward the request to the Administrator for final review and approval. Upon approval, the supervisor is to reconfirm all of the requirements with the applicant prior to any actual grade identification.
  2. Verification visits. To assure that only officially graded eggs are being used, the processing, packing, and packaging must be closely monitored. Each verification visit shall include a review of records, product inventory, processing procedures, packing, packaging, storage, and shipping practices to confirm that the applicant is following the protocol outlined in their approved plan. In plants with resident service, the supervisor or Administrator is to be present during the initial production period to monitor the process and verify compliance. The grader will conduct all subsequent monitoring and verification activities with oversight from the supervisor. In temporary or fee locations, plant management must notify the supervisor each time the “produced from” labeling will be used or, alternatively, provide the supervisor with a projected production schedule. At these locations, compliance will be based on the applicant’s established history of compliance as outlined in the following schedule:
    - a. Level 1 - The supervisor or administrator is to monitor and verify the process on the initial day of production. The supervisor or a grader will conduct subsequent visits. At least one additional verification visit is to be conducted during the next 10 production days. If no discrepancies are noted, one visit is to be conducted for each 30 days of production until three consecutive satisfactory visits have been completed. Once this verification period has ended without any noted program non-conformance, monitoring may proceed to Level 2.
    - b. Level 2 - Supervisor or a grader is to conduct quarterly verification visits provided the applicant continues to meet all program requirements. If any nonconformance is noted during these visits, monitoring reverts back to Level 1. Misuse of the labeling will result in cancellation of the approval.
  - B. Recordkeeping. Recipients shall maintain, and make available for review, all invoices or applicable Grading Certificates covering product received, produced, and shipped. At a minimum, these records must include the name and address of original packer, amount received, quantity produced, brand names, lot numbers, quantity shipped and name and address of receivers. Records must be maintained for two years.
  - C. Cost. There will be no additional charge to resident plants when graders monitor product labeling during their normal grading activities. When graded product is shipped from official plants to other processing locations for re-packaging that are not under continuous AZDA supervision, time and expenses associated in conducting the verification visits will be charged to the recipient at the current Temporary grading and auditing service rate.
- Historical Note**  
Section made by final exempt rulemaking at 26 A.A.R. 916, with an immediate effective date of April 9, 2020 (Supp. 20-2).
- R3-2-1125. Specification Grading**
- A. Applicants may request for additional specifications to be certified that exceed the standards of this Chapter. The requested specifications must be submitted in writing to the administrator for approval. The approving official will review the information for approval or advise the applicant of the reason or reasons for disapproval. If the specification is approved, a letter enclosing a copy of the approved application and specification will be returned to the applicant with a request to provide copies of the specification to each supplier and applicable AZDA grader. Each page of the approved specification will have an approval stamp bearing the date of approval and the signature of the approving official. Additionally, each page will be sequentially numbered such as page 1 of 5, page 2 of 5, etc.
  - B. Plant management is responsible for advising graders when they are preparing to pack eggs in accordance with an approved specification. However, each grader must be familiar with the approved specification list and, to the extent practically possible, be aware when products with approved specifications are being packed at the duty location. When a plant packs product requiring compliance with an approved specification, the grader shall obtain a copy of the specification from plant management and assure that all provisions of the specification are met. As applicable, product that meets specification requirements will be identified in accordance with procedures outlined in the approved specification. When the specification requires the issuance of a grading certificate, the following statement is to be placed in the remarks section of the certificate: “Product covered by this certificate meets specification requirements for \_\_\_\_\_.”
- Historical Note**  
Section made by final exempt rulemaking at 26 A.A.R. 916, with an immediate effective date of April 9, 2020 (Supp. 20-2).

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## TITLE 4. PROFESSIONS AND OCCUPATIONS

### CHAPTER 26. BOARD OF PSYCHOLOGIST EXAMINERS

The table of contents on the first page contains quick links to the referenced page numbers in this Chapter. Refer to the notes at the end of a Section to learn about the history of a rule as it was published in the *Arizona Administrative Register*.

Sections, Parts, Exhibits, Tables or Appendices codified in this supplement. The list provided contains quick links to the updated rules.

This Chapter contains rule Sections that were filed to be codified in the *Arizona Administrative Code* between the dates of April 1, 2020 through June 30, 2020,

<a href="#">R4-26-203.</a>	<a href="#">Application for Initial License .....</a>	<a href="#">9</a>	<a href="#">R4-26-403.</a>	<a href="#">Application for Initial License .....</a>	<a href="#">21</a>
<a href="#">R4-26-203.01.</a>	<a href="#">Application for Licensure by Credential .....</a>	<a href="#">10</a>	<a href="#">R4-26-404.1.</a>	<a href="#">Education Requirement .....</a>	<a href="#">22</a>
<a href="#">R4-26-205.</a>	<a href="#">Renewal of License .....</a>	<a href="#">13</a>	<a href="#">R4-26-404.2.</a>	<a href="#">Supervised Experience Requirement .....</a>	<a href="#">22</a>
<a href="#">R4-26-207.</a>	<a href="#">Continuing Education .....</a>	<a href="#">14</a>	<a href="#">R4-26-406.</a>	<a href="#">Ethical Standard .....</a>	<a href="#">23</a>
<a href="#">Table 1.</a>	<a href="#">Time Frames (in days) for Processing Applications .....</a>	<a href="#">16</a>	<a href="#">R4-26-407.</a>	<a href="#">Repealed .....</a>	<a href="#">23</a>
			<a href="#">R4-26-408.</a>	<a href="#">License Renewal .....</a>	<a href="#">24</a>
<a href="#">R4-26-401.</a>	<a href="#">Definitions .....</a>	<a href="#">20</a>	<a href="#">R4-26-415.</a>	<a href="#">Informal Interview .....</a>	<a href="#">26</a>

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#### The release of this Chapter in Supp. 20-2 replaces Supp. 18-4, 1-31 pages

Please note that the Chapter you are about to replace may have rules still in effect after the publication date of this supplement. Therefore, all superseded material should be retained in a separate binder and archived for future reference.



## Administrative Rules Division

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## TITLE 4. PROFESSIONS AND OCCUPATIONS

## CHAPTER 26. BOARD OF PSYCHOLOGIST EXAMINERS

(Authority: A.R.S. § 32-2061 et seq.)

*Editor's Note: This Chapter contains amendments that were filed with the Secretary of State on March 3, 1995. At the time of filing, the original copy of the rulemaking package differed from the copy of the package filed at the same time. The Secretary of State uses the copy to prepare the Code supplement. The agency notified the Secretary of State that the wrong version was used. That led to the Secretary of State's discovery of the two versions filed in March 1995. The Secretary of State then used the original package to publish a corrected edition with Supp. 95-2. The Secretary of State has since been advised by the Attorney General that the original version as published with Supp. 95-1 was correct with the exception of one phrase in R4-26-207 that was inadvertently omitted. With this publication, this Chapter reflects the correct amendments, and the omitted phrase in R4-26-207 has now been added.*

## ARTICLE 1. GENERAL PROVISIONS

Article 1, consisting of Sections R4-26-01 through R4-26-10;  
Article 2, consisting of Sections R4-26-20 through R4-26-28; and  
Article 3, consisting of Sections R4-26-50 through R4-26-57,  
renumbered, refer to Historical Notes (Supp. 81-3).

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## CHAPTER 26. BOARD OF PSYCHOLOGIST EXAMINERS

## ARTICLE 1. GENERAL PROVISIONS

## R4-26-101. Definitions

A. The definitions in A.R.S. § 32-2061 apply to this Chapter.

B. Additionally, in this Chapter:

1. "Additional examination" means an examination administered by the Board to determine the competency of an applicant and may include questions about the applicant's knowledge and application of Arizona law, the practice of psychology, ethical conduct, and psychological assessment and treatment practices.
2. "Administrative completeness review" means the Board's process for determining that an applicant has provided all of the information and documents required by the Board to determine whether to grant a license to the applicant.
3. "Advertising" means any media used to disseminate information regarding the qualifications of a psychologist or to solicit clients or patients for psychological services, regardless of whether the psychologist pays for the advertising. Methods of advertising include a published statement or announcement, directory listing, business card, personal resume, brochure, or any electronic communication conveying the psychologist's professional qualifications or promoting use of the psychologist's professional services.
4. "Applicant" means an individual requesting licensure, renewal, or approval from the Board.
5. "Application packet" means the forms and documents the Board requires an applicant to submit to the Board.
6. "Applied psychology," as used in A.R.S. § 32-2071(A), means the practice of psychology in the area of health service delivery. The Board shall consider education and training in applied psychology as qualification for licensure only if the education and training meet the standards specified in A.R.S. § 32-2071.
7. "Case," in the context of R4-26-106 (G), means a legal cause of action instituted before an administrative tribunal or in a judicial forum that relates to a psychologist's practice of psychology.
8. "Case conference" means a meeting that includes the discussion of a particular client or patient or case that is related to the practice of psychology.
9. "Client or patient record" means "adequate records" as defined in A.R.S. § 32-2061(2), "medical records" as defined in A.R.S. § 12-2291 (6), and all records pertaining to assessment, evaluation, consultation, intervention, treatment, or the provision of psychological services in any form or by any medium.
10. "Complaint Screening Committee" means the committee of the Board established under A.R.S. § 32-2081 (H) to conduct an initial review of all complaints.
11. "Confidential record" means:
  - a. Minutes of an executive session of the Board;
  - b. A record that is classified as confidential by a statute or rule applicable to the Board;
  - c. All materials relating to an investigation by the Board, including a complaint, response, client or patient record, witness statement, investigative report, and any other information relating to a client's or patient's diagnosis, treatment, or personal or family life; and
  - d. The following regarding an applicant or licensee:
    - i. College or university transcripts;
    - ii. Home address, home telephone number, and e-mail address;
    - iii. Examination scores;
    - iv. Date of birth v. Place of birth;
- vi. Social Security number; and
- vii. Candidate identification number for the national examination required under A.R.S. § 32-2072(A).
12. "Credentialing agency" means the Association of State and Provincial Psychology Boards, the National Register of Health Service Providers in Psychology, or the American Board of Professional Psychology.
13. "Day" means a calendar day except in A.R.S. § 32-2075(A)(4), "day" means a total of eight hours in providing psychological services regardless of the number of calendar days over which the hours are accumulated.
14. "Diplomate or specialist" means a status bestowed on a person by the American Board of Professional Psychology after successful completion of the work and examinations required.
15. "Directly available," as used in A.R.S. § 32-2071 (F)(2), means immediately available in person or by telephone or electronic transmission.
16. "Disaster," as used in A.R.S. § 32-2075(A)(4), means a contingency or situation for which the governor declares a state of emergency under the authority provided at A.R.S. § 35-192. The Board acknowledges any state of emergency declared by the governor or determined by the Board.
17. "Dissertation" means a document prepared as part of a graduate doctoral program that includes, at a minimum, separate sections that:
  - a. Review the literature on the psychology topic being investigated and state each research question and hypothesis under investigation;
  - b. Describe the method or procedure used to investigate each research question or hypothesis;
  - c. Describe and summarize the findings and results of the investigation;
  - d. Discuss the findings and compare them to the relevant literature presented in the literature review section; and
  - e. List the references used in the various sections of the dissertation, a majority of which are either journals of the American Psychological Association, Psychological Abstracts, or classified as a psychology subject by the Library of Congress.
18. "Fellow" means a status bestowed on a person by a psychology association or society.
19. "Gross negligence" means an extreme departure from the ordinary standard of care.
20. "Internship training program" means the supervised professional experience required in A.R.S. § 32-2071 (F).
21. "Last client or patient activity," as used in R4-26-106, means the last date a particular client or patient received direct clinical contact from the psychologist retaining the client's or patient's record.
22. "License period" means:
  - a. For a licensee who holds an odd-numbered license, the two years between the first day of the month after the licensee's birth month of one odd-numbered year and the last day of the licensee's birth month of the next odd-numbered year; and
  - b. For a licensee who holds an even-numbered license, the two years between the first day of the month after the licensee's birth month of one even-numbered year and the last day of the licensee's birth month of the next even-numbered year.

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23. "National examination" means the Examination for Professional Practice in Psychology provided by the Association of State and Provincial Psychology Boards.
24. "Party" means the Board, an applicant, a licensee, or the state.
25. "Practice monitor," as used in R4-26-310, means a Board-approved licensed psychologist who monitors or oversees the remediation of the practice of another psychologist as part of a disciplinary process.
26. "Primarily psychological," in the context of A.R.S. § 32-2071(A)(6), means subject matter that covers the practice of psychology as defined in A.R.S. § 32-2061 (9).
27. "Psychologist on staff," as used in A.R.S. § 32-2071(F)(2), means a psychologist who is designated by the staff psychologist specified in A.R.S. § 32-2071(F)(1) to fulfill the responsibilities of a supervising psychologist in the training program.
28. "Psychometric testing" means measuring cognitive and emotional processes and learning through the administration of psychological tests.
29. "Raw test data" means test scores, client or patient responses to test questions or stimuli, and notes and recordings concerning client or patient statements and behavior during a psychologist's assessment and evaluation.
30. "Regulatory jurisdiction" means a state or territory of the U.S., the District of Columbia, or a foreign country with authority to grant or deny entry into a profession or occupation.
31. "Renewal year" means:
  - a. Each odd-numbered year for a licensee who holds an odd-numbered license, and
  - b. Each even-numbered year for a licensee who holds an even-numbered license.
32. "Retired," as used in A.R.S. § 32-2073 (G), means a psychologist has stopped practicing psychology, as defined in A.R.S. § 32-2061 (9).
33. "Stipend" means a fee paid to a supervisee that is not based on productivity or revenue generated.
34. "Substantive review" means the Board's process for determining whether an applicant meets the requirements of A.R.S. § 32-2071 through § 32-2076 and this Chapter.
35. "Successfully completing," as used in A.R.S. § 32-2071(A)(4), means receiving a passing grade in a course from an institution of higher education.
36. "Supervision," as used in R4-26-310, means review and oversight of the professional work of a psychologist by a Board-approved licensed psychologist as part of a disciplinary process.
37. "Supervise" means to control, oversee, and review the activities of an employee, intern, trainee, or resident who provides psychological services.
38. "Supervisor," as referenced in A.R.S. § 32-2071(F)(2), means an individual who is:
  - a. Licensed or registered as a psychologist at the independent level in the regulatory jurisdiction in which the supervision occurs,
  - b. On staff as a supervisor with the training program for which supervision is provided, and
  - c. Directly available to the supervisee in case of an emergency or ensures another supervisor is directly available to the supervisee.
39. "Year," as used in A.R.S. § 32-2075(A)(4) means a calendar year.

**Historical Note**

Former Rule 1; Former Section R4-26-01 repealed, new Section R4-26-01 adopted effective July 27, 1979 (Supp. 79-4). Amended effective June 17, 1981 (Supp. 81-3). Former Section R4-26-101 renumbered to R4-26-102; new Section R4-26-101 adopted effective March 3, 1995 (Supp. 95-1). Corrections made to text; agency filed different versions of text in original and copies; corrections reflect the original version (Supp. 95-2). Pursuant to the advice of the Attorney General, the text of this Section now contains the text certified by the Attorney General and filed as a copy effective March 3, 1995 (Supp. 95-3). Amended by final rulemaking at 5 A.A.R. 737, effective February 19, 1999 (Supp. 99-1). Amended by final rulemaking at 6 A.A.R. 3297, effective August 7, 2000 (Supp. 00-3). Amended by final rulemaking at 9 A.A.R. 778, effective April 12, 2003 (Supp. 03-1). Amended by final rulemaking at 10 A.A.R. 4743, effective January 1, 2005 (Supp. 04-4). Amended by final rulemaking at 13 A.A.R. 1493, effective June 2, 2007 (Supp. 07-2). Amended by final rulemaking at 21 A.A.R. 3444, effective January 30, 2016 (Supp. 15-4). Amended by final rulemaking at 22 A.A.R. 3083, October 4, 2016 (Supp. 16-4).

**R4-26-102. Board Officers**

- A. Under A.R.S. § 32-2063(A)(8), the Board shall annually elect a chairperson, vice chairperson, and secretary.
- B. Officers elected under subsection (A) shall take office on January 1 following election and serve until December 31.
- C. If a vacancy occurs in the office of chairperson, vice chairperson, or secretary, the Board shall elect a replacement officer at the next scheduled Board meeting.

**Historical Note**

Former Rule 2; Amended effective November 22, 1977 (Supp. 77-6). Repealed effective September 15, 1978 (Supp. 78-5). New Section R4-26-02 adopted effective July 27, 1979 (Supp. 79-4). Amended effective July 3, 1991 (Supp. 91-3). Former Section R4-26-102 renumbered to R4-26-103; new Section R4-26-102 renumbered from R4-26-101 and amended effective March 3, 1995 (Supp. 95-1). Pursuant to the advice of the Attorney General, the text of this Section now contains the text certified by the Attorney General and filed as a copy effective March 3, 1995 (Supp. 95-3). Amended by final rulemaking at 6 A.A.R. 3297, effective August 7, 2000 (Supp. 00-3). Amended by final rulemaking at 21 A.A.R. 3444, effective January 30, 2016 (Supp. 15-4).

**R4-26-103. Repealed****Historical Note**

Former Rule 3; Amended effective November 22, 1977 (Supp. 77-6). Repealed effective September 15, 1978 (Supp. 78-5). New Section R4-26-03 adopted effective July 27, 1979 (Supp. 79-4). Former Section R4-26-103 renumbered to R4-26-104; new Section R4-26-103 renumbered from R4-26-102 and amended effective March 3, 1995 (Supp. 95-1). Pursuant to the advice of the Attorney General, the text of this Section now contains the text certified by the Attorney General and filed as a copy effective March 3, 1995 (Supp. 95-3). Amended by final rulemaking at 6 A.A.R. 3297, effective August 7, 2000 (Supp. 00-3). Repealed by final rulemaking at 21 A.A.R. 3444, effective January 30, 2016 (Supp. 15-4).

**R4-26-104. Committees**



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- A. As permitted under A.R.S. § 32-2064(B), the Board chairperson may appoint Board committees to assist the Board to fulfill the Board's responsibilities.
- B. The Board may appoint consulting committees to conduct investigations and make recommendations to the Board concerning official actions.

**Historical Note**

Former Rule 4; Former Section R4-26-04 repealed effective November 22, 1977 (Supp. 77-6). New Section R4-26-04 adopted effective September 15, 1978 (Supp. 78-5). Former Section R4-26-04 repealed, new Section R4-26-04 adopted effective July 27, 1979 (Supp. 79-4). Amended effective June 17, 1981 (Supp. 81-3). Correction, paragraph (2), subparagraph (f) as amended effective June 17, 1981 (Supp. 84-1). Amended effective July 3, 1991 (Supp. 91-3). Former Section R4-26-104 renumbered to R4-26-105; new Section R4-26-104 renumbered from R4-26-103 and amended effective March 3, 1995 (Supp. 95-1). Pursuant to the advice of the Attorney General, the text of this Section now contains the text certified by the Attorney General and filed as a copy effective March 3, 1995 (Supp. 95-3). Amended by final rulemaking at 21 A.A.R. 3444, effective January 30, 2016 (Supp. 15-4).

**R4-26-105. Board Records**

- A. A person may view public records in the Board office only during business hours, which are Monday through Friday from 8:00 a.m. to 5:00 p.m., excluding holidays.
- B. All Board records are open to public inspection and copying except confidential records as defined in R4-26-101 or as otherwise provided by law.

**Historical Note**

Former Rule 5; Former Section R4-26-05 repealed effective November 22, 1977 (Supp. 77-6). New Section R4-26-05 adopted effective September 15, 1978 (Supp. 78-5). Former Section R4-26-05 repealed effective September 15, 1978 (Supp. 78-5). Former Section R4-26-05 repealed, new Section R4-26-05 adopted effective July 27, 1979 (Supp. 79-4). Former Section R4-26-105 renumbered to R4-26-107; new Section R4-26-105 renumbered from R4-26-104 and amended effective March 3, 1995 (Supp. 95-1). Pursuant to the advice of the Attorney General, the text of this Section now contains the text certified by the Attorney General and filed as a copy effective March 3, 1995 (Supp. 95-3). Amended by final rulemaking at 6 A.A.R. 3297, effective August 7, 2000 (Supp. 00-3). Amended by final rulemaking at 21 A.A.R. 3444, effective January 30, 2016 (Supp. 15-4).

**R4-26-106. Client or Patient Records**

- A. A psychologist shall not condition release of a client or patient record on payment for services by the client, patient, or a third party.
- B. Except as provided in subsection (C), a psychologist shall, with a client's or patient's written consent, provide access to or a copy of the client's or patient's record, including raw test data and other information as provided by law to the client or patient or the client's or patient's health care decision maker unless the release violates copyright or other laws or violates one of the standards incorporated by reference at R4-26-301.
- C. A psychologist may deny a request to provide access to or a copy of a client's or patient's record if the psychologist determines:

1. Access by the client or patient is reasonably likely to endanger the life or physical safety of the client or patient or another person;
  2. The record makes reference to a person other than a health professional and access by the client or patient or the client's or patient's health care decision maker is reasonably likely to cause substantial harm to that other person;
  3. Access by the client's or patient's health care decision maker is reasonably likely to cause substantial harm to the client or patient or another person;
  4. Access by the client or patient or the client's or patient's health care decision maker will reveal information obtained under a promise of confidentiality with someone other than a health professional and access is reasonably likely to reveal the source of the information; or
  5. Access by the client or patient or the client's or patient's health care decision maker may result in misuse or misrepresentation of the information and potentially harm the client or patient.
- D. Without a client's or patient's consent, a psychologist shall release the client's or patient's raw test data only to the extent required by law or under court order compelling production.
  - E. A psychologist shall retain all client or patient records under the psychologist's control, including records of a client or patient who died, for at least six years from the date of the last client or patient activity. If a client or patient is a minor, the psychologist shall retain all client or patient records for at least three years past the client's or patient's 18th birthday or six years from the date of the last client or patient activity, whichever is longer.
  - F. Audio or video tapes created primarily for training or supervisory purposes are exempt from the requirement of subsection (E).
  - G. A psychologist who is notified by the Board or municipal, state, or federal officials of an investigation or pending case shall retain all records relating to that investigation or case until the psychologist receives written notice that the investigation is completed, the case is closed, or the matter has been fully adjudicated.
  - H. The provisions of this Section apply to all psychologists including a psychologist who is on inactive status under A.R.S. § 32-2073 (G).
  - I. A psychologist may retain client or patient records in electronic form. The psychologist shall ensure that client or patient records in electronic form are legible, stored securely, and an electronic backup copy is maintained.

**Historical Note**

Former Rule 6; Repealed effective November 22, 1977 (Supp. 77-6). New Section adopted effective March 3, 1995 (Supp. 95-1). Corrections made to text; agency filed different versions of text in original and copies; corrections reflect the original version (Supp. 95-2). Pursuant to the advice of the Attorney General, the text of this Section now contains the text certified by the Attorney General and filed as a copy effective March 3, 1995 (Supp. 95-3). Amended by final rulemaking at 6 A.A.R. 3297, effective August 7, 2000 (Supp. 00-3). Amended by final rulemaking at 13 A.A.R. 1493, effective June 2, 2007 (Supp. 07-2). Amended by final rulemaking at 21 A.A.R. 3444, effective January 30, 2016 (Supp. 15-4).

**R4-26-107. Change of Name, Mailing, Residential, or E-mail Address, or Telephone Number**

- A. The Board shall communicate with a psychologist using the contact information provided to the Board. To ensure timely

## CHAPTER 26. BOARD OF PSYCHOLOGIST EXAMINERS

communication from the Board, a psychologist shall notify the Board, in writing, within 30 days of any change of name, mailing, residential, or e-mail address (giving both the old and new addresses), or residential, business, or mobile telephone number.

- B. A psychologist who reports a name change shall submit to the Board legal documentation that substantiates the name change.
- C. A psychologist's failure to receive a renewal notice or other mail that the Board sends to the most recent address on file with the Board office does not excuse an untimely license renewal or the omission of any other action required by the psychologist.

**Historical Note**

Former Rule 7; Repealed effective September 15, 1978 (Supp. 78-5). New Section R4-26-107 renumbered from R4-26-105 and amended effective March 3, 1995 (Supp. 95-1). Pursuant to the advice of the Attorney General, the text of this Section now contains the text certified by the Attorney General and filed as a copy effective March 3, 1995 (Supp. 95-3). Amended by final rulemaking at 6 A.A.R. 3297, effective August 7, 2000 (Supp. 00-3). Amended by final rulemaking at 21 A.A.R. 3444, effective January 30, 2016 (Supp. 15-4).

**R4-26-108. Fees and Charges**

- A. As specifically authorized by A.R.S. § 32-2067(A), the Board establishes and shall collect the following fees:
  1. Application for an active license to practice psychology: \$350;
  2. Application for a temporary license under A.R.S. § 32-2073(B): \$200
  3. Reapplication for an active license: \$200;
  4. Issuance of an initial active or temporary license (prorated, as applicable): \$500;
  5. Duplicate license: \$25;
  6. Biennial renewal of an active license: \$500;
  7. Biennial renewal of an inactive license: \$85;
  8. Reinstatement of an active or inactive license: \$200; and
  9. Delinquent compliance with continuing education requirements: \$200.
- B. As specifically authorized by A.R.S. § 32-2067(A), the Board establishes and shall collect the following charges for the services provided:
  1. Duplicate renewal receipt: \$5;
  2. Copy of statutes and rules: \$5;
  3. Verification of a license: \$2;
  4. Audio recording of a Board or Committee meeting: \$10;
  5. Electronic medium containing the name and address of each licensee: \$.05 per name;
  6. Customized electronic medium containing the name and address of each current licensee: \$.25 per name;
  7. Customized electronic medium containing additional, non-confidential, licensee information: \$.35 per name; and
  8. Copies of Board records, documents, letters, minutes, applications, files, and policy statements: \$.25 per page.
- C. Except as provided by law, including A.R.S. § 41-1077, the fees listed in subsection (A) are not refundable.

**Historical Note**

Former Rule 8; Amended as an emergency effective June 15, 1978, pursuant to A.R.S. § 41-1003, valid for only 90 days (Supp. 78-3). Amended effective September 15, 1978 (Supp. 78-5). Repealed effective July 27, 1979 (Supp. 79-4). New Section R4-26-108 adopted effective March 3, 1995 (Supp. 95-1). Pursuant to the advice of the Attorney General, the text of this Section now contains

the text certified by the Attorney General and filed as a copy effective March 3, 1995 (Supp. 95-3). Former Section R4-26-108 renumbered to R4-26-201 by final rulemaking at 6 A.A.R. 3297, effective August 7, 2000 (Supp. 00-3). New Section adopted by final rulemaking at 7 A.A.R. 1258, effective February 20, 2001 (Supp. 01-1). Amended by final rulemaking at 13 A.A.R. 1493, effective June 2, 2007 (Supp. 07-2). Amended by final rulemaking at 21 A.A.R. 3444, effective January 30, 2016 (Supp. 15-4). Amended by final rulemaking at 22 A.A.R. 3083, October 4, 2016 (Supp. 16-4).

**R4-26-109. General Provisions Regarding Telepractice**

- A. Except as otherwise provided by law, a licensee who provides psychological service or supervision by telepractice to a client or patient or supervisee located outside Arizona shall comply with not only A.R.S. Title 32, Chapter 19.1, and this Chapter but also the laws and rules of the jurisdiction in which the client or patient or supervisee is located.
- B. Before providing psychological service or supervision by telepractice, a licensee shall establish competence in use of telepractice that conforms to prevailing standards of scientific and professional knowledge.
- C. A licensee who provides psychological service or supervision by telepractice shall maintain competence in use of telepractice through continuing education, consultation, or other procedures designed to address changing technology used in telepractice.
- D. A licensee who provides psychological service or supervision by telepractice shall take all reasonable steps to ensure confidential communications stored electronically cannot be recovered or accessed by an unauthorized person when the licensee disposes of electronic equipment or data.

**Historical Note**

Former Rule 9; Repealed effective July 27, 1979 (Supp. 79-4). New Section made by final rulemaking at 22 A.A.R. 3083, October 4, 2016 (Supp. 16-4).

**R4-26-110. Providing Psychological Service by Telepractice**

- A. Before providing psychological service by telepractice, a licensee who is in compliance with R4-26-109 shall conduct a risk analysis as clinically indicated and document in the client or patient's record required under R4-26-106 whether use of telepractice:
  1. Is consistent with the client or patient's knowledge and skill regarding use of the technology involved in providing psychological service by telepractice or with ready access to assistance with use of the technology, and
  2. Is in the best interest of the client or patient.
- B. A licensee shall not provide psychological service by telepractice unless both conditions of the risk analysis conducted under subsection (A) are met.
- C. Before providing psychological service by telepractice, a licensee shall:
  1. Obtain the written informed consent of the client or patient, using language that is clear and understandable and consistent with accepted professional and legal requirements. The licensee shall ensure the written informed consent addresses the following and a copy is placed in the client or patient's record required under R4-26-106:
    - a. The manner in which the licensee will verify the identity of the client or patient before each psychological service if the telepractice does not involve video;

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- b. The manner in which the licensee will ensure the client or patient's electronic communications are received only by the licensee or supervisee;
  - c. Limitations and innovative nature of using technology to provide psychological service;
  - d. Inherent confidentiality risk resulting from use of technology;
  - e. Potential risk of technology failure that disrupts provision of psychological service and how to re-establish communication if disruption occurs;
  - f. When and how the licensee will respond to routine electronic communications;
  - g. The circumstances under which the licensee and client or patient will use an alternative means of communication;
  - h. Who is authorized to access the electronic communication between the licensee and client or patient;
  - i. The manner in which the licensee stores the electronic communication between the licensee and the client or patient; and
  - j. The type of secure electronic technology the licensee will use to communicate with the client or patient;
2. Establish a written agreement with the client or patient that specifies contact information for sources of face-to-face emergency services in the client or patient's geographical area and requires the client or patient to contact a source of face-to-face emergency services when the client or patient experiences a suicidal or homicidal crisis or other emergency. If the licensee has knowledge the client or patient is experiencing a suicidal or homicidal crisis or other emergency, the licensee shall assist the client or patient to contact a source of face-to-face emergency services. The licensee shall place a copy of the written agreement required under this subsection in the client or patient's record required under R4-26-106.
3. Obtain the name and contact information for an emergency contact;
4. Obtain information about an alternative means of contacting the client or patient; and
5. Provide the client or patient with information about an alternative means of contacting the licensee.
- D.** A licensee who provides psychological service by telepractice shall repeat the risk analysis required under subsection (A) as clinically indicated.
- E.** If a licensee does not provide psychological service by telepractice to a client or patient, the provisions of this Section do not apply to electronic communications with the client or patient regarding:
- 1. Scheduling an appointment, billing, establishing benefits, or determining eligibility for services; and
  - 2. Checking the welfare of the client or patient in accord with reasonable professional judgment.

**Historical Note**

Adopted effective November 22, 1977 (Supp. 77-6).  
 Repealed and readopted as Section R4-26-57 effective July 27, 1979 (Supp. 79-4). New Section made by final rulemaking at 22 A.A.R. 3083, October 4, 2016 (Supp. 16-4).

**R4-26-111. Providing Supervision through Telepractice**

- A.** As specified under A.R.S. § 32-2071(F) and (G), a licensee who provides in-person individual supervision shall ensure that:
- 1. No more than 50 percent of the supervision is provided through telepractice; and

- 2. Supervision provided through telepractice is conducted using secure, confidential, real-time visual telecommunication technology.
- B.** Before providing supervision by telepractice, a licensee who is in compliance with R4-26-109 shall conduct a risk analysis as clinically indicated and document whether providing supervision by telepractice:
- 1. Is appropriate for the issue presented by the supervisee's client or patient involved in the supervisory process,
  - 2. Is consistent with the supervisee's knowledge and skill regarding use of the technology involved in providing supervision by telepractice, and
  - 3. Is in the best interest of both the supervisee and the supervisee's client or patient involved in the supervisory process.
- C.** A licensee shall not provide supervision by telepractice unless all conditions of the risk analysis conducted under subsection (B) are met.
- D.** Before providing supervision by telepractice, a licensee shall:
- 1. Enter a written agreement with the supervisee, using language that is clear and understandable and consistent with accepted professional and legal requirements. The licensee shall ensure the written agreement addresses the following and a copy is provided to the supervisee:
    - a. The manner in which the licensee will identify the supervisee before each supervisory session that does not involve video;
    - b. Limitations and innovative nature of using technology to provide supervision;
    - c. Potential risk of technology failure that disrupts provision of supervision and how to re-establish communication if disruption occurs;
    - d. When and how the licensee will respond to routine electronic communications from the supervisee;
    - e. The circumstances under which the licensee and supervisee will use an alternative means of communication; and
    - f. The type of secure electronic technology the licensee will use to communicate with the supervisee;
  - 2. Obtain information about an alternative means of contacting the supervisee; and
  - 3. Provide the supervisee with information about an alternative means of contacting the licensee.

**Historical Note**

New Section made by final rulemaking at 22 A.A.R. 3083, October 4, 2016 (Supp. 16-4).

**R4-26-112. Reserved****R4-26-113. Reserved****R4-26-114. Reserved****R4-26-115. Reserved****R4-26-116. Reserved****R4-26-117. Reserved****R4-26-118. Reserved****R4-26-119. Reserved****R4-26-120. Renumbered****Historical Note**

Former Section R4-26-120 renumbered to R4-26-201 effective July 27, 1979 (Supp. 79-4).

**R4-26-121. Renumbered**

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**Historical Note**

Former Section R4-26-120 renumbered to R4-26-202 effective July 27, 1979 (Supp. 79-4).

**R4-26-122. Renumbered**

**Historical Note**

Former Section R4-26-120 renumbered to R4-26-203 effective July 27, 1979 (Supp. 79-4).

**R4-26-123. Renumbered**

**Historical Note**

Former Section R4-26-120 renumbered to R4-26-204 effective July 27, 1979 (Supp. 79-4).

**R4-26-124. Renumbered**

**Historical Note**

Former Section R4-26-120 renumbered to R4-26-205 effective July 27, 1979 (Supp. 79-4).

**R4-26-125. Renumbered**

**Historical Note**

Former Section R4-26-120 renumbered to R4-26-206 effective July 27, 1979 (Supp. 79-4).

**R4-26-126. Renumbered**

**Historical Note**

Former Section R4-26-120 renumbered to R4-26-207 effective July 27, 1979 (Supp. 79-4).

**R4-26-127. Renumbered**

**Historical Note**

Former Section R4-26-120 renumbered to R4-26-208 effective July 27, 1979 (Supp. 79-4).

**R4-26-128. Renumbered**

**Historical Note**

Former Section R4-26-120 renumbered to R4-26-209 effective July 27, 1979 (Supp. 79-4).

**R4-26-129. Reserved**

**R4-26-130. Reserved**

**R4-26-131. Reserved**

**R4-26-132. Reserved**

**R4-26-133. Reserved**

**R4-26-134. Reserved**

**R4-26-135. Reserved**

**R4-26-136. Reserved**

**R4-26-137. Reserved**

**R4-26-138. Reserved**

**R4-26-139. Reserved**

**R4-26-140. Reserved**

**R4-26-141. Reserved**

**R4-26-142. Reserved**

**R4-26-143. Reserved**

**R4-26-144. Reserved**

**R4-26-145. Reserved**

**R4-26-146. Reserved**

**R4-26-147. Reserved**

**R4-26-148. Reserved**

**R4-26-149. Reserved**

**R4-26-150. Renumbered**

**Historical Note**

Former Section R4-26-120 renumbered to R4-26-301 effective July 27, 1979 (Supp. 79-4).

**R4-26-151. Renumbered**

**Historical Note**

Former Section R4-26-120 renumbered to R4-26-302 effective July 27, 1979 (Supp. 79-4).

**R4-26-152. Renumbered**

**Historical Note**

Former Section R4-26-120 renumbered to R4-26-303 effective July 27, 1979 (Supp. 79-4).

**R4-26-153. Renumbered**

**Historical Note**

Former Section R4-26-120 renumbered to R4-26-304 effective July 27, 1979 (Supp. 79-4).

**R4-26-154. Renumbered**

**Historical Note**

Former Section R4-26-120 renumbered to R4-26-305 effective July 27, 1979 (Supp. 79-4).

**R4-26-155. Renumbered**

**Historical Note**

Former Section R4-26-120 renumbered to R4-26-306 effective July 27, 1979 (Supp. 79-4).

**R4-26-156. Renumbered**

**Historical Note**

Former Section R4-26-120 renumbered to R4-26-307 effective July 27, 1979 (Supp. 79-4).

**R4-26-157. Renumbered**

**Historical Note**

Former Section R4-26-120 renumbered to R4-26-201 effective July 27, 1979 (Supp. 79-4).

**ARTICLE 2. LICENSURE****R4-26-201. Application Deadline**

- A.** The Board shall consider a license application at the Board's next scheduled meeting if an administratively complete application packet, including reference forms mailed or e-mailed from the Board office, is received by the Board office at least 18 days before the date of the meeting.
- B.** The Board shall consider a license application that is received fewer than 18 days before a scheduled meeting at a subsequent meeting.

**Historical Note**

Adopted effective July 27, 1979 (Supp. 79-4). Amended subsection (A) statute reference, effective June 30, 1981 (Supp. 81-3). Renumbered from R4-26-120 and amended effective July 3, 1991 (Supp. 91-3). Repealed effective March 3, 1995 (Supp. 95-1). Pursuant to the advice of the Attorney General, the text of this Section now contains the text certified by the Attorney General and filed as a

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copy effective March 3, 1995 (Supp. 95-3). New Section R4-26-201 renumbered from R4-26-108 and amended by final rulemaking at 6 A.A.R. 3297, effective August 7, 2000 (Supp. 00-3). Amended by final rulemaking at 9 A.A.R. 778, effective April 12, 2003 (Supp. 03-1). Amended by final rulemaking at 21 A.A.R. 3444, effective January 30, 2016 (Supp. 15-4).

**R4-26-202. Doctorate**

- A. The Board shall apply the following criteria to determine whether a doctoral program provided by an institution of higher education met the standards in A.R.S. § 32-2071(A)(2) at the time an applicant began the degree program:
  1. The program is identified and labeled as a psychology program if there were institutional catalogues and brochures that specified the intent of the institution of higher education to educate and train psychologists;
  2. The program stands as a recognized, coherent organizational entity if there was an organized sequence of courses comprising a psychology curriculum; and
  3. The program has clearly identified entry and exit criteria within its psychology curriculum if there were specific prerequisites for entrance into the program and delineated requirements for graduation.
- B. The Board shall verify that an applicant completed the hours in the subject areas described in A.R.S. § 32-2071(A)(4). For this purpose, the applicant shall have the institution of higher education that the applicant attended provide directly to the Board an official transcript of all courses taken and verification of the dissertation or similar project.
  1. The Board may require additional documentation from the applicant or from the institution to determine whether the applicant satisfied the requirements of A.R.S. § 32-2071(A)(4).
  2. The Board shall count five quarter hours or six trimester hours as the equivalent of three semester hours, as required under A.R.S. § 32-2071(A)(4). When an academic term is other than a semester, quarter, or trimester, 15 classroom contact hours equals one semester hour.
- C. To determine whether a comprehensive examination taken by an applicant as part of a doctoral program in psychology satisfies the requirements of A.R.S. § 32-2071(A)(4), the Board shall review documentation provided directly to the Board by the institution of higher education that granted the doctoral degree, that demonstrates how the applicant's comprehensive examination was constructed, lists criteria for passing, and provides the information used to determine that the applicant passed.
- D. The Board shall not accept as core program hours required under A.R.S. § 32-2071(A)(4) credit:
  1. For workshops, practica, undergraduate courses, life experiences, continuing education courses, or experiential or correspondence courses;
  2. Transferred from institutions that are not accredited under A.R.S. § 32-2071(A)(1); or
  3. For seminars, readings courses, or independent study unless the applicant proves that the course was an in-depth study devoted to a particular core program content area by submitting one or more of the following:
    - a. Course description in the official catalogue of the institution of higher education,
    - b. Course syllabus, or
    - c. Signed statement from a dean or psychology department head affirming that the course was an in-depth study devoted to a particular core program content area.

- E. The Board shall count a course or comprehensive examination only once to satisfy a requirement of A.R.S. § 32-2071(A)(4).
- F. An honorary doctorate degree does not qualify an applicant for licensure as a psychologist.

**Historical Note**

Adopted effective July 27, 1979 (Supp. 79-4). Amended effective June 17, 1981 (Supp. 81-3). Renumbered from R4-26-121 and amended effective July 3, 1991 (Supp. 91-3). Amended effective March 3, 1995 (Supp. 95-1). Corrections made to text; agency filed different versions of text in original and copies; corrections reflect the original version (Supp. 95-2). Pursuant to the advice of the Attorney General, the text of this Section now contains the text certified by the Attorney General and filed as a copy effective March 3, 1995 (Supp. 95-3). Amended by final rulemaking at 6 A.A.R. 3297, effective August 7, 2000 (Supp. 00-3). Amended by final rulemaking at 9 A.A.R. 778, effective April 12, 2003 (Supp. 03-1). Amended by final rulemaking at 21 A.A.R. 3444, effective January 30, 2016 (Supp. 15-4).

**R4-26-203. Application for Initial License**

- A. An individual who wishes to be licensed as a psychologist shall submit an application packet to the Board that includes an application form approved by the Board, which is available from the Board office and on its website, with an attestation that is signed and dated by the applicant.
- B. Additionally, an applicant shall submit:
  1. An original, un-retouched, passport-quality photograph of the applicant that is no larger than 1.5 X 2 inches and taken no more than 60 days before the date of application;
  2. The results of a self-query from the National Practitioner Data Bank;
  3. As required under A.R.S. § 41-1080(A), the specified documentation of citizenship or alien status indicating the applicant's presence in the U.S. is authorized under federal law;
  4. The Board's Mandatory Confidential Information form;
  5. Name, position, and address of at least two individuals to serve as references who:
    - a. Are psychologists licensed or certified to practice psychology in a United States or Canadian regulatory jurisdiction and who are not members of the Arizona Board of Psychologist Examiners;
    - b. Are familiar with the applicant's work experience in the field of psychology or in a postdoctoral program within the three years immediately before the date of application. If more than three years have elapsed since the applicant last engaged in professional activities in the field of psychology or in a postdoctoral program, the references may pertain to the most recent three-year period in which the applicant engaged in professional activities in the field of psychology or in a postdoctoral program; and
    - c. Recommend the applicant for licensure;
  6. The fee required under R4-26-108; and
  7. Any other information authorized by statute.
- C. In addition to the requirements in subsections (A) and (B), an applicant shall arrange to have the following directly submitted to the Board:
  1. An official transcript from each university or college from which the applicant attended a graduate program or received a graduate degree that contains the date the degree was conferred;

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2. An official document from the degree-granting institution indicating that the applicant completed a residency that satisfies the requirements of A.R.S. § 32-2071 (K);
3. For an applicant applying supervised preinternship hours toward licensure, an attestation submitted by the doctoral program training director, faculty supervisor, or other official of the doctoral-granting institution who is knowledgeable of the applicant's preinternship experience verifying that the applicant's preinternship experience meets the requirements of A.R.S. § 32-2071 (D).
4. An attestation from the applicant's supervisor, if available, or a psychologist knowledgeable of the applicant's internship training program, verifying that the applicant's internship training program meets the requirements in A.R.S. § 32-2071 (F). If the supervisor or knowledgeable psychologist is not available, the Board shall accept primary source verification received from the Association of State and Provincial Psychology Boards. In this subsection, "not available" means the supervisor or knowledgeable psychologist is deceased or all reasonable efforts to locate the supervisor or knowledgeable psychologist were unsuccessful;
5. For an applicant applying supervised postdoctoral experience toward licensure, an attestation from the applicant's postdoctoral supervisor, if available, or a psychologist knowledgeable of the applicant's postdoctoral experience verifying that the applicant's postdoctoral experience meets the requirements in A.R.S. § 32-2071 (G). If the supervisor or knowledgeable psychologist is not available, the Board shall accept primary source verification received from the Association of State and Provincial Psychology Boards. In this subsection, "not available" means the supervisor or knowledgeable psychologist is deceased or all reasonable efforts to locate the supervisor or knowledgeable psychologist were unsuccessful;
6. Verification of all other psychology licenses or certificates ever held in any regulatory jurisdiction; and
7. An official notification of the applicant's score on the national examination. An applicant who passed the national examination in accordance with the standard established at A.R.S. § 32-2072(A), shall have the examination score sent directly to the Board by the Association of State and Provincial Psychology Boards or by the regulatory jurisdiction in which the applicant originally passed the examination.

**Historical Note**

Adopted effective July 27, 1979 (Supp. 79-4). Amended effective April 25, 1980 (Supp. 80-2). Amended Introductory paragraph statute reference, effective June 30, 1981 (Supp. 81-3). Renumbered from R4-26-122 and amended effective July 3, 1991 (Supp. 91-3). Former Section R4-26-203 repealed, new Section R4-26-203 renumbered from R4-26-204 and amended effective March 3, 1995 (Supp. 95-1). Corrections made to text; agency filed different versions of text in original and copies; corrections reflect the original version (Supp. 95-2). Pursuant to the advice of the Attorney General, the text of this Section now contains the text certified by the Attorney General and filed as a copy effective March 3, 1995 (Supp. 95-3). Section repealed; new Section adopted by final rulemaking at 6 A.A.R. 3297, effective August 7, 2000 (Supp. 00-3). Amended by final rulemaking at 9 A.A.R. 778, effective April 12, 2003 (Supp. 03-1). Amended by final rulemaking at 13 A.A.R. 1493, effective June 2, 2007 (Supp. 07-2). Amended by final rulemaking at 21 A.A.R. 3444, effective January 30, 2016

(Supp. 15-4). Amended by final rulemaking at 26 A.A.R. 1010, effective July 4, 2020 (Supp. 20-2).

**R4-26-203.01. Application for Licensure by Credential**

- A. An applicant for a psychologist license by credential under A.R.S. § 32-2071.01(D) shall submit an application packet to the Board that includes:
  1. An application form approved by the Board, which is available from the Board office and on its website, with an attestation that is signed and dated by the applicant;
  2. Verification sent directly to the Board by the credentialing agency that the applicant:
    - a. Holds a current Certificate of Professional Qualification in Psychology (CPQ) issued by the Association of State and Provincial Psychology Boards;
    - b. Holds a current National Register of Health Service Providers in Psychology (NRHSPP) credential and has practiced psychology independently at the doctoral level for at least five years; or
    - c. Is a diplomate or specialist of the American Board of Professional Psychology (ABPP); and
  3. Verification of all other psychology licenses or certificates ever held in any jurisdiction.
- B. An applicant for a psychologist license by credential based on a National Register of Health Service Providers in Psychology credential shall have notification that the applicant obtained a passing score on the national examination sent directly to the Board by the Association of State and Provincial Psychology Boards or by the regulatory jurisdiction in which the applicant originally passed the examination.
- C. If the Board determines an application for licensure by credential requires clarification, the Board may require an applicant submit or cause the applicant's credentialing agency to submit directly to the Board any documentation including transcripts, course descriptions, catalogues, brochures, supervised experience verifications, examination scores, application for credential, or any other information deemed necessary by the Board.

**Historical Note**

New Section made by final rulemaking at 9 A.A.R. 778, effective April 12, 2003 (Supp. 03-1). Amended by final rulemaking at 13 A.A.R. 1493, effective June 2, 2007 (Supp. 07-2). Amended by final rulemaking at 21 A.A.R. 3444, effective January 30, 2016 (Supp. 15-4). Amended by final rulemaking at 26 A.A.R. 1010, effective July 4, 2020 (Supp. 20-2).

**R4-26-203.02. Application to Take National Examination before Completing Supervised Professional Experience Required for Licensure**

- A. As provided under A.R.S. § 32-2072(C), an individual who has completed the education requirements specified in A.R.S. § 32-2071(A) but has not completed the supervised professional experience requirements specified in A.R.S. § 32-2071(D) may apply to the Board for approval to take the national examination.
- B. To apply for approval under subsection (A), an individual shall submit to the Board the application form and applicable documents required under R4-26-203(A) through (C).
- C. When the Board approves an individual who makes application under subsections (A) and (B), the Board shall administratively close the applicant's application packet.
- D. An individual who is granted approval under subsection (C) to take the national examination may apply for an initial license under R4-26-203 after completing the supervised professional experience requirements specified in A.R.S. § 32-2071(D) as follows:

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1. Within 36 months after the application was administratively closed under subsection (C), request that the Board re-open the application packet; and
2. Submit the portions of the application packet required under R4-26-203 that were not submitted under subsection (B).

**Historical Note**

New Section made by final rulemaking at 21 A.A.R. 3444, effective January 30, 2016 (Supp. 15-4).

**R4-26-203.03. Reapplication for License; Applying Anew****A.** The following may reapply for a license:

1. An individual who failed the national examination required under A.R.S. § 32-2072 and R4-26-204 no more than three times, and
2. An individual whose application submitted under R4-26-203 or R4-26-203.01 was administratively closed by the Board under R4-26-208(H) less than one year before reapplication.

**B.** An individual identified in subsection (A) may ask the Board to base a licensing decision, in part, on applicable forms and documents previously submitted.**C.** An individual eligible under subsection (B) to reapply for licensure shall:

1. Submit a reapplication form, which is available from the Board office, to the Board;
2. If previously submitted references were submitted more than 12 months before the date of reapplication, provide the names, positions, and addresses of at least two individuals to serve as references who:
  - a. Are psychologists licensed or certified to practice psychology in a United States or Canadian regulatory jurisdiction and are not members of the Arizona Board of Psychologist Examiners;
  - b. Are familiar with the applicant's work experience in the field of psychology or in a postdoctoral program within the three years immediately before the date of reapplication. If more than three years have elapsed since the applicant last engaged in professional activities in the field of psychology or in a postdoctoral program, the references may pertain to the most recent three-year period in which the applicant engaged in professional activities in the field of psychology or in a postdoctoral program; and
  - c. Recommend the applicant for licensure;
3. List all professional employment since the date of the most recent application or reapplication including:
  - a. Beginning and ending dates of employment,
  - b. Number of hours worked per week,
  - c. Name and address of employer,
  - d. Position title,
  - e. Nature of work, and
  - f. Nature of supervision;
4. Submit the results of a self-query from the National Practitioner Data Bank-Healthcare Integrity and Protection Data Bank; and
5. Pay the fee required under R4-26-108(A)(2).

**D.** The following shall apply anew for a license rather than reapplying:

1. An individual whose application submitted under R4-26-203 or R4-26-203.01 was denied by the Board,
2. An individual who was permitted by the Board to withdraw an application submitted under R4-26-203 or R4-26-203.01 before the Board acted on the application,
3. An individual whose application submitted under R4-26-203 or R4-26-203.01 was administratively closed by the

Board under R4-26-208(H) more than one year before another application is submitted,

4. An individual whose license was revoked under A.R.S. § 32-2081(N)(1),
5. An individual whose license expired under A.R.S. § 32-2074,
6. An individual whose license was canceled under A.R.S. 32-2074, and
7. An individual who retired under A.R.S. § 32-2073(G).

**Historical Note**

New Section made by final rulemaking at 21 A.A.R. 3444, effective January 30, 2016 (Supp. 15-4). Amended by final rulemaking at 22 A.A.R. 3083, October 4, 2016 (Supp. 16-4).

**R4-26-204. Examinations****A.** General rules.

1. Under A.R.S. § 32-2072(C), an applicant who fails the national examination three times in any regulatory jurisdiction shall, before taking the national examination again, review the applicant's areas of deficiency and implement a program of study or practical experience designed to remedy the deficiencies. This remedial program may consist of any combination of course work, self-study, internship experience, and supervision.
2. An applicant required under subsection (A)(1) to implement a program of study or practical experience may apply anew for licensure. The applicant shall submit a new application packet, as described in R4-26-203, and include information about any actions proposed under subsection (A)(1).
3. Examination deadline. Unless the Board grants an extension, the Board shall administratively close the file of an applicant authorized by the Board to take an examination specified in subsection (B) or (C) who fails to take the examination within one year from the date of the Board's authorization. Upon written request to the Board's Executive Director received by the Board on or before the applicant's examination deadline, the Board shall grant the applicant one extension of up to six months to take the examination. The applicant may request additional extensions for good cause, which includes but is not limited to illness or injury of the licensee or a close family member, death of a close family member, birth or adoption of a child, military service, relocation, natural disaster, financial hardship, or residence in a foreign country for at least 12 months of the license period. The Board shall ensure that an extension is for no more than six months. This Section does not apply to an applicant approved to take the national examination under R4-26-203.02.
4. The Board shall deny a license if an applicant commits any of the following acts with respect to the examination:
  - a. Violates the confidentiality of examination materials;
  - b. Removes any examination materials from the examination room;
  - c. Reproduces any portion of a licensing examination;
  - d. Aids in the reproduction or reconstruction of any portion of a licensing examination;
  - e. Pays or uses another person to take a licensing examination for the applicant or to reconstruct any portion of the licensing examination;
  - f. Obtains examination material, either before, during, or after an examination, for the purpose of instructing or preparing applicants for examinations;

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- g. Sells, distributes, buys, receives, or has possession of any portion of a future, current, or previously administered licensing examination that is not authorized by the Board or its authorized agent for release to the public;
  - h. Communicates with any other examiner during the administration of a licensing examination;
  - i. Copies answers from another examinee or permits the copying of answers by another examinee;
  - j. Possesses during the administration of a licensing examination any books, equipment, notes, written or printed materials, or data of any kind, other than material distributed during the examination; or
  - k. Impersonates another examinee.
- B. National examination.** Under A.R.S. § 32-2072, the Board shall require that an applicant take and pass the national examination. An applicant authorized by the Board to take the national examination passes the examination if the applicant's score equals or exceeds the passing score specified in A.R.S. § 32-2072(A). After the Board receives the examination results, the Board shall notify the applicant in writing of the results.
- C. Additional examination.**
- 1. The Board shall require an applicant to pass the national examination before allowing the applicant to take an additional examination.
  - 2. Under A.R.S. § 32-2072(B), the Board may administer an additional examination to an applicant to determine the adequacy of the applicant's knowledge and application of Arizona law. The additional examination may also cover the practice of psychology, ethical conduct, and psychological assessment and treatment practices.
    - a. The Board shall review and approve the additional examination before administration.
    - b. The additional examination may be developed and administered by the Board, a committee of the Board, consultants to the Board, or independent contractors.
    - c. Applicants, examiners, and consultants to the Board shall execute a security acknowledgment form and agree to maintain examination security.
- A.** To be eligible to be issued a temporary license under A.R.S. § 32-2073(B), an individual shall:
    - 1. Have completed the educational requirements specified in A.R.S. § 32-2071(A) through (C);
    - 2. Have completed 1,500 hours of supervised professional experience as described in A.R.S. § 32-2071(F); and
    - 3. Be participating in a supervised postdoctoral professional experience as described in A.R.S. § 32-2071(G).
  - B.** An applicant seeking a temporary license under A.R.S. § 32-2073(B), shall submit an application packet to the Board that includes:
    - 1. The application form required under R4-26-203 and provide all required information except that specified in R4-26-203(C)(3), (5), and (7); and
    - 2. The written training plan required under A.R.S. § 32-2071(G)(7) from the entity at which the supervised postdoctoral professional experience is occurring that includes at least the following:
      - a. Goal and content of each training experience,
      - b. Expectations regarding the nature, quality, and quantity of work to be done by the supervisee during the supervised postdoctoral professional experience,
      - c. Methods of evaluating the supervisee and the supervised postdoctoral professional experience,
      - d. Total number of hours to be accrued during the supervised postdoctoral professional experience,
      - e. Total number of face-to-face contact hours the supervisee is to have with clients or patients during the supervised postdoctoral professional experience,
      - f. Total number of hours of supervision the supervisee is to receive during the supervised postdoctoral professional experience,
      - g. Qualifications of all individuals who provide supervision during the supervised postdoctoral professional experience including documentation that each is qualified under the standards at A.R.S. § 32-2071(G), and
      - h. Acknowledgment that ethics training is included in the training experience.
  - C.** An individual issued a temporary license under A.R.S. § 32-2073(B) shall practice psychology only under supervision. It is unprofessional conduct for the holder of a temporary license issued under A.R.S. § 32-2073(B) to practice psychology without supervision.
  - D.** A temporary license issued under A.R.S. § 32-2073(B) is valid for 36 months and is not renewable. If the Board denies an active license under R4-26-203 to the holder of a temporary license issued under A.R.S. § 32-2073(B), the temporary license terminates at the time of license denial.
  - E.** The holder of a temporary license issued under A.R.S. § 32-2073(B) shall:
    - 1. Comply fully with all provisions of A.R.S. Title 32, Chapter 19.1, and this Chapter;
    - 2. Not practice psychology outside the postdoctoral experience specified in the written training plan required under subsection (B)(2) and
    - 3. Submit to the Board any modification to the written training plan required under subsection (B)(2) within 10 days after the effective date of the modification.

**Historical Note**

Adopted effective July 27, 1979 (Supp. 79-4). Amended Introductory paragraph statute reference, effective June 30, 1981 (Supp. 81-3). Renumbered from R4-26-123 and amended effective July 3, 1991 (Supp. 91-3). Former Section R4-26-204 renumbered to R4-26-203, new Section R4-26-204 renumbered from R4-26-205 and amended effective March 3, 1995 (Supp. 95-1). Corrections made to text; agency filed different versions of text in original and copies; corrections reflect the original version (Supp. 95-2). Pursuant to the advice of the Attorney General, the text of this Section now contains the text certified by the Attorney General and filed as a copy effective March 3, 1995 (Supp. 95-3). Amended by final rulemaking at 6 A.A.R. 3297, effective August 7, 2000 (Supp. 00-3). Amended by final rulemaking at 9 A.A.R. 778, effective April 12, 2003 (Supp. 03-1). Amended by final rulemaking at 10 A.A.R. 4743, effective January 1, 2005 (Supp. 04-4). Amended by final rulemaking at 13 A.A.R. 1493, effective June 2, 2007 (Supp. 07-2). Amended by final rulemaking at 21 A.A.R. 3444, effective January 30, 2016 (Supp. 15-4).

**R4-26-203.04. Temporary License under A.R.S. § 32-2073(B)**

**Appendix A. Repealed**

**Historical Note**

New Section made by final rulemaking at 22 A.A.R. 3083, October 4, 2016 (Supp. 16-4).



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Adopted effective July 27, 1979 (Supp. 79-4). Amended subsections (A) and (B) statute references, effective June 30, 1981 (Supp. 81-3). Amended effective November 1, 1985 (Supp. 85-6). Renumbered from R4-26-124 and amended effective July 3, 1991 (Supp. 91-3). Renumbered from R4-26-205, Appendix A (Supp. 95-1). Appendix A repealed by final rulemaking at 9 A.A.R. 778, effective April 12, 2003 (Supp. 03-1).

**R4-26-205. Renewal of License**

- A. Beginning May 1, 2017, a license issued by the Board, whether active or inactive, expires on the last day of a licensee's birth month during the licensee's renewal year.
- B. The Board considers a license renewal application packet timely submitted if delivered or mailed to the Board's office and date stamped or postmarked on or before the last day of a licensee's birth month during the licensee's renewal year.
- C. To renew a license, a licensee shall submit to the Board a renewal application form approved by the Board, which is available from the Board office and on its website, with an attestation that is signed and dated by the licensee.
- D. Additionally, to renew a license, a licensee shall submit to the Board:
  1. The license renewal fee required under R4-26-108;
  2. If the documentation previously submitted under R4-26-203(B)(3) was a limited form of work authorization issued by the federal government, evidence that the work authorization has not expired;
  3. The following information about the continuing education completed during the previous license period:
    - a. Title of the continuing education;
    - b. Date completed;
    - c. Sponsoring organization, publication, or educational institution;
    - d. Number of hours in the continuing education; and
    - e. Brief description of the continuing education; and
  4. Any other information authorized by statute.
- E. If a completed application is timely submitted under subsections (C) and (D), the licensee may continue to practice psychology under the active license until notified by the Board that the application for renewal has been approved or denied. If the Board denies license renewal, the licensee may continue to practice psychology until the last day for seeking review of the Board's decision or a later date fixed by a reviewing court.
- F. Under A.R.S. § 32-2074 (C), the license of a licensee who fails to submit a renewal application, including the information about continuing education completed, on or before the last day of the licensee's birth month during the licensee's renewal year expires and the licensee shall immediately stop practicing psychology.
- G. A psychologist whose license expires under subsection (F) may have the license reinstated by submitting the following to the Board within two months after the last day of the licensee's birth month during the licensee's renewal year:
  1. The license renewal application required under subsection (C) and the documents required under subsections (D)(2) and (3); and
  2. The license renewal and reinstatement fees required under R4-26-108.
- H. A psychologist whose license expires under subsection (F) and who fails to have the license reinstated under subsection (G) may have the license reinstated by:
  1. Complying with subsection (G) within one year after the last day of the licensee's birth month during the licensee's renewal year, and
  2. Paying the fee for reinstatement of an active or inactive license as specified in R4-26-108.

- I. A psychologist whose license expires under subsection (F) and who fails to have the license reinstated under subsection (G) or (H) may be licensed again only by complying with R4-26-203.
- J. If the Board audits the continuing education records of a licensee and determines that some of the hours do not conform to the standards listed in R4-26-207, the Board shall disallow the non-conforming hours. If the remaining hours are less than the number required, the Board shall deem the licensee as failing to satisfy the continuing education requirements and provide notice of the disallowance to the licensee. The licensee has 90 days from the mailing date of the Board's notification of disallowance to complete the continuing education requirements for the past reporting period and shall provide the Board with an affidavit documenting completion. If the Board does not receive an affidavit within 90 days of the mailing date of notification of disallowance or the Board deems the affidavit insufficient, the Board may take disciplinary action under A.R.S. § 32-2081.

**Historical Note**

Adopted effective July 27, 1979 (Supp. 79-4). Amended subsections (A) and (B) statute references, effective June 30, 1981 (Supp. 81-3). Amended effective November 1, 1985 (Supp. 85-6). Renumbered from R4-26-124 and amended effective July 3, 1991 (Supp. 91-3). Former Section R4-26-205 renumbered to R4-26-204; new Section R4-26-205 renumbered from R4-26-206 and amended effective March 3, 1995 (Supp. 95-1). Corrections made to text; agency filed different versions of text in original and copies; corrections reflect the original version (Supp. 95-2). Pursuant to the advice of the Attorney General, the text of this Section now contains the text certified by the Attorney General and filed as a copy effective March 3, 1995 (Supp. 95-3). Amended by final rulemaking at 6 A.A.R. 3297, effective August 7, 2000 (Supp. 00-3). Amended by final rulemaking at 10 A.A.R. 4743, effective January 1, 2005 (Supp. 04-4). Amended by final rulemaking at 13 A.A.R. 1493, effective June 2, 2007 (Supp. 07-2). Amended by final rulemaking at 21 A.A.R. 3444, effective January 30, 2016 (Supp. 15-4). Amended by final rulemaking at 22 A.A.R. 3083, October 4, 2016 (Supp. 16-4). Amended by final rulemaking at 26 A.A.R. 1010, effective July 4, 2020 (Supp. 20-2).

**R4-26-206. Reinstatement of License from Inactive to Active Status; Cancellation of License**

- A. Except as provided in subsection (C), when considering reinstatement of a psychologist from inactive to active status, the Board shall presume that the psychologist has maintained and updated the psychologist's professional knowledge and capability to practice as a psychologist if the psychologist presents to the Board documentation of completion of a prorated amount of continuing education, calculated under subsection (B).
- B. A psychologist who is on inactive status for at least two years may reinstate the license to active status by presenting to the Board documentation of completion of at least 40 hours of continuing education that meets the standards in R4-26-207. A psychologist who is on inactive status for less than two years may reinstate the license to active status by presenting to the Board documentation of completion of a prorated amount of continuing education. To calculate the prorated amount of continuing education hours required, the Board shall multiply 1.67 by the number of months from the date of inactive status until the date the application for reinstatement is received by the Board. For every six months of inactive status, the Board shall require one hour of continuing education in:

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1. Ethics, as specified under R4-26-207(B)(1); and
  2. Domestic violence, intimate partner abuse, child abuse, or abuse of vulnerable adults, as specified under R4-26-207(B)(2).
- C. A psychologist may request that the Board cancel the psychologist's license if the psychologist is not under investigation by any regulatory jurisdiction. Fees paid to obtain a license are not refundable when the license is canceled. If an individual whose request for license cancellation is approved by the Board subsequently decides to practice psychology, the individual shall submit a new application under R4-26-203 and meet the requirements in A.R.S. § 32-2071.

**Historical Note**

Adopted effective July 27, 1979 (Supp. 79-4). Amended effective June 17, 1981 (Supp. 81-3). Renumbered from R4-26-125 effective July 3, 1991 (Supp. 91-3). Former Section R4-26-206 renumbered to R4-26-205; new Section R4-26-206 adopted effective March 3, 1995 (Supp. 95-1). Corrections made to text; agency filed different versions of text in original and copies; corrections reflect the original version (Supp. 95-2). Pursuant to the advice of the Attorney General, the text of this Section now contains the text certified by the Attorney General and filed as a copy effective March 3, 1995 (Supp. 95-3). Section repealed; new Section made by final rulemaking at 11 A.A.R. 2007, effective July 2, 2005 (Supp. 05-2). Amended by final rulemaking at 13 A.A.R. 1493, effective June 2, 2007 (Supp. 07-2). Amended by final rulemaking at 21 A.A.R. 3444, effective January 30, 2016 (Supp. 15-4). Amended by final rulemaking at 22 A.A.R. 3083, October 4, 2016 (Supp. 16-4).

**R4-26-207. Continuing Education**

- A. A licensee shall complete at least 40 hours of continuing education during each license period. Unless specified otherwise, one clock hour of instruction, training, or making a presentation equals one hour of continuing education.
- B. A licensee shall ensure the continuing education hours obtained include at least four hours in professional ethics.
- C. During the license period in which an individual is initially licensed, the Board shall pro-rate the number of continuing education hours, including a pro-rated number of hours addressing ethics, that the new licensee must complete during the initial license period. To calculate the number of continuing education hours that a new licensee must obtain, the Board shall divide the 40 hours of continuing education required in a license period by 24 and multiply the quotient by the number of whole months from the date of initial licensure until the end of the license period. During the first license period, for every six months from the month of license issuance to the end of the license period, the Board shall require one hour of continuing education in ethics.
- D. If the standards in subsection (F) are met, the Board shall accept the following for continuing education hours.
  1. Post-doctoral study sponsored by a university or college that is regionally accredited under A.R.S. § 32-2071(A)(1) and provides a graduate-level degree program;
  2. A course, seminar, workshop, or home study for which a certificate of attendance or completion is provided;
  3. A continuing education program offered by a national, international, regional, or state association, society, board, or continuing education provider;
  4. Teaching a graduate-level course in applied psychology at a university or college that is regionally accredited under A.R.S. § 32-2071(A)(1). A licensee who teaches a graduate-level course in applied psychology receives the same number of continuing education hours as number of classroom hours for those who take the graduate-level course;
5. Organizing and presenting a continuing education activity. A licensee who organizes and presents a continuing education activity receives the same number of continuing education hours as those who attend the continuing education activity;
6. Serving as a complaint consultant. During a license period, a licensee who serves as a Board complaint consultant to review Board complaints and provides written reports to the Board or provides expert testimony on behalf of the Board may receive continuing education hours equal to the actual number of hours served as a complaint consultant to a maximum of 20 hours. A licensee who is paid by the Board for services rendered shall not receive continuing education credit for the time or services for which payment was made;
7. The Board shall allow a maximum of 10 continuing education hours for each of the following during a license period:
  - a. Attending a Board meeting or serving as a member of the Board. A licensee receives up to six continuing education hours in professional ethics for attending both morning and afternoon sessions of a Board meeting and three continuing education hours for attending either the morning or afternoon session or at least four hours of a Board meeting. A licensee shall complete documentation provided by the Board at the time the licensee attends a Board meeting;
  - b. Having an authored or co-authored psychology book, psychology book chapter, or article in a peer-reviewed psychology journal published. A licensee who has an authored or co-authored psychology book, psychology book chapter, or article in a peer-reviewed psychology journal published receives 10 continuing education hours in the year of publication;
  - c. Participating in a study group for professional growth and development as a psychologist. A licensee receives one hour of continuing education for each hour of participation to a maximum of 10 continuing education hours for participating in a study group. The Board shall allow continuing education hours for participating in a study group only if the licensee maintains the documentation required under subsection (G)(5);
  - d. Presenting a symposium or paper at a state, regional, national, or international psychology meeting. A licensee who presents a symposium or paper receives the same number of continuing education hours as hours of the session, as published in the agenda of the meeting, at which the symposium or paper is presented to a maximum of 10 continuing education hours;
  - e. Presenting a poster during a poster session at a state, regional, national, or international psychology meeting. A licensee who presents a poster receives an hour of continuing education for each hour the licensee is physically present with the poster during the poster session, as published in the agenda of the meeting, to a maximum of 10 continuing education hours; and

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- f. Serving as an elected officer of an international, national, regional, or state psychological association or society. A licensee who serves as an elected officer may receive continuing education hours equal to the actual number of hours served to a maximum of 10 continuing education hours.
- E. The Board shall not allow continuing education credit more than once in a license period for:
1. Teaching the same graduate-level course,
  2. Organizing and presenting a continuing education activity on the same topic or content area, or
  3. Presenting the same symposium or paper at a state, regional, national, or international psychology meeting.
- F. Standards for continuing education. To be acceptable for continuing education credit, an activity identified in subsections (D)(1) through (4) shall:
1. Focus on the practice of psychology, as defined at A.R.S. § 32-2061, for at least 75 percent of the program hours; and
  2. Be taught by an instructor who is readily identifiable as competent in the subject of the continuing education by having an advanced degree, teaching experience, work history, published professional articles, or previously presented continuing education on the same subject.
- G. The Board shall accept the following documents as evidence of completion of continuing education hours:
1. A certificate of attendance or completion;
  2. Statement signed by the provider verifying participation in the activity;
  3. Copy of transcript of course completed under subsection (D)(1);
  4. Documents indicating a licensee's participation as an elected officer or appointed member as specified in subsection (D)(7)(f); or
  5. An attestation signed by all participants of a study group under subsection (D)(7)(c) that includes a description of the activity, subject covered, dates, and number of hours.
- H. A licensee shall maintain the documents listed in subsection (G) through the license period following the license period in which the documents were obtained.
- I. The Board may audit a licensee's compliance with continuing education requirements. The Board may deny renewal or take other disciplinary action against a licensee who fails to obtain or document required continuing education hours. The Board may discipline a licensee who commits fraud, deceit, or misrepresentation regarding continuing education hours.
- J. A licensee who cannot meet the continuing education requirement for good cause may seek an extension of time to complete the continuing education requirement by submitting a written request to the Board with the timely submission of the renewal application required under R4-26-205.
1. Good cause includes but is not limited to illness or injury of the licensee or a close family member, death of a close family member, birth or adoption of a child, military service, relocation, natural disaster, financial hardship, or residence in a foreign country for at least 12 months of the license period.
  2. The Board shall not grant an extension longer than one year.
  3. A licensee who cannot complete the continuing education requirement within the extension may apply to the Board for inactive license status under A.R.S. § 32-2073 (G).
- K. No continuing education hours may be carried over to the next licensing period.
- L. The Board shall not accept for continuing education hours a course, workshop, seminar, or symposium designed to increase income or office efficiency.

**Historical Note**

Adopted effective July 27, 1979 (Supp. 79-4). Amended effective January 23, 1981 (Supp. 81-1). Renumbered from R4-26-126 and amended effective July 3, 1991 (Supp. 91-3). Former Section R4-26-207 repealed; new Section R4-26-207 adopted effective March 3, 1995 (Supp. 95-1). Corrections made to text; agency filed different versions of text in original and copies; corrections reflect the original version (Supp. 95-2). Pursuant to the advice of the Attorney General, the text of this Section now contains the text certified by the Attorney General and filed as a copy effective March 3, 1995. Text corrected. (Supp. 95-3). Amended by final rulemaking at 6 A.A.R. 3297, effective August 7, 2000 (Supp. 00-3). Amended by final rulemaking at 9 A.A.R. 778, effective April 12, 2003 (Supp. 03-1). Amended by final rulemaking at 10 A.A.R. 4743, effective January 1, 2005 (Supp. 04-4). Amended by final rulemaking at 21 A.A.R. 3444, effective January 30, 2016 (Supp. 15-4). Amended by final rulemaking at 22 A.A.R. 3083, October 4, 2016 (Supp. 16-4). Amended by final rulemaking at 26 A.A.R. 1010, effective July 4, 2020 (Supp. 20-2).

**R4-26-208. Time Frames for Processing Applications**

- A. For the purpose of A.R.S. § 41-1073, the Board establishes the time frames listed in Table 1. An applicant or a person requesting an approval from the Board and the Board's Executive Director may agree in writing to extend the substantive review and overall time frames by no more than 25 percent of the overall time frame.
- B. The administrative completeness review time frame begins when the Board receives an application packet or request for approval. During the administrative completeness review time frame, the Board shall notify the applicant or person requesting approval that the application packet or request for approval is either complete or incomplete. If the application packet or request for approval is incomplete, the Board shall specify in the notice what information is missing.
- C. If an applicant or person requesting approval receives a notice of incompleteness under subsection (B), the applicant or person requesting approval shall submit the missing information to the Board within the time to complete listed in Table 1. Both the administrative completeness review and overall time frames are suspended from the date of the Board's notice under subsection (B) until the Board receives all of the missing information.
- D. Upon receipt of all missing information, the Board shall send a written notice of administrative completeness to the applicant or person requesting approval. The Board shall not send a separate notice of completeness if the Board grants or denies a license or approval within the administrative completeness time frame listed in Table 1.
- E. The substantive review time frame listed in Table 1 begins on the date of the Board's notice of administrative completeness sent under subsection (D).
- F. If the Board determines during the substantive review that additional information is needed, the Board shall send the applicant or person requesting approval a comprehensive written request for additional information.
- G. An applicant or person requesting approval who receives a request under subsection (F) shall submit the additional information to the Board within the time for response listed in Table 1. Both the substantive review and overall time frames

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are suspended from the date of the Board's request until the Board receives the additional information.

- H. An applicant or person requesting approval may receive a 30-day extension of the time provided under subsection (C) or (G) by providing written notice to the Board before the time expires. If an applicant or person requesting approval fails to submit to the Board the missing or additional information within the time provided under Table 1 or the time as extended, the Board shall administratively close the applicant's or person's file.
- I. At any time before the overall time frame provided in Table 1 expires, an applicant or person requesting approval may, with approval by the Board, withdraw the application or request.
- J. Within the overall time frame listed in Table 1, the Board shall:
  - 1. Grant a license or approval if the Board determines that the applicant or person requesting approval meets all criteria required by statute and this Chapter; or
  - 2. Deny a license or approval if the Board determines that the applicant or person requesting approval does not meet all criteria required by statute and this Chapter.
- K. If the Board denies a license or approval, the Board shall send the applicant or person requesting approval a written notice explaining:
  - 1. The reason for denial, with citations to supporting statutes or rules;
  - 2. The right to appeal the denial by filing an appeal under A.R.S. Title 41, Chapter 6, Article 10;

- 3. The time for appealing the denial; and
  - 4. The right to request an informal settlement conference.
- L. If the last day of a time frame falls on a Saturday, Sunday, or an official state holiday, the time frame ends on the next business day.

**Historical Note**

Adopted effective July 27, 1979 (Supp. 79-4). Amended effective January 23, 1981 (Supp. 81-1). Amended effective July 3, 1984 (Supp. 84-4). Amended effective February 24, 1988 (Supp. 88-1). Renumbered from R4-26-127 effective July 3, 1991 (Supp. 91-3). Former Section R4-26-208 repealed; new Section R4-26-208 amended effective March 3, 1995 (Supp. 95-1). Pursuant to the advice of the Attorney General, the text of this Section now contains the text certified by the Attorney General and filed as a copy effective March 3, 1995 (Supp. 95-3). Amended by final rulemaking at 5 A.A.R. 737, effective February 19, 1999 (Supp. 99-1). Amended by final rulemaking at 6 A.A.R. 3297, effective August 7, 2000 (Supp. 00-3). Amended by final rulemaking at 9 A.A.R. 778, effective April 12, 2003 (Supp. 03-1). Amended by final rulemaking at 13 A.A.R. 1493, effective June 2, 2007 (Supp. 07-2). Amended by final rulemaking at 21 A.A.R. 3444, effective January 30, 2016 (Supp. 15-4). Amended by final rulemaking at 22 A.A.R. 3083, October 4, 2016 (Supp. 16-4).

**Table 1. Time Frames (in days) for Processing Applications**

Type of Application or Request	Statutory or Rule Authority	Administrative Completeness Time Frame	Time to Respond to Notice of Deficiency	Substantive Review Time Frame	Time to Respond to Request for Additional Information	Overall Time Frame
Application for initial license	A.R.S. §§ 32-2071, 32-2071.01, 32-2072, and R4-26-203	30	240	90	365	120
Application for licensure by credential	A.R.S. §§ 32-2071.01, 32-2072; and A.A.C. R4-26-203.01	30	240	90	240	120
Application to Take National Examination before Completing Experience Required for Licensure	A.R.S. §§ 32-2072(C) and A.A.C. R4-26-203.02	30	240	90	240	120
Reapplication for Licensure	A.R.S. §§ 32-2067 and A.A.C. R4-26-203.03	30	240	90	240	120
Application for license renewal	A.R.S. § 32-2074; A.A.C. R4-26-205	60	N/A	90	N/A	150
Application for reinstatement of expired license	A.R.S. § 32-2074; A.A.C. R4-26-206	60	N/A	90	N/A	150
Request for extension of time to complete continuing education	A.R.S. § 32-2074; A.A.C. R4-26-207	60	N/A	90	N/A	150

**Historical Note**

Table 1 adopted by final rulemaking at 5 A.A.R. 737, effective February 19, 1999 (Supp. 99-1). Amended by final rulemaking at 9 A.A.R. 778, effective April 12, 2003 (Supp. 03-1). Amended by final rulemaking at 10 A.A.R. 4743, effective January 1, 2005 (Supp. 04-4). Amended by final rulemaking at 13 A.A.R. 1493, effective June 2, 2007 (Supp. 07-2). Amended by final rulemaking at 21 A.A.R. 3444, effective January 30, 2016 (Supp. 15-4). Amended by final rulemaking at 26 A.A.R. 1010, effective July 4, 2020 (Supp. 20-2).

**R4-26-209. General Supervision**

- A. Under A.R.S. § 32-2071(D), an applicant is required to obtain 3,000 hours of supervised professional experience.

- B. A supervising psychologist shall not supervise a member of the psychologist's immediate family or the psychologist's employer or business partner.

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- C. Payment between a supervisor and supervisee.
  - 1. A supervising psychologist may pay a monetary stipend or fee to a supervisee if the amount paid by the supervisor is not based on the supervisee's productivity or revenue generated by the supervisee;
  - 2. A supervising psychologist who accepts a fee for providing the supervisory service in Arizona may be subject to disciplinary action by the Board; and
  - 3. The Board shall look to the law of the jurisdiction in which the supervision occurred to determine whether to include as part of the 3,000 hours of supervised professional experience required under A.R.S. § 32-2071(D) hours for which an applicant paid the supervisor.
- D. A psychologist who supervises the professional experience of an unlicensed individual is professionally responsible for all work done by the individual during the supervised experience.
- E. The Board shall include in the 3,000 hours of supervised professional experience required under A.R.S. § 32-2071(D), hours obtained through a training program only if the training program provides the supervision required under A.R.S. § 32-2071(F)(2).

**Historical Note**

Adopted effective January 23, 1981 (Supp. 81-1). Renumbered from R4-26-128 and amended effective July 3, 1991 (Supp. 91-3). Former Section R4-26-209 renumbered to R4-26-208; new Section R4-26-209 adopted effective March 3, 1995 (Supp. 95-1). Pursuant to the advice of the Attorney General, the text of this Section now contains the text certified by the Attorney General and filed as a copy effective March 3, 1995 (Supp. 95-3). Amended by final rulemaking at 6 A.A.R. 3297, effective August 7, 2000 (Supp. 00-3). Amended by final rulemaking at 21 A.A.R. 3444, effective January 30, 2016 (Supp. 15-4).

**R4-26-210. Supervised Professional Experience**

- A. The Board shall use the following criteria to determine whether an applicant's supervised preinternship professional experience complies with A.R.S. § 32-2071 (E):
  - 1. The supervised preinternship professional experience was part of the applicant's doctoral program from an institution of higher education that meets the standards in A.R.S. § 32-2071(A);
  - 2. The applicant completed appropriate academic preparation before beginning the supervised preinternship professional experience. The Board shall not include any assessment or treatment conducted as part of the required academic preparation in the hours of supervised preinternship professional experience; and
  - 3. For each supervised preinternship professional experience training site, the applicant has a written training plan with both the training site and the institution of higher education at which the applicant is pursuing a doctoral degree that includes at least the following:
    - a. Training activities included and the amount of time allotted to each activity,
    - b. Goals and objectives of each training activity,
    - c. Methods of evaluating the supervisee and the supervised preinternship professional experiences provided,
    - d. Approval of all individuals providing supervision at sites external to the training site,
    - e. Total number of hours to be accrued during the supervised preinternship professional experience,
    - f. Total number of hours of face-to-face contact hours with clients or patients during the supervised preinternship professional experience,
    - g. Total number of hours of supervision during the supervised preinternship professional experience,
    - h. Qualifications of all individuals who provide supervision during the supervised preinternship professional experience, and
    - i. Acknowledgment that ethics training will be included in all activities.
- B. The Board shall use the following criteria to determine whether an applicant's internship or training program qualifies as supervised professional experience under A.R.S. § 32-2071 (F):
  - 1. The written statement required under A.R.S. § 32-2071 (F)(9):
    - a. Was established no later than the time the applicant entered the internship or training program; and
    - b. Corresponds to the internship or training program the applicant completed;
  - 2. A supervisor was directly available to the applicant when decisions were made regarding emergency psychological services provided to a client or patient as required under A.R.S. § 32-2071 (F)(2);
  - 3. Course work used to satisfy the requirements of A.R.S. § 32-2071(A) or dissertation time is not credited toward the face-to-face, individual supervision time required by A.R.S. § 32-2071 (F)(6);
  - 4. The two hours a week of other learning activities required under A.R.S. § 32-2071 (F)(6) include one or more of the following
    - a. Case conferences involving a case in which the applicant was actively involved,
    - b. Seminars involving clinical issues,
    - c. Co-therapy with a professional staff person including discussion,
    - d. Group supervision, or
    - e. Additional individual supervision;
  - 5. The training program had the applicant work with other doctoral level psychology trainees and included in the written statement required under A.R.S. § 32-2071 (F)(9) a description of the program policy specifying the opportunities and resources provided to the applicant for working or interacting with other doctoral level psychology trainees in the same or other sites; and
  - 6. Time spent fulfilling academic degree requirements, such as course work applied to the doctoral degree, practicum, field laboratory, dissertation, or thesis credit, is not credited toward the 1,500 hours of supervised professional experience hours required by A.R.S. § 32-2071 (F). This subsection does not restrict a student from participating in activities designed to fulfill other doctoral degree requirements. However, the Board shall not credit time spent participating in activities to fulfill academic degree requirements toward the hours required under A.R.S. § 32-2071 (F).
- C. Under A.R.S. § 32-2071(G)(5), at least 40 percent of an applicant's supervised postdoctoral experience shall involve direct client or patient contact. If an applicant's supervised postdoctoral hours applied toward licensure include less than 40 percent direct contact hours, the applicant shall work additional time to achieve the required percentage of direct contact hours. While additional direct contact hours may be obtained to meet this requirement, the Board shall count no more than 1,500 hours of total postdoctoral experience for the purpose of licensure.

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**Historical Note**

Adopted effective March 3, 1995 (Supp. 95-1). Pursuant to the advice of the Attorney General, the text of this Section now contains the text certified by the Attorney General and filed as a copy effective March 3, 1995 (Supp. 95-3). Amended by final rulemaking at 6 A.A.R. 3297, effective August 7, 2000 (Supp. 00-3). Amended by final rulemaking at 13 A.A.R. 1493, effective June 2, 2007 (Supp. 07-2). Amended by final rulemaking at 21 A.A.R. 3444, effective January 30, 2016 (Supp. 15-4). Amended by final rulemaking at 22 A.A.R. 3083, October 4, 2016 (Supp. 16-4).

**R4-26-211. Foreign Graduates**

- A. Under A.R.S. § 32-2071(B), an applicant for licensure whose application is based on graduation from an institution of higher education located outside the U.S. and its territories shall demonstrate that the applicant's formal education is equivalent to a doctoral degree in psychology from a regionally accredited educational institution as described in A.R.S. § 32-2071(A).
- B. The Board shall find that the institution of higher education from which an applicant under subsection (A) graduated is equivalent to a regionally accredited education institution only if the institution of higher education is included in one of the following:
  1. International Handbook of Universities, published for the International Association of Universities by Stockton Press, 345 Park Avenue South, 10th floor, New York, NY 10010-1708;
  2. Commonwealth Universities Yearbook, published for the Association of Commonwealth Universities by John Foster House, 36 Gordon Square, London, England, WC1H 0PF; or
  3. Another source the Board determines provides reliable information.
- C. The academic transcript of an applicant under subsection (A) who graduated from an institution included under subsection (B) shall be translated into English and evaluated by a member organization of the National Association of Credential Evaluation Services (NACES). The applicant is responsible for paying all expenses incurred to obtain a translation and review of the academic transcript. An applicant can find information about obtaining a professional credential review at [www.naces.org](http://www.naces.org).
- D. When the credential review required under subsection (C) is completed, the NACES member organization shall submit the review report to the Board. The Board shall review the report and determine whether the applicant's education meets the standard in subsection (A).
- E. Upon written request, the Board may waive the credential review required under subsection (C) for an applicant who graduated from a doctoral program that is accredited by the accreditation panel of the Canadian Psychological Association.
- F. After the Board determines that the formal education of an applicant under subsection (A) is equivalent to a doctoral degree in psychology from a regionally accredited educational institution, the applicant shall provide evidence to the Board that the applicant has met all other requirements for licensure.

**Historical Note**

Adopted effective March 3, 1995 (Supp. 95-1). Pursuant to the advice of the Attorney General, the text of this Section now contains the text certified by the Attorney General and filed as a copy effective March 3, 1995 (Supp. 95-3). Amended by final rulemaking at 6 A.A.R. 3297,

effective August 7, 2000 (Supp. 00-3). Amended by final rulemaking at 10 A.A.R. 4743, effective January 1, 2005 (Supp. 04-4). Amended by final rulemaking at 21 A.A.R. 3444, effective January 30, 2016 (Supp. 15-4).

**ARTICLE 3. REGULATION****R4-26-301. Rules of Professional Conduct**

- A. The Board incorporates by reference standards 1.01 through 10.10 of the "Ethical Principles of Psychologists and Code of Conduct" adopted by the American Psychological Association, effective June 1, 2003. The incorporated materials do not include any later amendments or editions. A copy of the standards is available from the American Psychological Association Order Department, 750 First Street, NE, Washington, DC 20002-4242, [www.apa.org/ethics/code](http://www.apa.org/ethics/code), or the Board office.
- B. A licensee shall practice psychology in accordance with the standards incorporated under subsection (A).

**Historical Note**

Adopted effective July 27, 1979 (Supp. 79-4). Amended effective June 17, 1981. Amended effective June 30, 1981 (Supp. 81-3). Renumbered from R4-26-150 and amended effective July 3, 1991 (Supp. 91-3). Repealed effective March 3, 1995 (Supp. 95-1). Corrections made to text; agency filed different versions of text in original and copies; corrections reflect the original version (Supp. 95-2). Pursuant to the advice of the Attorney General, the text of this Section now contains the text certified by the Attorney General and filed as a copy effective March 3, 1995 (Supp. 95-3). New Section made by final rulemaking at 13 A.A.R. 1493, effective June 2, 2007 (Supp. 07-2). Amended by final rulemaking at 21 A.A.R. 3444, effective January 30, 2016 (Supp. 15-4).

**R4-26-302. Informal Interviews**

- A. When a complaint is scheduled for informal interview, the Board shall send written notice of an informal interview to the licensee who is the subject of the complaint, by personal service or certified mail, return receipt requested, at least 20 days before an informal interview.
- B. The Board shall include the following in the written notice of an informal interview:
  1. The time, date, and place of the interview;
  2. An explanation of the informal nature of the proceedings;
  3. The licensee's right to appear at the informal interview with legal counsel licensed in Arizona or without legal counsel;
  4. A statement of the allegations and issues involved;
  5. The licensee's right to a formal hearing instead of the informal interview; and
  6. Notice that the Board may take disciplinary action at the conclusion of the informal interview;
- C. The procedure used during an informal interview may include the following:
  1. Swearing in and taking testimony from the licensee, complainant, and witnesses, if any;
  2. Optional opening and closing remarks by the licensee;
  3. An opportunity for the complainant to address the Board, if requested;
  4. Board questions to the licensee, complainant, and witnesses, if any; and
  5. Deliberation and discussion by the Board.

**Historical Note**

Renumbered from R4-26-151 effective July 3, 1991 (Supp. 91-3). New Section made by final rulemaking at 13 A.A.R. 1493, effective June 2, 2007 (Supp. 07-2).

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Amended by final rulemaking at 21 A.A.R. 3444, effective January 30, 2016 (Supp. 15-4).

**R4-26-303. Titles**

A person shall not use a title that claims a potential or future degree or qualification such as "Ph.D. (Cand)," "Ph.D. (ABD)," "License Eligible," "Candidate for Licensure," or "Board Eligible." The use of a title that claims a potential or future degree or qualification is a violation of A.R.S. § 32-2061 et seq.

**Historical Note**

Renumbered from R4-26-151 effective July 3, 1991 (Supp. 91-3). New Section adopted effective March 3, 1995 (Supp. 95-1). Pursuant to the advice of the Attorney General, the text of this Section now contains the text certified by the Attorney General and filed as a copy effective March 3, 1995 (Supp. 95-3). Amended by final rulemaking at 6 A.A.R. 3297, effective August 7, 2000 (Supp. 00-3). Amended by final rulemaking at 21 A.A.R. 3444, effective January 30, 2016 (Supp. 15-4).

**R4-26-304. Representation before the Board by Attorney Not Admitted to State Bar of Arizona**

An attorney who is not a member of the State Bar of Arizona shall not represent a party before the Board unless the attorney is admitted to practice *pro hac vice* before the Board under Rule 38(a) of the Rules of the Supreme Court of Arizona.

**Historical Note**

Renumbered from R4-26-151 effective July 3, 1991 (Supp. 91-3). New Section made by final rulemaking at 13 A.A.R. 1493, effective June 2, 2007 (Supp. 07-2). Amended by final rulemaking at 21 A.A.R. 3444, effective January 30, 2016 (Supp. 15-4). Amended by final rulemaking at 22 A.A.R. 3083, October 4, 2016 (Supp. 16-4).

**R4-26-305. Confidentiality of Investigative Materials**

- A.** A psychologist shall not disclose a confidential record, as defined by R4-26-101, that relates to a Board investigation to any person or entity other than the psychologist's attorney, except:
1. A redacted summary that ensures the anonymity of the client or patient;
  2. Information regarding the nature of a complaint, the processes utilized by the Board, and the outcomes of a case;
  3. As required by law;
  4. As required by a court order compelling production; or
  5. If disclosure is protected under the United States or Arizona Constitutions.
- B.** A psychologist who violates this Section commits an act of unprofessional conduct.

**Historical Note**

Renumbered from R4-26-151 effective July 3, 1991 (Supp. 91-3). New Section made by final rulemaking at 13 A.A.R. 1493, effective June 2, 2007 (Supp. 07-2). Amended by final rulemaking at 21 A.A.R. 3444, effective January 30, 2016 (Supp. 15-4).

**R4-26-306. Renumbered****Historical Note**

Renumbered from R4-26-151 effective July 3, 1991 (Supp. 91-3).

**R4-26-307. Renumbered****Historical Note**

Renumbered from R4-26-151 effective July 3, 1991 (Supp. 91-3).

**R4-26-308. Rehearing or Review of Decision**

- A.** Except as provided in subsection (G), any party in a contested case or appealable agency action before the Board who is aggrieved by a Board order or decision may file with the Board, not later than 30 days after service of the decision, a written motion for rehearing or review of the decision specifying the particular grounds for rehearing or review. For purposes of this subsection, service is complete on personal service or five days after the date that a Board order or decision is mailed to the party's last known address.
- B.** A motion for rehearing or review may be amended at any time before it is ruled upon by the Board. A party may file a response within 15 days after service of the motion or amended motion by any other party. The Board may require written briefs regarding the issues raised in the motion and may provide for oral argument.
- C.** The Board may grant rehearing or review of a Board order or decision for any of the following causes materially affecting the moving party's rights:
1. An irregularity in the administrative proceedings of the agency, its hearing officer, or the prevailing party, or any order or abuse of discretion that caused the moving party to be deprived of a fair hearing;
  2. Misconduct of the Board, its hearing officer, or the prevailing party;
  3. An accident or surprise that could not be prevented by ordinary prudence;
  4. Newly discovered material evidence that could not with reasonable diligence be discovered and produced at the original hearing;
  5. Excessive or insufficient penalties;
  6. An error in the admission or rejection of evidence or other errors of law occurring at the administrative hearing or during the progress of the case; or
  7. The order or decision is not justified by the evidence or is contrary to law.
- D.** The Board may affirm or modify a Board order or decision or grant a rehearing or review to all or any of the parties, on all or part of the issues, for any of the reasons specified in subsection (C). An order granting a rehearing or review shall specify the grounds on which the rehearing or review is granted, and the rehearing or review shall cover only the matters specified.
- E.** Not later than 30 days after a Board order or decision is rendered, the Board may on its own initiative order a rehearing or review of its order or decision for any reason specified in subsection (C). After giving the parties or their counsel notice and an opportunity to be heard on the matter, the Board may grant a motion for rehearing or review for a reason not stated in the motion.
- F.** When a motion for rehearing or review is based on affidavits, the party shall serve the affidavits with the motion. An opposing party may, within 15 days after service, serve opposing affidavits. The Board for good cause or by written agreement of all parties may extend the period for service of opposing affidavits to a total of 20 days. Reply affidavits are permitted.
- G.** If the Board finds that the immediate effectiveness of a Board order or decision is necessary to preserve public peace, health, or safety and that a rehearing or review of the Board order or decision is impracticable, unnecessary, or contrary to the public interest, the Board order or decision may be issued as a final order or decision without an opportunity for a rehearing or review. If a Board order or decision is issued as a final order or decision without an opportunity for rehearing or review, any application for judicial review of the order or decision shall be made within the time permitted for final orders or decisions.

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- H.** For purposes of this Section, “contested case” is defined in A.R.S. § 41-1001 and “appealable agency action” is defined in A.R.S. § 41-1092.
- I.** A person who files a complaint with the Board against a licensee:
1. Is not a party to:
    - a. A Board administrative action, decision, or proceeding; or
    - b. A court proceeding for judicial review of a Board decision under A.R.S. §§ 12-901 through 12-914; and
  2. Is not entitled to seek rehearing or review of a Board action or decision under this Section.

**Historical Note**

Former Section R4-26-10 renumbered and adopted as R4-26-57 effective July 27, 1979 (Supp. 79-4). Amended subsection (c)(4) effective June 30, 1981 (Supp. 81-3). Renumbered from R4-26-157 effective July 3, 1991 (Supp. 91-3). Amended effective March 3, 1995 (Supp. 95-1). Pursuant to the advice of the Attorney General, the text of this Section now contains the text certified by the Attorney General and filed as a copy effective March 3, 1995 (Supp. 95-3). Amended by final rulemaking at 6 A.A.R. 3297, effective August 7, 2000 (Supp. 00-3). Amended by final rulemaking at 10 A.A.R. 4743, effective January 1, 2005 (Supp. 04-4). Amended by final rulemaking at 21 A.A.R. 3444, effective January 30, 2016 (Supp. 15-4).

**R4-26-309. Complaints against Judicially Appointed Psychologists**

- A.** A.R.S. § 32-2081(B) applies when a complaint is filed against a psychologist who conducts an evaluation, treatment, or psycho-education under a court order even if the psychologist is not specifically named in the court order.
- B.** If a complaint is filed against a psychologist who conducts an evaluation, treatment, or psycho-education under a court order, the Board shall return the complaint to the complainant with instructions that the court issuing the order must find there is a substantial basis to refer the complaint for consideration by the Board.

**Historical Note**

Section made by final rulemaking at 21 A.A.R. 3444, effective January 30, 2016 (Supp. 15-4).

**R4-26-310. Disciplinary Supervision; Practice Monitor**

- A.** If the Board determines, after a hearing conducted under A.R.S. Title 41, Chapter 6, Article 10, after an informal interview under A.R.S. § 32-2081(K), or through an agreement with the Board, that to protect public health and safety and ensure a licensee’s ability to engage safely in the practice of psychology, it is necessary to require that the licensee practice psychology for a specified term under another licensee who provides supervision or service as a practice monitor, the Board shall enter into an agreement with the licensee or issue an order regarding the disciplinary supervision or practice monitoring.
- B.** Payment between a licensee and supervisor or practice monitor.
1. A licensed psychologist who enters into an agreement with the Board or is ordered by the Board to practice psychology under the supervision of another licensee may pay the supervising licensee for the supervisory service;
  2. A licensed psychologist who provides supervisory service to a licensed psychologist who has been ordered by the Board or entered into an agreement with the Board to

practice psychology under supervision may accept payment for the supervisory service;

3. A licensed psychologist who enters into an agreement with the Board or is ordered by the Board to practice psychology under a practice monitor may pay the practice monitor for the service provided; and
  4. A licensed psychologist who provides practice monitoring to a licensed psychologist who has been ordered by the Board or entered into an agreement with the Board to practice psychology under a practice monitor may accept payment for the service provided.
- C.** A licensed psychologist who supervises or serves as a practice monitor for a licensed psychologist who has entered an agreement with the Board or been ordered by the Board to practice psychology under supervision or with a practice monitor is professionally responsible only for work specified in the agreement or order.

**Historical Note**

Section made by final rulemaking at 21 A.A.R. 3444, effective January 30, 2016 (Supp. 15-4). Amended by final rulemaking at 22 A.A.R. 3083, October 4, 2016 (Supp. 16-4).

**ARTICLE 4. BEHAVIOR ANALYSIS****R4-26-401. Definitions**

- A.** The definitions in A.R.S. § 32-2091 apply in this Article.
- B.** Additionally, in this Article:
1. “Accredited” means an institution of higher education:
    - a. In the U.S. is listed with the Council for Higher Education Accreditation,
    - b. In Canada is a member of the Universities Canada, and
    - c. Outside of the U.S. or Canada is determined by a member of the National Association of Credential Evaluation Services to have standards substantially similar to those of an institution of higher education in the U.S. or Canada.
  2. “Advertising” means any media used to disseminate information regarding the qualifications of a behavior analyst in order to solicit clients for behavior analysis services, regardless of whether the behavior analyst pays for the advertising.
  3. “Applicant” means an individual who applies to the Board for an initial or renewal license.
  4. “BACB” means the Behavior Analyst Certification Board, Inc.®.
  5. “Confidential information” means:
    - a. Minutes of an executive session of the Board except as provided under A.R.S. § 38-431.03(B);
    - b. A record that is classified as confidential by a statute or rule applicable to the Board;
    - c. Materials relating to an investigation by the Board, including a complaint, response, client record, witness statement, investigative report, and any information relating to a client’s diagnosis, treatment, or personal family life; and
    - d. The following regarding an applicant or licensee:
      - i. College or university transcripts if requested from the Board by a person other than the applicant or licensee;
      - ii. Home address, telephone number, and e-mail address;
      - iii. Test scores;
      - iv. Date of birth;
      - v. Place of birth; and
      - vi. Social Security number.



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6. "Gross negligence" means an extreme departure from the ordinary standard of care.
  7. "Inactive status" means a behavior analyst maintains a license as a behavior analyst but is prohibited from practicing behavior analysis or holding oneself out as practicing behavior analysis in Arizona.
  8. "License period" means:
    - a. For a licensee who holds an odd-numbered license, the two years between the first day of the month after the licensee's birth month of one odd-numbered year and the last day of the licensee's birth month of the next odd-numbered year; and
    - b. For a licensee who holds an even-numbered license, the two years between the first day of the month after the licensee's birth month of one even-numbered year and the last day of the licensee's birth month of the next even-numbered year.
  9. "Mitigating circumstances that prevent resolution" means factors the Board considers in reviewing allegations against an applicant or licensee of unprofessional conduct occurring in another regulatory jurisdiction when the allegations would not prohibit licensure in Arizona. The factors may include:
    - a. Nature of the alleged conduct,
    - b. Severity of the alleged conduct,
    - c. Recentness of the alleged conduct,
    - d. Actions taken by the applicant to remedy potential violations, and
    - e. Whether the alleged conduct was an isolated incident or part of a recurring pattern.
  10. "Party" means the Board, an applicant, a licensee, or the state.
  11. "Psychometric testing materials" means manuals, instruments, protocols, and questions or stimuli used in testing.
  12. "Raw test data" means test scores, client responses to test questions or stimuli, and a behavior analyst's notes and recordings concerning client statements and behavior during examination.
  13. "Regulatory jurisdiction" means a state or territory of the United States, the District of Columbia, or a foreign country with authority to grant or deny entry into a profession or occupation.
  14. "Renewal year" means:
    - a. Each odd-numbered year for a licensee who holds an odd-numbered license, and
    - b. Each even-numbered year for a licensee who holds an even-numbered license.
  15. "Supervised experience" means supervised independent fieldwork, practicum, or intensive practicum.
- B. As specifically authorized by A.R.S. § 32-2091.01(B), the Board establishes and shall collect the following charges for the services specified:
    1. Duplicate license: \$25;
    2. Duplicate renewal receipt: \$5;
    3. Copy of the Board's statutes and rules: \$5;
    4. Verification of a license: \$2;
    5. Audio recording of a Board meeting: \$10 per meeting;
    6. Electronic medium containing the name and address of all licensees: \$.05 per name;
    7. Customized electronic medium containing the name and address of all licensees: \$.25 per name;
    8. Customized electronic medium: \$.35 per name; and
    9. Copy of Board records, letters, minutes, applications, files, policy statements, and other non-confidential documents: \$.25 per page.
  - C. Except as provided by law, including A.R.S. § 41-1077, the fees listed in subsection (A) are not refundable.

**Historical Note**

Section made by final rulemaking at 18 A.A.R. 2490, effective September 11, 2012 (Supp. 12-3).

**R4-26-403. Application for Initial License**

- A. An individual who wishes to practice as a behavior analyst and is qualified under A.R.S. § 32-2091.02 shall complete and submit an application form, which is available from the Board office and on its website.
- B. Additionally, an applicant shall submit:
  1. An original, un-retouched, passport-quality photograph that is no larger than 1.5 X 2 inches in size and taken no more than 60 days before the date of application;
  2. The application fee required under R4-26-402;
  3. A written request that Board staff verify with the BACB that the applicant passed the examination referenced in R4-26-404;
  4. As required under A.R.S. § 41-1080(A), the specified documentation of citizenship or alien status indicating the applicant's presence in the U.S. is authorized under federal law; and
  5. The Board's Mandatory Confidential Information form.
- C. Additionally, an applicant shall ensure the following is submitted directly to the Board:
  1. Verification of supervised experience that meets the standards specified in R4-26-404.2. For the purpose of licensure, the Board shall accept the following as verification of supervised experience:
    - a. From the supervisor of the experience:
      - i. A copy of the BACB final experience verification form, signed by the supervisor, submitted by the applicant to the BACB when the applicant applied to the BACB for certification; or
      - ii. A completed Board verification form; or
    - b. From the applicant. If the applicant demonstrates to the Board that a supervisor cannot be located, or at the request of the Board, the applicant may submit a copy of each BACB final experience verification form the applicant submitted to the BACB when the applicant applied to the BACB for certification; and
    - c. If the Board requires additional information, the Board shall accept from the applicant or supervisor of the experience:
      - i. A copy of the plan required under R4-26-404.2(C)(6), and
      - ii. Letters or other documentation from third parties who observed the supervisory relationship;

**Historical Note**

Section made by final rulemaking at 18 A.A.R. 2490, effective September 11, 2012 (Supp. 12-3). Section amended by final rulemaking at 23 A.A.R. 215, effective March 5, 2017 (Supp. 17-1). Amended by final rulemaking 26 A.A.R. 1017, effective July 4, 2020 (Supp. 20-2).

**R4-26-402. Fees and Charges**

- A. As specifically authorized by A.R.S. §§ 32-2091.01(A) and 32-2091.07(B), the Board establishes and shall collect the following fees:
  1. Application for an active license: \$350;
  2. Renewal of an active license: \$500;
  3. Renewal of an inactive license: \$85;
  4. Issuance of an initial license: \$500; and
  5. Reinstatement of expired license: \$200.

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2. Official transcript for the graduate degree required under R4-26-404.1 submitted by the accredited institution of higher education that awarded the degree;
3. Official transcript or other official document demonstrating the applicant completed the coursework required under R4-26-405 submitted by the accredited institution of higher education or BACB-approved program in which the coursework was completed; and
4. Verification of licensure, certification, or registration by another regulatory jurisdiction submitted by the regulatory jurisdiction.

**Historical Note**

Section made by final rulemaking at 18 A.A.R. 2490, effective September 11, 2012 (Supp. 12-3). Section amended by final rulemaking at 23 A.A.R. 215, effective March 5, 2017 (Supp. 17-1). Amended by final rulemaking at 24 A.A.R. 3100, effective December 11, 2018 (Supp. 18-4). Amended by final rulemaking 26 A.A.R. 1017, effective July 4, 2020 (Supp. 20-2).

**R4-26-404. Examination Requirement**

To be licensed as a behavior analyst in Arizona, an individual shall take and pass the examination administered by the BACB for Board Certified Behavior Analysts as part of its certification process.

**Historical Note**

Section made by final rulemaking at 18 A.A.R. 2490, effective September 11, 2012 (Supp. 12-3). Section amended by final rulemaking at 23 A.A.R. 215, effective March 5, 2017 (Supp. 17-1).

**R4-26-404.1. Education Requirement**

- A. This Section does not apply to an applicant who was certified as a behavior analyst by the BACB before January 1, 2015.
- B. To be licensed as a behavior analyst in Arizona, an individual shall have a master's degree or higher completed:
  1. From an accredited institution of higher education and
  2. In a program that meets the requirements specified by the BACB.

**Historical Note**

New Section made by final rulemaking at 23 A.A.R. 215, effective March 5, 2017 (Supp. 17-1). Amended by final rulemaking 26 A.A.R. 1017, effective July 4, 2020 (Supp. 20-2).

**R4-26-404.2. Supervised Experience Requirement**

- A. Application of this Section:
  1. This Section does not apply to an individual who was certified by the BACB with at least 1500 hours of supervised experience before January 1, 2015; and
  2. This Section applies in part to an individual who was certified by the BACB with fewer than 1500 hours of supervised experience before January 1, 2015. To be licensed in Arizona, the individual shall complete additional hours of supervised experience to meet the 1500-hour requirement under A.R.S. § 32-2091.03 and ensure all hours of supervised experience obtained after December 31, 2014, meet the requirements of this Section.
- B. To be licensed as a behavior analyst in Arizona, an individual shall have completed 1500 hours of supervised experience. The Board shall accept, for the purpose of licensure, hours of supervised experience obtained on or after January 1, 2015, that meet the following standards:
  1. Supervised independent fieldwork. The supervisee shall be supervised at a frequency that meets the standards of the BACB at the time of supervision;
  2. Practicum. The supervisee shall:
    - a. Participate in a practicum in behavior analysis within a program approved by the BACB;
    - b. Achieve a passing grade in the practicum;
    - c. Obtain graduate-level academic credit for the practicum; and
    - d. Be supervised at a frequency that meets the standard of the BACB at the time of supervision;
  3. Intensive practicum. The supervisee shall:
    - a. Participate in an intensive practicum in behavior analysis within a program approved by the BACB;
    - b. Achieve a passing grade in the intensive practicum;
    - c. Obtain graduate-level academic credit for the intensive practicum; and
    - d. Be supervised at a frequency that meets the standards of the BACB at the time of supervision;
  4. Combination of experience categories. The supervisee may accrue hours of supervised experience in a single category or may combine any two or three categories listed in subsections (B)(1) through (3). However, the supervisee shall accrue supervised experience in only one category in each supervisory period; and
  5. For all categories of supervised experience, the supervisee shall accrue:
    - a. No fewer than 20 hours and no more than 130 hours, including time spent in supervision, each month; or
    - b. The number of hours that meets the standards of the BACB at the time of supervision.
- C. Standards for supervised experience.
  1. Onset of supervised experience. The Board shall not accept, for the purpose of licensure, hours of supervised experience completed before attending courses required under R4-26-405. However, the Board shall accept hours of supervised experience completed concurrent with attending courses required under R4-26-405.
  2. Appropriate activities. The Board shall accept, for the purpose of licensure, hours of supervised experience that demonstrate participation in supervised experiences with various populations, at various sites, with multiple supervisors, and including all of the following activity areas:
    - a. Conducting assessments related to behavioral intervention;
    - b. Designing, implementing, and monitoring skill-acquisition and behavior-reduction programs;
    - c. Overseeing implementation of behavior-analytic programs by others;
    - d. Training, designing behavioral systems, and managing performance; and
    - e. Performing other activities directly related to behavior analysis such as attending planning meetings regarding the behavior analytic program, researching literature related to the program, and talking with others about the program.
  3. Appropriate clients. The Board shall accept, for the purpose of licensure, hours of supervised experience with appropriate clients.
    - a. An appropriate client is one for whom behavior-analytic services are suitable.
    - b. A client is not appropriate if:
      - i. The client is related to the supervisee,
      - ii. The client's primary caretaker is related to the supervisee, or
      - iii. The supervisee is the client's primary caretaker.
  4. Supervisor qualifications. The Board shall accept, for the purpose of licensure, hours of supervised experience only if the supervisor:

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- a. Was licensed by the state in which the supervision occurred during the period of supervised experience; or
  - b. If licensure of behavior analysts was not available or not in effect in the state in which the supervision occurred or during the period of supervised experience, was certified as a behavior analyst by the BACB; and
  - c. Was not related to, subordinate to, or employed by the supervisee during the period of supervised experience. Employment does not include payment made to the supervisor by the supervisee for supervisory services.
5. Nature of supervision. The Board shall accept, for the purpose of licensure, hours of supervised experience that are effective in improving and maintaining the behavior-analytic, professional, and ethical skills of the supervisee.
- a. Effective supervision includes:
    - i. Developing performance expectations for the supervisee;
    - ii. Observing the supervisee and providing performance feedback on behavior-analytic activities with clients in the natural environment. In person, on-site observation is preferred but use of web cameras, video record, videoconferencing, or a similar means that provides synchronous observation is acceptable;
    - iii. Modeling technical, professional, and ethical behavior for the supervisee;
    - iv. Guiding behavioral case conceptualization, problem solving, and decision making skills of the supervisee;
    - v. Reviewing written materials prepared by the supervisee such as behavior programs, data sheets, and reports;
    - vi. Providing oversight and evaluation of the effects of the supervisee's delivery of behavioral service; and
    - vii. Evaluating the effects of supervising the supervisee; and
  - b. Effective supervision may be conducted:
    - i. Individually for at least half of the total supervised hours in each supervisory period; and
    - ii. In groups of two to 10 supervisees for no more than half of the total supervised hours in each supervisory period.
6. Supervision plan. The Board shall accept, for the purpose of licensure, hours of supervised experience for which the supervisee and supervisor executed a written plan before starting the supervised experience, which includes the following:
- a. States the responsibilities of both the supervisor and supervisee;
  - b. Requires the supervisor to complete eight hours of supervision training provided by BACB;
  - c. Includes a description of appropriate activities and instructional objectives;
  - d. Specifies the measurable circumstance under which the supervisor will complete the supervisee's Experience Verification Form;
  - e. Delineates the consequences if either supervisor or supervisee does not comply with the plan;
  - f. Requires the supervisee to obtain written permission from the supervisee's employer or manager when applicable; and
  - g. Requires both the supervisor and supervisee to comply with the ethical standard specified at R4-26-406.
7. Multiple supervisors or settings. The Board shall accept, for the purpose of licensure, hours of supervised experience provided by multiple supervisors or at multiple settings if all the hours of supervised experience meet the standards specified in subsections (C)(1) through (6)

**Historical Note**

New Section made by final rulemaking at 24 A.A.R. 3100, effective December 11, 2018 (Supp. 18-4).  
Amended by final rulemaking 26 A.A.R. 1017, effective July 4, 2020 (Supp. 20-2).

**R4-26-405. Coursework Requirement**

- A. This Section does not apply to an applicant who was certified as a behavior analyst by the BACB before January 1, 2015.
- B. To be licensed as a behavior analyst in Arizona, an individual shall complete, as part of or in addition to the coursework necessary to obtain the graduate degree required under R4-26-404.1, 270 classroom hours of graduate-level instruction. The individual shall ensure that the classroom hours include the following content areas:
  1. Ethical and professional conduct in behavior analysis: 45 hours;
  2. Concepts and principles of behavior analysis: 45 hours;
  3. Research methods in behavior analysis: 45 hours:
    - a. Measurement and data analysis: 25 hours; and
    - b. Experimental design: 20 hours;
  4. Applied behavior analysis: 105 hours:
    - a. Fundamental elements of behavior change and specific behavior change procedures: 45 hours;
    - b. Identification of the problem and assessment: 30 hours;
    - c. Intervention and behavior change considerations: 10 hours;
    - d. Behavior change systems: 10 hours; and
    - e. Implementation, management, and supervision: 10 hours; and
  5. Discretionary content related to behavior analysis: 30 hours.
- C. The Board shall accept classroom hours of graduate-level instruction completed at an accredited institution of higher education or in a program approved by the BACB.

**Historical Note**

Section made by final rulemaking at 18 A.A.R. 2490, effective September 11, 2012 (Supp. 12-3). Section amended by final rulemaking at 23 A.A.R. 215, effective March 5, 2017 (Supp. 17-1).

**R4-26-406. Ethical Standard**

In fulfilling its responsibilities under law, the Board shall rely on the most current version of the BACB Professional and Ethical Compliance Code for Behavior Analysts, published by the BACB and available for review at the Board office and online at [www.BACB.com](http://www.BACB.com) unless the Board determines public health and safety is not sufficiently protected by the current version of the BACB Professional and Ethical Compliance Code for Behavior Analysts.

**Historical Note**

Section made by final rulemaking at 18 A.A.R. 2490, effective September 11, 2012 (Supp. 12-3). Section amended by final rulemaking at 23 A.A.R. 215, effective March 5, 2017 (Supp. 17-1). Amended by final rulemaking 26 A.A.R. 1017, effective July 4, 2020 (Supp. 20-2).

**R4-26-407. Repealed**

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**Historical Note**

Section made by final rulemaking at 18 A.A.R. 2490, effective September 11, 2012 (Supp. 12-3). Section amended by final rulemaking at 23 A.A.R. 215, effective March 5, 2017 (Supp. 17-1). Section amended by final rulemaking at 24 A.A.R. 3100, effective December 11, 2018 (Supp. 18-4). Repealed by final rulemaking 26 A.A.R. 1017, effective July 4, 2020 (Supp. 20-2).

**R4-26-408. License Renewal**

- A. A license issued by the Board, whether active or inactive, expires on the last day of a licensee's birth month during the licensee's renewal year.
- B. The Board shall provide a licensee with 60 days' notice of the license renewal deadline. Failure to receive the notice does not excuse failure to renew timely.
- C. To renew a license, a licensee shall, on or before the last day of the licensee's birth month during the licensee's renewal year, submit to the Board a renewal application form, which is available from the Board office and on its website.
- D. Additionally, to renew a license, a licensee shall submit:
  1. The license renewal fee required under R4-26-402; and
  2. If the documentation previously submitted under R4-26-404(B) was a limited form of work authorization issued by the federal government, evidence that the work authorization has not expired.
- E. If a completed application is timely submitted under subsections (C) and (D) to renew an active license, the licensee may continue to practice behavior analysis under the active license until notified by the Board that the application for renewal has been approved or denied. If the Board denies license renewal, the licensee may continue to practice behavior analysis until the last day for seeking review of the Board's decision or a later date fixed by a reviewing court.
- F. Under A.R.S. § 32-2091.07, the license of a licensee who fails to submit a renewal application on or before the last day of the licensee's birth month during the licensee's renewal year expires and the licensee shall immediately stop practicing as a behavior analyst in Arizona.
- G. A behavior analyst whose license expires under subsection (F) may have the license reinstated by submitting the following to the Board within two months after last day of the licensee's birth month during the licensee's renewal year:
  1. The license renewal application required under subsection (C) and the document required under subsection (D)(2),
  2. A sworn affidavit that the applicant has not practiced as a behavior analyst in Arizona since the applicant's license expired, and
  3. The license renewal and license reinstatement fees.
- H. A behavior analyst whose license expires under subsection (F) and who fails to have the license reinstated under subsection (G) may have the license reinstated by:
  1. Complying with subsection (G) within one year after the last day of the licensee's birth month during the licensee's renewal year, and
  2. Providing proof of competency and qualifications to the Board.
- I. A behavior analyst whose license expires under subsection (F) and who fails to have the license reinstated under subsection (G) or (H) may be licensed again only by complying with R4-26-403.

**Historical Note**

Section made by final rulemaking at 18 A.A.R. 2490, effective September 11, 2012 (Supp. 12-3). Section amended by final rulemaking at 23 A.A.R. 215, effective

March 5, 2017 (Supp. 17-1). Repealed by final rulemaking 26 A.A.R. 1017, effective July 4, 2020 (Supp. 20-2).

**R4-26-409. Continuing Education Requirement**

- A. A licensee shall complete a minimum of 30 hours of continuing education during each license period. A licensee shall ensure that at least four hours of continuing education addresses ethics.
- B. During a licensee's first license period, the licensee shall complete a pro-rated number of continuing education hours. To determine the number of continuing education hours required during the first license period, the licensee shall multiply the number of whole months from the month of license issuance to the end of the license period by 1.25.
- C. A licensee shall ensure that each continuing education program provides the necessary understanding of current developments, skills, or procedures related to the practice of behavior analysis. The following provide the necessary understanding of current developments, skills, or procedures related to the practice of behavior analysis:
  1. College or university graduate coursework that directly relates to behavior analysis and is provided by an accredited educational institution: 15 hours of continuing education for each semester hour completed and 10 hours of continuing education for each quarter hour completed; a course syllabus and transcript are required for documentation;
  2. Continuing education programs offered by a BACB-approved provider: One hour of continuing education for each hour of participation; a certificate or letter from the BACB-approved provider is required for documentation;
  3. Self-study or correspondence course that is directly related to behavior analysis and offered by a BACB-approved provider or approved or offered by an accredited educational institution: Hours of continuing education determined by the course provider; a certificate or letter from the BACB-approved provider or a course syllabus and transcript from the accredited educational institution are required for documentation;
  4. Online course that is directly related to behavior analysis and offered by a BACB-approved provider or approved or offered by an accredited educational institution: Hours of continuing education determined by the course provider; a certificate or letter from the BACB-approved provider or a course syllabus and transcript from the accredited educational institution are required for documentation;
  5. Teaching a continuing education program offered by a BACB-approved provider or teaching a graduate university or college course offered by an accredited educational institution: One hour of continuing education for each hour taught; for graduate courses taught, 15 hours of continuing education for each semester hour completed and 10 hours of continuing education for each quarter hour completed;
  6. Credentialing activities or events pre-approved for continuing education and initiated by the BACB: One hour of continuing education for each hour of participation; documentation from the BACB is required;
  7. Publication of a peer-reviewed article or text book on the practice of behavior analysis or serving as a reviewer or action editor of an article pertaining to behavior analysis: eight hours of continuing education for one publication and one hour of continuing education for one review; and
  8. Attending a Board meeting: Three hours for attending a morning or afternoon session of a Board meeting and six hours for attending a full-day Board meeting.

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- D.** The number of hours of continuing education is limited as follows:
1. No more than 50 percent of the required hours may be obtained from teaching a continuing education program or course under subsection (C)(5). A licensee shall not obtain continuing education hours for teaching the same continuing education program or course more than once during each licensing period. A licensee shall earn no continuing education hours for participating as a member of a panel at a continuing education program or course;
  2. No more than 25 percent of the required hours may be obtained from continuing education under each of subsections (C)(3), (6) and (7).
  3. No more than six of the required hours may be obtained under subsection (C)(8). Hours obtained under subsection (C)(8) may be used to complete the ethics requirement under subsection (A).
  4. Hours obtained in excess of the minimum required during a license period shall not be carried over to a subsequent license period.
- E.** A licensee shall obtain a certificate or other evidence of attendance from the provider of each continuing education program or course attended that includes the following:
1. Name of the licensee;
  2. Title of the continuing education;
  3. Name of the continuing education provider;
  4. Date, time, and location of the continuing education; and
  5. Number of hours of continuing education obtained.
- F.** A licensee shall maintain the evidence of attendance described in subsection (E) for two licensing periods and make the evidence available to the Board upon request.
- G.** The Board may audit a licensee's compliance with the continuing education requirement. The Board may deny license renewal or take other disciplinary action against a licensee who fails to obtain or document the required continuing education hours. The Board may discipline a licensee who commits fraud, deceit, or misrepresentation regarding the continuing education hours.
- H.** A licensee who cannot comply with the continuing education requirement for good cause may seek an extension of time in which to comply by submitting a written request to the Board with the timely submission of the renewal application required under R4-26-408.
1. Good cause includes but is not limited to illness or injury of the licensee or a close family member, death of a close family member, birth or adoption of a child, military service, relocation, natural disaster, financial hardship, or residence in a foreign country for at least 12 months of the license period.
  2. The Board shall not grant an extension longer than one year.
  3. A licensee who obtains hours of continuing education during an extension of time provided by the Board shall ensure the hours are reported only for the license period extended.
  4. A licensee who cannot comply with the continuing education requirement within an extension may apply to the Board for inactive license status under A.R.S. § 32-2091.06(E).

**Historical Note**

Section made by final rulemaking at 18 A.A.R. 2490, effective September 11, 2012 (Supp. 12-3). Section amended by final rulemaking at 23 A.A.R. 215, effective March 5, 2017 (Supp. 17-1). Section amended by final rulemaking at 24 A.A.R. 3100, effective December 11, 2018 (Supp. 18-4).

**R4-26-410. Voluntary Inactive Status**

- A.** A licensed behavior analyst may request that the Board place the license on inactive status for one of the following reasons:
1. The behavior analyst no longer provides behavior analysis services in Arizona,
  2. The behavior analyst is retired, or
  3. The behavior analyst is physically or mentally incapacitated or otherwise disabled.
- B.** To place a license on inactive status, a licensee shall comply with R4-26-408.
- C.** To remain licensed, a licensee on inactive status shall comply with R4-26-408 on or before the last day of the licensee's birth month during the licensee's renewal year.

**Historical Note**

Section made by final rulemaking at 18 A.A.R. 2490, effective September 11, 2012 (Supp. 12-3). Section amended by final rulemaking at 23 A.A.R. 215, effective March 5, 2017 (Supp. 17-1).

**R4-26-411. License Reinstatement**

A licensee seeking reinstatement from an inactive to an active license shall:

1. Comply with the provisions of R4-26-408(C) and (D);
2. Submit evidence of completing a pro-rated number of hours of continuing education. The licensee shall calculate the number of continuing education hours required by multiplying the number of whole months that the license was on inactive status by 1.25; and
3. Complete any other requirements the Board determines are necessary to ensure that the licensee has maintained and updated the licensee's ability to practice as a behavior analyst.

**Historical Note**

Section made by final rulemaking at 18 A.A.R. 2490, effective September 11, 2012 (Supp. 12-3).

**R4-26-412. Client Records**

- A.** A licensee shall not condition release of a client's record on payment for services by the client or a third party.
- B.** A licensee shall release a client's raw test data to another licensed behavior analyst only after obtaining the client's informed, written consent to the release. Without a client's informed, written consent, a licensee shall release the client's raw test data only to the extent required by law or under court order compelling production.
- C.** A licensee shall retain all client records under the licensee's control for at least six years from the date of the last client activity. If a client is a minor, the licensee shall retain the client's record for at least three years past the client's 18th birthday or six years from the date of the last client activity, whichever is longer.
- D.** Audio or video tapes created primarily for training or supervisory purposes are exempt from the requirement of subsection (C).
- E.** A licensee who is notified by the Board or municipal, state, or federal officials of an investigation or pending case shall retain all records relating to the investigation or case until the licensee receives written notice that the investigation is complete or the case is closed.
- F.** A licensee may retain client records in electronic form. The licensee shall ensure that client records in electronic form are stored securely and a backup copy is maintained.
- G.** The provisions of this Section apply to all licensees including those on inactive status.

**Historical Note**

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Section made by final rulemaking at 18 A.A.R. 2490,  
effective September 11, 2012 (Supp. 12-3).

**R4-26-413. Change of Name, Mailing Address, E-mail Address, or Telephone Number**

- A. The Board shall communicate with a licensee using the contact information provided to the Board. To ensure timely communication from the Board, a licensee shall notify the Board, in writing, within 30 days of any change of name, mailing address, e-mail address, or residential or business telephone number.
- B. A licensee who reports a name change shall submit to the Board legal documentation that explains the name change.

**Historical Note**

Section made by final rulemaking at 18 A.A.R. 2490,  
effective September 11, 2012 (Supp. 12-3).

**R4-26-414. Complaints and Investigations**

- A. Anyone, including the Board, may file a complaint. A complainant shall ensure that a complaint filed with the Board involves:
  1. An individual licensed under this Article; or
  2. An individual, including an applicant, believed to be engaged in the unlicensed practice of behavior analysis.
- B. Complaint requirements. A complainant shall:
  1. Submit the complaint to the Board in writing; and
  2. Provide the following information:
    - a. Name and business address of licensee or other individual who is the subject of complaint;
    - b. Name and address of complainant;
    - c. Allegations constituting unprofessional conduct;
    - d. Details of the complaint with pertinent dates and activities;
    - e. Whether the complainant has contacted any other organization regarding the complaint; and
    - f. Whether the complainant has contacted the licensee or other individual concerning the complaint and if so, the response, if any.

**Historical Note**

Section made by final rulemaking at 18 A.A.R. 2490,  
effective September 11, 2012 (Supp. 12-3). Section  
amended by final rulemaking at 23 A.A.R. 215, effective  
March 5, 2017 (Supp. 17-1).

**R4-26-415. Informal Interview**

- A. As authorized by A.R.S. § 32-2091.09, the Board may facilitate investigation of a complaint by conducting an informal interview. The Board shall send written notice of an informal interview to the individual who is the subject of the complaint, by personal service or certified mail, return receipt requested, at least 30 days before the informal interview.
- B. The Board shall ensure that the written notice of informal interview contains the following information:
  1. The time, date, and place of the informal interview;
  2. An explanation of the informal nature of the proceedings;
  3. The individual's right to appear with legal counsel who is authorized to practice law in Arizona or without legal counsel;
  4. A statement of the allegations and issues involved with a citation to relevant statutes and rules;
  5. The individual's right to a formal hearing under A.R.S. Title 41, Chapter 6, Article 10 instead of the informal interview;
  6. The licensee's right, as specified in A.R.S. § 32-3206, to request a copy of information the Board will consider in making its determination; and

7. Notice that the Board may take disciplinary action as a result of the informal interview if it finds the individual violated A.R.S. Title 32, Chapter 19.1, Article 4, or this Article;

- C. The Board shall ensure that an informal interview proceeds as follows:

1. Introduction of the respondent and, if applicable, the complainant, any other witnesses, and legal counsel for the respondent;
2. Introduction of the Board members, staff, and Assistant Attorney General present;
3. Swearing in of the respondent, complainant, and witnesses;
4. Brief summary of the allegations and purpose of the informal interview;
5. Optional opening comment by the respondent and complainant;
6. Questioning of the respondent and witnesses by the Board;
7. Questioning of the complainant by the respondent through the Chair;
8. Optional additional comments by the respondent and complainant; and
9. Deliberation by the Board.

**Historical Note**

Section made by final rulemaking at 18 A.A.R. 2490,  
effective September 11, 2012 (Supp. 12-3). Amended by  
final rulemaking 26 A.A.R. 1017, effective July 4, 2020  
(Supp. 20-2).

**R4-26-416. Rehearing or Review of Decision**

- A. The Board shall provide for a rehearing and review of its decisions under A.R.S. Title 41, Chapter 6, Article 10.
- B. Except as provided in subsection (H), a party is required to file a motion for rehearing or review of a decision of the Board to exhaust the party's administrative remedies.
- C. A party may amend a motion for rehearing or review at any time before the Board rules on the motion.
- D. The Board may grant a rehearing or review for any of the following reasons materially affecting a party's rights:
  1. Irregularity in the proceedings of the Board or any order or abuse of discretion that deprived the moving party of a fair hearing;
  2. Misconduct of the Board, its staff, or an administrative law judge;
  3. Accident or surprise that could not have been prevented by ordinary prudence;
  4. Newly discovered material evidence that could not, with reasonable diligence, have been discovered and produced at the hearing;
  5. Excessive or insufficient penalty;
  6. Error in the admission or rejection of evidence or other errors of law occurring at the hearing or during the progress of the proceedings; and
  7. The findings of fact or a decision is not justified by the evidence or is contrary to law.
- E. The Board may affirm or modify a decision or grant a rehearing or review to all or some of the parties on all or some of the issues for any of the reasons listed in subsection (D). An order modifying a decision or granting a rehearing or review shall specify with particularity the grounds for the order. If a rehearing or review is granted, the rehearing or review shall cover only the matters specified in the order.
- F. Within 30 days after the date of a decision and after giving the parties notice and an opportunity to be heard, the Board may, on its own initiative, order a rehearing or review of its decision

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for any reason it might have granted a rehearing or review on motion of a party. The Board may grant a motion for rehearing or review, timely served, for a reason not stated in the motion. An order granting a rehearing or review shall specify with particularity the grounds on which the rehearing or review is granted.

- G. When a motion for rehearing is based upon affidavits, they shall be served with the motion. An opposing party may, within 15 days after service, serve opposing affidavits.
- H. If, in a particular decision, the Board makes a specific finding that the immediate effectiveness of the decision is necessary for preservation of the public health, safety, or welfare and that a rehearing or review of the decision is impracticable, unnecessary, or contrary to the public interest, the decision may be issued as a final decision without an opportunity for a rehearing or review.
- I. An application for judicial review of any final Board decision may be made under A.R.S. § 12-901 et seq.

**Historical Note**

Section made by final rulemaking at 18 A.A.R. 2490, effective September 11, 2012 (Supp. 12-3).

**R4-26-417. Licensing Time Frames**

- A. For the purpose of A.R.S. § 41-1073, the Board establishes the following time frames:
  - 1. Initial license.
    - a. Overall time frame: 120 days,
    - b. Administrative completeness review time frame: 30 days, and
    - c. Substantive review time frame: 90 days; and
  - 2. Renewal license.
    - a. Overall time frame: 150 days,
    - b. Administrative completeness review time frame: 60 days, and
    - c. Substantive review time frame: 90 days.
- B. An applicant and the Executive Director of the Board may agree in writing to extend the substantive review and overall time frames by no more than 25% of the overall time frame.
- C. The administrative completeness review time frame begins when the Board receives the application materials required under R4-26-403 or R4-26-408(C) and (D). During the administrative completeness review time frame, the Board shall notify the applicant that the application is either complete or incomplete. If the application is incomplete, the Board shall specify in the notice what information is missing.
- D. An applicant whose application is incomplete shall submit the missing information to the Board within 240 days for an initial license. Both the administrative completeness review and overall time frames are suspended from the date of the Board's notice under subsection (C) until the Board receives all of the missing information.
- E. Upon receipt of all missing information, the Board shall notify the applicant that the application is complete. The Board shall not send a separate notice of completeness if the Board grants or denies a license within the administrative completeness review time frame listed in subsection (A)(1)(b) or (A)(2)(b).
- F. The substantive review time frame begins on the date of the Board's notice of administrative completeness.

- G. If the Board determines during the substantive review that additional information is needed, the Board shall send the applicant a comprehensive written request for additional information.
- H. An applicant who receives a request under subsection (G) shall submit the additional information to the Board within 240 days. Both the substantive review and overall time frames are suspended from the date of the Board's request until the Board receives the additional information.
- I. An applicant may receive a 30-day extension of the time provided under subsection (D) or (H) by providing written notice to the Board before the time expires. If an applicant fails to submit to the Board the missing or additional information within the time provided under subsection (D) or (H) or the time as extended, the Board shall close the applicant's file. To receive further consideration, a person whose file is closed shall re-apply.
- J. Within the overall time frame listed in subsection (A), the Board shall:
  - 1. Grant a license if the Board determines that the applicant meets all criteria required by statute and this Article; or
  - 2. Deny a license if the Board determines that the applicant does not meet all criteria required by statute and this Article.
- K. If the Board grants a license under subsection (J)(1), the Board shall send the applicant a notice explaining that the Board shall issue the license only after the applicant pays the license issuance fee specified under R4-26-402 and pro-rated as prescribed under A.R.S. § 32-2091.07(A).
- L. If the Board denies a license, the Board shall send the applicant a written notice explaining:
  - 1. The reason for denial, with citations to supporting statutes or rules;
  - 2. The applicant's right to appeal the denial by filing an appeal under A.R.S. Title 41, Chapter 6, Article 10;
  - 3. The time for appealing the denial; and
  - 4. The applicant's right to request an informal settlement conference.
- M. If a time frame's last day falls on a Saturday, Sunday, or official state holiday, the next business day is the time frame's last day.

**Historical Note**

Section made by final rulemaking at 18 A.A.R. 2490, effective September 11, 2012 (Supp. 12-3). Section amended by final rulemaking at 23 A.A.R. 215, effective March 5, 2017 (Supp. 17-1).

**R4-26-418. Mandatory Reporting Requirement**

- A. As required by A.R.S. § 32-3208, an applicant or licensee who is charged with a misdemeanor involving conduct that may affect client safety or a felony shall provide written notice of the charge to the Board within 10 days after the charge is filed.
- B. A list of reportable misdemeanors is available on the Board's website.

**Historical Note**

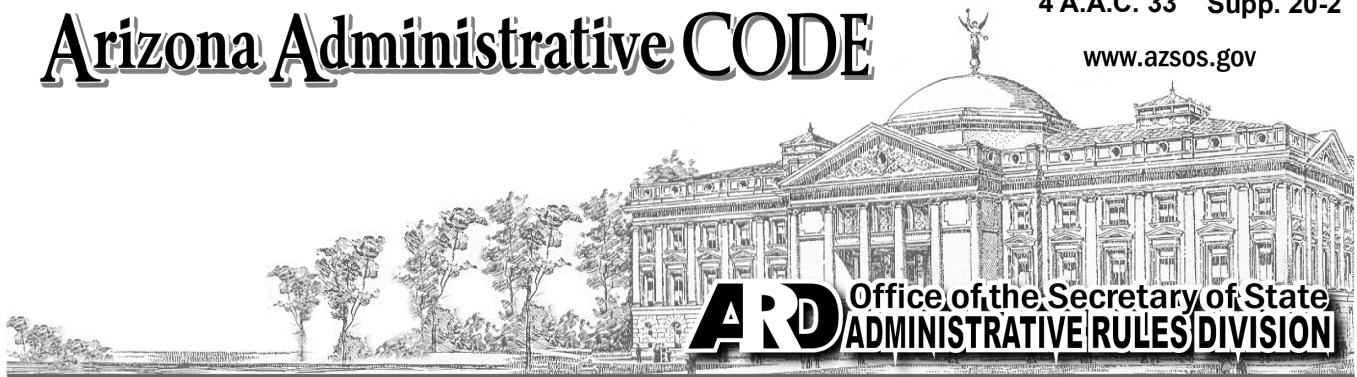
Section made by final rulemaking at 18 A.A.R. 2490, effective September 11, 2012 (Supp. 12-3).

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CHAPTER 26. BOARD OF PSYCHOLOGIST EXAMINERS

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## TITLE 4. PROFESSIONS AND OCCUPATIONS

### CHAPTER 33. BOARD OF EXAMINERS OF NURSING CARE INSTITUTION ADMINISTRATORS AND ASSISTED LIVING FACILITY MANAGERS

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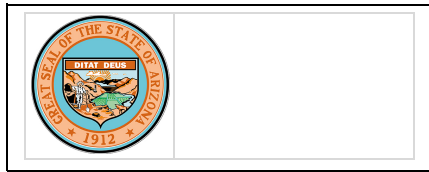
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#### Questions about these rules? Contact:

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**The release of this Chapter in Supp. 20-2 replaces Supp. 19-4, 1-38 pages**

Please note that the Chapter you are about to replace may have rules still in effect after the publication date of this supplement. Therefore, all superseded material should be retained in a separate binder and archived for future reference.



## Administrative Rules Division

The Arizona Secretary of State electronically publishes each A.A.C. Chapter with a digital certificate. The certificate-based signature displays the date and time the document was signed and can be validated in Adobe Acrobat Reader.

**TITLE 4. PROFESSIONS AND OCCUPATIONS****CHAPTER 33. BOARD OF EXAMINERS OF NURSING CARE INSTITUTION ADMINISTRATORS AND ASSISTED LIVING FACILITY MANAGERS**

Authority: A.R.S. § 36-446.03(A)

*Chapter heading amended from "Board of Examiners for Nursing Care Institution Administrators and Assisted Living Facility Managers" to "Board of Examiners of Nursing Care Institution Administrators and Assisted Living Facility Managers" to be consistent with A.R.S. § 36-446.02 (Supp. 11-4).*

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*Article 2, consisting of Sections R4-33-201 through R4-33-216, renumbered by emergency action from R4-33-115 through R4-33-130 effective September 10, 1992, pursuant to A.R.S. § 41-1026, valid for only 90 days (Supp. 92-3).*

*Article 2, consisting of Sections R4-33-201 through R4-33-216, renumbered by emergency action from R4-33-115 through R4-33-130 effective May 28, 1992, pursuant to A.R.S. § 41-1026, valid for only 90 days (Supp. 92-2).*

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*Article 2, consisting of Sections R4-33-201 through R4-33-216, renumbered by emergency action from R4-33-114 through R4-33-124 and R4-33-126 through R4-33-130 effective November 29, 1991, pursuant to A.R.S. § 41-1026, valid for only 90 days (Supp. 91-4).*

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*Article 3, consisting of Sections R4-33-301 through R4-33-312, adopted permanently effective November 25, 1992 (Supp. 92-4).*

*Article 3, consisting of Sections R4-33-301 through R4-33-311, adopted by emergency action effective September 10, 1992, pursuant to A.R.S. § 41-1026, valid for only 90 days (Supp. 92-3).*

*Article 3, consisting of Sections R4-33-301 through R4-33-311, adopted by emergency action effective May 28, 1992, pursuant to A.R.S. § 41-1026, valid for only 90 days (Supp. 92-2).*

*Article 3, consisting of Sections R4-33-301 through R4-33-311, adopted by emergency action effective February 28, 1992, pursuant to A.R.S. § 41-1026, valid for only 90 days (Supp. 92-1).*

## CHAPTER 33. BOARD OF EXAMINERS OF NURSING CARE INSTITUTION ADMINISTRATORS AND ASSISTED LIVING FACILITY MANAGERS

*Article 3, consisting of Sections R4-33-301 through R4-33-311, adopted by emergency action effective November 29, 1991, pursuant to A.R.S. § 41-1026, valid for only 90 days (Supp. 91-4).*

*Article 3, consisting of Sections R4-33-301 through R4-33-312, adopted by emergency action effective June 19, 1991, pursuant to A.R.S. § 41-1026, valid for only 90 days (Supp. 91-2).*

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CHAPTER 33. BOARD OF EXAMINERS OF NURSING CARE INSTITUTION ADMINISTRATORS AND ASSISTED LIVING FACILITY MANAGERS

**ARTICLE 1. GENERAL**

**R4-33-101. Definitions**

The definitions in A.R.S. § 36-446 apply to this Chapter. Additionally, in this Chapter, unless otherwise specified:

“Accredited” means approved by the North Central Association of Colleges and Secondary Schools, New England Association of Schools and Colleges, Middle States Association of Colleges and Secondary Schools, Northwest Association of Schools and Colleges, Southern Association of Colleges and Schools, or Western Association of Schools and Colleges.

“ACHCA” means the American College of Health Care Administrators.

“Administrator” has the meaning prescribed at A.R.S. § 36-446 and means an individual licensed under this Chapter.

“Administrator in training” or “AIT” means an individual who is taking an AIT program to be licensed as an administrator for a nursing care institution.

“AIT program” means a training that the Board approves after determining that the training meets the standards at R4-33-302.

“Applicant” means an individual who applies to the Board to be licensed as an administrator of a nursing care institution, to be certified as a manager of an assisted living facility, or for approval of a continuing education.

“Application package” means the forms, documents, and fees that the Board requires an applicant to submit or have submitted on the applicant’s behalf.

“Arizona examination” means a measure of an applicant’s knowledge of Arizona statutes and rules regarding nursing care institution administration or assisted living facility management.

“Biennial period” means July 1 of an even-numbered year through June 30 of the next even-numbered year for an administrator and July 1 of an odd-numbered year through June 30 of the next odd-numbered year for a manager.

“Contact hour” means an hour during which an administrator or manager is physically present at a continuing education or a manager is physically present at a required initial training.

“Continuing education” means a planned educational course or program that the Board approves under R4-33-502.

“Good standing” means an individual licensed by the state is not subject to any disciplinary action or consent order, and not currently under investigation for alleged unprofessional conduct.

*“Health care institution” means every place, institution, building or agency, whether organized for profit or not, which provides facilities with medical services, nursing services, health screening services, other health-related services, supervisory care services, personal care services or directed care services and includes home health agencies as defined in A.R.S. § 36-151 and hospice services agencies. A.R.S. § 36-401.*

“Manager” means an assisted living facility manager, as defined at A.R.S. § 36-446, who is certified under this Chapter.

“NAB” means the National Association of Long Term Care Administrator Boards.

“Party” has the same meaning as prescribed in A.R.S. § 41-1001.

“Preceptor” means a practicing nursing care institution administrator who helps to develop a new professional in the field of long-term care administration by tutoring the new professional.

“Qualified instructor” means a person who meets one or more of the following criteria:

A registered nurse, licensed under A.R.S. Title 32, Chapter 15;

An instructor employed by an accredited college or university, or health care institution to teach a health-care related course; or

A person or entity that has sufficient education and training to be qualified to teach a health-care related course.

“Work experience in a health-related field” means employment in a health care institution or in the professional fields of medicine, nursing, social work, gerontology, or other closely related field.

**Historical Note**

Section R4-33-101 renumbered from R4-33-112 and amended by final rulemaking at 5 A.A.R. 423, effective January 15, 1999 (Supp. 99-1). Amended by final rulemaking at 12 A.A.R. 4075, effective December 4, 2006 (Supp. 06-4). Amended by final rulemaking at 14 A.A.R. 516, effective April 5, 2008 (Supp. 08-1). Amended by final rulemaking at 21 A.A.R. 543, effective June 6, 2015 (Supp. 15-2). Amended by final rulemaking at 24 A.A.R. 2734, effective November 10, 2018 (Supp. 18-3).

**R4-33-102. Board Officers**

- A. At its first annual meeting, the Board shall elect a president and vice-president.
- B. The functions, duties, and limitations of these officers are as follows:
  1. President. The president shall call and preside at all Board meetings. The president shall act as chief officer of the Board, appoint committees, and delegate authority to other members of the Board as needed.
  2. Vice-president. The vice-president shall preside at Board meetings in the absence of the president and may exercise all the powers and duties of the president in the absence of the president.
- C. Board officers serve for one year. A Board officer shall not serve more than two consecutive years in the same position.

**Historical Note**

Section R4-33-102 renumbered from R4-33-113 and amended by final rulemaking at 5 A.A.R. 423, effective January 15, 1999 (Supp. 99-1). Amended by final rulemaking at 12 A.A.R. 4075, effective December 4, 2006 (Supp. 06-4). Amended by final rulemaking at 14 A.A.R. 516, effective April 5, 2008 (Supp. 08-1).

**R4-33-103. Time Frames for Licenses, Certifications, and Approvals**

- A. For each type of license, certification, or approval issued by the Board, the overall time frame described in A.R.S. § 41-1072(2) is listed in Table 1.

CHAPTER 33. BOARD OF EXAMINERS OF NURSING CARE INSTITUTION ADMINISTRATORS AND ASSISTED LIVING FACILITY MANAGERS

- B.** For each type of license, certification, or approval issued by the Board, the administrative completeness review time frame described in A.R.S. § 41-1072(1) is listed in Table 1 and begins on the date the Board receives an application package.
1. If an application package is not administratively complete, the Board shall send a deficiency notice to the applicant that specifies each piece of information or document needed to complete the application package. Within the time provided in Table 1 for response to a deficiency notice, beginning on the mailing date of the deficiency notice, the applicant shall submit to the Board the missing information or document specified in the deficiency notice. The time frame for the Board to finish the administrative completeness review is suspended from the date the Board mails the deficiency notice to the applicant until the date the Board receives the missing information or document.
  2. If an application package is administratively complete, the Board shall send a written notice of administrative completeness to the applicant.
  3. If an application package is not completed within the time provided to respond to the deficiency notice, the Board shall send a written notice to the applicant informing the applicant that the application is deemed withdrawn.
- C.** For each type of license, certification, or approval issued by the Board, the substantive review time frame described in A.R.S. § 41-1072(3) is listed in Table 1 and begins on the date the Board sends written notice of administrative completeness to the applicant.
1. During the substantive review time frame, the Board may make one comprehensive written request for additional information. Within the time provided in Table 1 for response to a comprehensive written request for additional information, beginning on the mailing date of the comprehensive written request for additional information, the applicant shall submit to the Board the requested additional information. The time frame for the Board to finish the substantive review is suspended from the date the Board mails the comprehensive written request for additional information to the applicant until the Board receives the requested additional information.
  2. The Board shall issue a written notice informing the applicant that the application is deemed withdrawn if the applicant does not submit the requested additional information within the time provided in Table 1.
- D.** Within the overall time frame listed in Table 1, the Board shall:
1. Deny a license, certificate, or approval to an applicant if the Board determines the applicant does not meet all of the substantive criteria required by statute and this Chapter; or
  2. Grant a license, certificate, or approval to an applicant if the Board determines the applicant meets all of the substantive criteria required by statute and this Chapter.
- E.** If the Board denies a license, certificate, or approval under subsection (D)(1), the Board shall provide a written notice of denial to the applicant that explains:
1. The reason for the denial, with citations to supporting statutes or rules;
  2. The applicant's right to seek a fair hearing to challenge the denial; and
  3. The time for appealing the denial.
- F.** In computing any period of time prescribed in this Section, the day of the act, event, or default after which the designated period of time begins to run is not included. The last day of the period is included unless it is Saturday, Sunday, or a state holiday, in which event the period runs until the end of the next day that is not Saturday, Sunday, or a state holiday. The computation includes intermediate Saturdays, Sundays, and state holidays. The time begins on the date of personal service, date shown as received on a certified mail receipt, or postmark date.

#### Historical Note

Section R4-33-103 adopted by final rulemaking at 5 A.A.R. 423, effective January 15, 1999 (Supp. 99-1). Amended by final rulemaking at 12 A.A.R. 4075, effective December 4, 2006 (Supp. 06-4). Amended by final rulemaking at 24 A.A.R. 2734, effective November 10, 2018 (Supp. 18-3).

**Table 1. Time Frames (in days)**

Type of License	Overall Time Frame	Administrative Review Time Frame	Time to Respond to Deficiency Notice	Substantive Review Time Frame	Time to Respond to Request for Additional Information
Initial License R4-33-201 and R4-33-202 A.R.S. §§ 36-446.04(A) and 36-446.05	135	30	90	105	60
Renewal of License R4-33-206 A.R.S. § 36-446.07(E)	75	30	15	45	15
Temporary License R4-33-203 A.R.S. § 36-446.06	135	30	90	105	60
Continuing Education Program Approval R4-33-502 A.R.S. § 36-446.07(E) and (F)	60	15	30	45	15
Administrator-in-Training Program Approval R4-33-301 A.R.S. § 36-446.04	60	15	30	45	15

CHAPTER 33. BOARD OF EXAMINERS OF NURSING CARE INSTITUTION ADMINISTRATORS AND ASSISTED LIVING FACILITY MANAGERS

Type of License	Overall Time Frame	Administrative Review Time Frame	Time to Respond to Deficiency Notice	Substantive Review Time Frame	Time to Respond to Request for Additional Information
Initial Certification R4-33-401 A.R.S. § 36-446.04(B)	135	30	90	105	60
Renewal of Certification R4-33-405 A.R.S. § 36-446.07(F)	75	30	15	45	15
Temporary Certification R4-33-402 A.R.S. § 36-446.06	135	30	90	105	60
Initial Approval of an Assisted Living Facility Manager or Caregiver Training Program R4-33-604, R4-33-704, R4-33-704.1, A.R.S. § 36-446.03(O)	120	60	60	60	60
Renewal Approval of an Assisted Living Facility Manager or Caregiver Training Program R4-33-605, R4-33-705, R4-33-705.1, A.R.S. § 36-446.03(O)	120	60	30	60	30

**Historical Note**

Table 1 adopted by final rulemaking at 5 A.A.R. 423, effective January 15, 1999 (Supp. 99-1). Amended by final rulemaking at 12 A.A.R. 4075, effective December 4, 2006 (Supp. 06-4). Amended by final rulemaking at 19 A.A.R. 1619, effective August 4, 2013 (Supp. 13-2). Amended by final rulemaking at 24 A.A.R. 2734, effective November 10, 2018 (Supp. 18-3).

**R4-33-104. Fees**

- A.** Under the authority provided at A.R.S. § 36-446.12(A), the Board establishes and shall collect the following fees related to nursing care institution administrators. The fees are nonrefundable unless A.R.S. § 41-1077 applies:
1. Initial application, \$150;
  2. Arizona examination, \$500;
  3. Re-administer Arizona examination, \$150;
  4. Issuance of a license, \$400 or \$17 for each month remaining in the biennial period, whichever is less;
  5. Duplicate license, \$75;
  6. Biennial active license renewal, \$400;
  7. Biennial inactive license renewal, \$200;
  8. Late renewal, \$100;
  9. Temporary license, \$300;
  10. Certify licensure status, \$15;
  11. Review sponsorship of a continuing education, \$10 per credit hour;
  12. Review a licensed administrator's request for continuing education credit, \$5 per credit hour.
- B.** Under the authority provided at A.R.S. § 36-446.03(B), the Board establishes and shall collect the following fees related to assisted living facility managers. The fees are nonrefundable unless A.R.S. § 41-1077 applies:
1. Initial application, \$150;
  2. Arizona examination, \$150;
  3. Re-administer Arizona examination, \$150;
  4. Issuance of a certificate, \$150 or \$7 for each month remaining in the biennial period, whichever is less;
  5. Duplicate certificate, \$75;
  6. Biennial active certificate renewal, \$150;
  7. Biennial inactive certificate renewal, \$100;
  8. Late renewal, \$75;
  9. Temporary certificate, \$100;
  10. Review sponsorship of a continuing education, \$10 per credit hour;
  11. Review a certified manager's request for continuing education credit, \$5 per credit hour.
- C.** Under the authority provided at A.R.S. § 36-446.03(B), the Board establishes and shall collect the following fees related to approval of an assisted living facility manager training program. The fees are nonrefundable unless A.R.S. § 41-1077 applies:
1. Initial approval, \$1,000; and
  2. Renewal approval, \$600.
- D.** Under the authority provided at A.R.S. § 36-446.03(B), the Board establishes and shall collect the following fees related to approval of an assisted living facility caregiver training program. The fees are nonrefundable unless A.R.S. § 41-1077 applies:
1. Initial approval, \$1,500; and
  2. Renewal approval, \$1,300.
- E.** Under the authority provided at A.R.S. § 36-446.03(B), the Board establishes and shall collect the following fees related to approval of an assisted living facility caregiver medication management training program. The fees are nonrefundable unless A.R.S. § 41-1077 applies:
1. Initial approval, \$300; and
  2. Renewal approval, \$250.
- F.** The Board shall ensure that fees established under this subsection are not increased by more than 25 percent above the amounts previously prescribed by the Board.

**Historical Note**

New Section made by final rulemaking at 10 A.A.R. 805, effective April 13, 2004 (Supp. 04-1). Amended by final rulemaking at 12 A.A.R. 4075, effective December 4, 2006 (Supp. 06-4). Amended by final rulemaking at 15 A.A.R. 1975, effective November 3, 2009 (Supp. 09-4). Amended by final rulemaking at 19 A.A.R. 1619, effective

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tive August 4, 2013 (Supp. 13-2). Amended by final rulemaking at 24 A.A.R. 2734, effective November 10, 2018 (Supp. 18-3).

**R4-33-105. Hearing Procedures**

As required under A.R.S. § 36-446.07(J), the Board shall conduct all hearings according to the procedures in A.R.S. Title 41, Chapter 6, Article 10 and rules issued by the Office of Administrative Hearings.

**Historical Note**

New Section made by final rulemaking at 12 A.A.R. 4075, effective December 4, 2006 (Supp. 06-4).

**R4-33-106. Rehearing or Review of Decision**

- A. The Board shall provide for a rehearing and review of its decisions under A.R.S. Title 41, Chapter 6, Article 10 and the rules established by the Office of Administrative Hearings.
- B. Except as provided in subsection (I), a party is required to file a motion for rehearing or review of a decision of the Board to exhaust the party's administrative remedies.
- C. A party may amend a motion for rehearing or review at any time before the Board rules on the motion.
- D. The Board may grant a rehearing or review for any of the following reasons materially affecting a party's rights:
  1. Irregularity in the proceedings of the Board or any order or abuse of discretion that deprived the moving party of a fair hearing;
  2. Misconduct of the Board, its staff, or an administrative law judge;
  3. Accident or surprise that could not have been prevented by ordinary prudence;
  4. Newly discovered material evidence that could not, with reasonable diligence, have been discovered and produced at the hearing;
  5. Excessive or insufficient penalty;
  6. Error in the admission or rejection of evidence or other errors of law occurring at the hearing or during the progress of the proceedings; and
  7. The findings of fact or decision is not justified by the evidence or is contrary to law.
- E. The Board may affirm or modify a decision or grant a rehearing or review to all or some of the parties on all or some of the issues for any of the reasons listed in subsection (D). An order modifying a decision or granting a rehearing or review shall specify with particularity the grounds for the order. If a rehearing or review is granted, the rehearing or review shall cover only the matters specified in the order.
- F. Not later than 30 days after the date of a decision and after giving the parties notice and an opportunity to be heard, the Board may, on its own initiative, order a rehearing or review of its decision for any reason it might have granted a rehearing or review on motion of a party. The Board may grant a motion for rehearing or review, timely served, for a reason not stated in the motion. An order granting a rehearing or review shall specify with particularity the grounds on which the rehearing or review is granted.
- G. When a motion for rehearing is based upon affidavits, they shall be served with the motion. An opposing party may, within 15 days after service, serve opposing affidavits. This period may be extended by the Board for a maximum of 20 days for good cause as described in subsection (H) or by written stipulation of the parties. Reply affidavits may be permitted.
- H. The Board may extend all time limits listed in this Section upon a showing of good cause. A party demonstrates good cause by showing that the grounds for the party's motion or

other action could not have been known in time, using reasonable diligence, and a ruling on the motion will:

1. Further administrative convenience, expedition, or economy; or
  2. Avoid undue prejudice to any party.
- I. If, in a particular decision, the Board makes a specific finding that the immediate effectiveness of the decision is necessary for immediate preservation of the public health, safety, or welfare and that a rehearing or review of the decision is impracticable, unnecessary, or contrary to the public interest, the decision may be issued as a final decision without an opportunity for a rehearing or review. If an application for judicial review of the decision is made, it shall be made under A.R.S. § 12-901 et seq.

**Historical Note**

Section R4-33-106 renumbered from R4-33-209 and amended by final rulemaking at 12 A.A.R. 4075, effective December 4, 2006 (Supp. 06-4).

**R4-33-107. Change of Name or Address**

- A. The Board shall communicate with an administrator or manager using the name and address in the Board's records. To ensure timely communication from the Board, an administrator or manager shall inform the Board in writing of any change in name or address.
- B. An administrator or manager shall include in a notice of change in name or address either the new and former name or new and former address.
- C. An administrator or manager shall attach to a notice of change in name a copy of the legal document changing the name.

**Historical Note**

New Section made by final rulemaking at 12 A.A.R. 4075, effective December 4, 2006 (Supp. 06-4).

**R4-33-108. Display of License or Certificate**

- A. An administrator shall display the administrator's original license and current renewal receipt in a conspicuous place in the nursing care institution at which the administrator is appointed.
- B. A manager shall display the manager's original certificate and current renewal receipt in a conspicuous place in the assisted care facility at which the manager is appointed.

**Historical Note**

New Section made by final rulemaking at 12 A.A.R. 4075, effective December 4, 2006 (Supp. 06-4).  
Amended by final rulemaking at 21 A.A.R. 543, effective June 6, 2015 (Supp. 15-2).

**R4-33-109. Fingerprint Clearance Card Requirement**

Under A.R.S. § 36-446.04, an administrator or manager is required to maintain a valid fingerprint clearance card during the biennial period. Within 10 days after the referenced action, an administrator or manager shall:

1. Submit to the Board a photocopy of the front and back of a new fingerprint clearance card issued to the administrator or manager during the biennial period, or
2. Provide written notice to the Board if:
  - a. The fingerprint clearance card of the administrator or manager is suspended or revoked, or
  - b. The administrator or manager is denied a new fingerprint clearance card.

**Historical Note**

New Section made by final rulemaking at 14 A.A.R. 516, effective April 5, 2008 (Supp. 08-1).

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**R4-33-110. Reserved****R4-33-111. Repealed****Historical Note**

Adopted effective October 12, 1976 (Supp. 76-5). Former Section R4-33-11 renumbered as Section R4-33-111 (Supp. 82-1). Emergency amendment effective June 19, 1991, pursuant to A.R.S. § 41-1026, valid for only 90 days (Supp. 91-1). Emergency expired. Emergency repeal adopted effective November 29, 1991, pursuant to A.R.S. § 41-1026, valid for only 90 days (Supp. 91-4). Emergency repeal adopted again effective February 28, 1992, pursuant to A.R.S. § 41-1026, valid for only 90 days (Supp. 92-1). Emergency repeal adopted again effective May 28, 1992, pursuant to A.R.S. § 41-1026, valid for only 90 days (Supp. 92-2). Emergency expired. Emergency repeal adopted again effective September 10, 1992, pursuant to A.R.S. § 41-1026, valid for only 90 days (Supp. 92-3). Emergency expired. Section repealed by final rulemaking at 5 A.A.R. 423, effective January 15, 1999 (Supp. 99-1).

**R4-33-112. Renumbered****Historical Note**

Adopted effective October 12, 1976 (Supp. 76-5). Amended effective July 24, 1978 (Supp. 78-4). Former Section R4-33-12 renumbered and amended as Section R4-33-112 (Supp. 82-1). Emergency amendments effective June 19, 1991, pursuant to A.R.S. § 41-1026, valid for only 90 days (Supp. 91-1). Emergency expired. Amended effective August 6, 1991 (Supp. 91-3). Emergency amendments effective November 29, 1991, pursuant to A.R.S. § 41-1026, valid for only 90 days (Supp. 91-4). Emergency amendments adopted again with changes effective February 28, 1992, pursuant to A.R.S. § 41-1026, valid for only 90 days (Supp. 92-1). Emergency amendments adopted again with changes effective May 28, 1992, pursuant to A.R.S. § 41-1026, valid for only 90 days (Supp. 92-2). Emergency expired. Emergency amendments adopted again with changes effective September 10, 1992, pursuant to A.R.S. § 41-1026, valid for only 90 days (Supp. 92-3). Amended with changes effective November 25, 1992 (Supp. 92-4). Final Section R4-33-112 renumbered to R4-33-101 at 5 A.A.R. 423, effective January 15, 1999 (Supp. 99-1).

**R4-33-113. Renumbered****Historical Note**

Adopted effective July 24, 1978 (Supp. 78-4). Former Section R4-33-13 renumbered as Section R4-33-113 (Supp. 82-1). Final Section R4-33-113 renumbered to R4-33-102 at 5 A.A.R. 423, effective January 15, 1999 (Supp. 99-1).

**R4-33-114. Repealed****Historical Note**

Adopted effective October 12, 1976 (Supp. 76-5). Former Section R4-33-14 renumbered and amended as Section R4-33-114 (Supp. 82-1). Section R4-33-114 renumbered by emergency action to R4-33-201 effective June 19, 1991, pursuant to A.R.S. § 41-1026, valid for only 90 days (Supp. 91-2). Repealed effective August 6, 1991 (Supp. 91-3).

**R4-33-115. Renumbered****Historical Note**

Adopted effective October 12, 1976 (Supp. 76-5). Former Section R4-33-15 renumbered and amended as Section R4-33-115 (Supp. 82-1). Section R4-33-115 renumbered to R4-33-202 by emergency action effective June 19, 1991, pursuant to A.R.S. § 41-1026, valid for only 90 days (Supp. 91-3). Amended effective August 6, 1991 (Supp. 91-3). Emergency expired. Section R4-33-115 renumbered to R4-33-201 by emergency action effective November 29, 1991, pursuant to A.R.S. § 41-1026, valid for only 90 days (Supp. 91-4). Section R4-33-115 renumbered to R4-33-201 by emergency action effective February 28, 1992, pursuant to A.R.S. § 41-1026, valid for only 90 days (Supp. 92-1). Section R4-33-115 renumbered to R4-33-201 by emergency action effective May 28, 1992, pursuant to A.R.S. § 41-1026, valid for only 90 days (Supp. 92-2). Emergency expired. Section R4-33-115 renumbered to R4-33-201 by emergency action effective September 10, 1992, pursuant to A.R.S. § 41-1026, valid for only 90 days (Supp. 92-3). Section R4-33-115 renumbered to R4-33-201 effective November 25, 1992 (Supp. 92-4).

**R4-33-116. Renumbered****Historical Note**

Adopted effective October 12, 1976 (Supp. 76-5). Former Section R4-33-16 renumbered and amended as Section R4-33-116 (Supp. 82-1). Section R4-33-116 renumbered to R4-33-203 by emergency action effective June 19, 1991, pursuant to A.R.S. § 41-1026, valid for only 90 days (Supp. 91-2). Amended effective August 6, 1991 (Supp. 91-3). Emergency expired. Section R4-33-116 renumbered to R4-33-202 by emergency action effective November 29, 1991, pursuant to A.R.S. § 41-1026, valid for only 90 days (Supp. 91-4). Section R4-33-116 renumbered to R4-33-202 by emergency action effective February 28, 1992, pursuant to A.R.S. § 41-1026, valid for only 90 days (Supp. 92-1). Section R4-33-116 renumbered to R4-33-202 by emergency action effective May 28, 1992, pursuant to A.R.S. § 41-1026, valid for only 90 days (Supp. 92-2). Emergency expired. Section R4-33-116 renumbered to R4-33-202 by emergency action effective September 10, 1992, pursuant to A.R.S. § 41-1026, valid for only 90 days (Supp. 92-3). Section R4-33-116 renumbered to R4-33-202 effective November 25, 1992 (Supp. 92-4).

**R4-33-117. Renumbered****Historical Note**

Adopted effective October 12, 1976 (Supp. 76-5). Former Section R4-33-17 renumbered and amended as Section R4-33-117 (Supp. 82-1). Section R4-33-117 renumbered to R4-33-204 by emergency action effective June 19, 1991, pursuant to A.R.S. § 41-1026, valid for only 90 days (Supp. 91-2). Amended effective August 6, 1991 (Supp. 91-3). Emergency expired. Section R4-33-117 renumbered to R4-33-203 by emergency action effective November 29, 1991, pursuant to A.R.S. § 41-1026, valid for only 90 days (Supp. 91-4). Section R4-33-117 renumbered to R4-33-203 by emergency action effective February 28, 1992, pursuant to A.R.S. § 41-1026, valid for only 90 days (Supp. 92-1). Section R4-33-117 renumbered to R4-33-203 by emergency action effective May 28, 1992, pursuant to A.R.S. § 41-1026, valid for only 90 days (Supp. 92-2). Emergency expired. Section R4-33-117 renumbered to R4-33-203 by emergency action effective



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September 10, 1992, pursuant to A.R.S. § 41-1026, valid for only 90 days (Supp. 92-3). Section R4-33-117 renumbered to R4-33-203 effective November 25, 1992 (Supp. 92-4).

**R4-33-118. Renumbered**

**Historical Note**

Adopted effective October 12, 1976 (Supp. 76-5). Former Section R4-33-18 renumbered as Section R4-33-118 and repealed effective February 10, 1982 (Supp. 82-1). Section R4-33-118 renumbered to R4-33-205 by emergency action effective June 19, 1991, pursuant to A.R.S. § 41-1026, valid for only 90 days (Supp. 91-2). New Section R4-33-118 adopted effective August 6, 1991 (Supp. 91-3). Emergency expired. Section R4-33-118 renumbered to R4-33-205 by emergency action effective November 29, 1991, pursuant to A.R.S. § 41-1026, valid for only 90 days (Supp. 91-2). Section R4-33-118 renumbered to R4-33-204 by emergency action effective February 28, 1992, pursuant to A.R.S. § 41-1026, valid for only 90 days (Supp. 92-1). Section R4-33-118 renumbered to R4-33-204 by emergency action effective May 28, 1992, pursuant to A.R.S. § 41-1026, valid for only 90 days (Supp. 92-2). Emergency expired. Section R4-33-118 renumbered to R4-33-204 by emergency action effective September 10, 1992, pursuant to A.R.S. § 41-1026, valid for only 90 days (Supp. 92-3). Section R4-33-118 renumbered to R4-33-204 effective November 25, 1992 (Supp. 92-4).

**R4-33-119. Renumbered**

**Historical Note**

Adopted effective October 12, 1976 (Supp. 76-5). Amended effective July 24, 1978 (Supp. 78-4). Former Section R4-33-19 renumbered as Section R4-33-119 and repealed, new Section R4-33-119 adopted effective February 10, 1982 (Supp. 82-1). Amended effective May 2, 1984 (Supp. 84-3). Amended as an emergency effective October 2, 1989, pursuant to A.R.S. § 41-1026, valid for only 90 days (Supp. 89-4). Emergency expired. Emergency amendments readopted without change effective January 3, 1990, pursuant to A.R.S. § 41-1026, valid for only 90 days (Supp. 90-1). Emergency amendments readopted without change effective April 3, 1990, pursuant to A.R.S. § 41-1026, valid for only 90 days; amended effective June 14, 1990 (Supp. 90-2). Section R4-33-119 renumbered to R4-33-206 by emergency action effective June 19, 1991, pursuant to A.R.S. § 41-1026, valid for only 90 days (Supp. 91-2). Amended effective August 6, 1991 (Supp. 91-3). Emergency expired. Section R4-33-119 renumbered to R4-33-206 by emergency action effective November 29, 1991, pursuant to A.R.S. § 41-1026, valid for only 90 days (Supp. 91-4). Section R4-33-119 renumbered to R4-33-205 by emergency action effective February 28, 1992, pursuant to A.R.S. § 41-1026, valid for only 90 days (Supp. 92-1). Section R4-33-119 renumbered to R4-33-205 by emergency action effective May 28, 1992, pursuant to A.R.S. § 41-1026, valid for only 90 days (Supp. 92-2). Emergency expired. Section R4-33-119 renumbered to R4-33-205 by emergency action effective September 10, 1992, pursuant to A.R.S. § 41-1026, valid for only 90 days (Supp. 92-3). Section R4-33-119 renumbered to R4-33-205 effective November 25, 1992 (Supp. 92-4).

**R4-33-120. Renumbered**

**Historical Note**

Adopted effective October 12, 1976 (Supp. 76-5). Amended effective July 24, 1978 (Supp. 78-4). Former Section R4-33-20 renumbered and amended as Section R4-33-120 (Supp. 82-1). Amended effective August 6, 1991 (Supp. 91-3). Section R4-33-120 renumbered to R4-33-207 by emergency action effective June 19, 1991, pursuant to A.R.S. § 41-1026, valid for only 90 days (Supp. 91-2). Emergency expired. Amended effective August 6, 1991 (Supp. 91-3). Section R4-33-120 renumbered to R4-33-207 by emergency action effective November 29, 1991, pursuant to A.R.S. § 41-1026, valid for only 90 days (Supp. 91-4). Section R4-33-120 renumbered to R4-33-206 by emergency action effective February 28, 1992, pursuant to A.R.S. § 41-1026, valid for only 90 days (Supp. 92-1). Section R4-33-120 renumbered to R4-33-206 by emergency action effective May 28, 1992, pursuant to A.R.S. § 41-1026, valid for only 90 days (Supp. 92-2). Emergency expired. Section R4-33-120 renumbered to R4-33-206 by emergency action effective September 10, 1992, pursuant to A.R.S. § 41-1026, valid for only 90 days (Supp. 92-3). Section R4-33-120 renumbered to R4-33-206 effective November 25, 1992 (Supp. 92-4).

**R4-33-121. Renumbered**

**Historical Note**

Adopted effective October 12, 1976 (Supp. 76-5). Former Section R4-33-21 renumbered and amended as Section R4-33-121 (Supp. 82-1). Section R4-33-121 renumbered to R4-33-208 by emergency action effective June 19, 1991, pursuant to A.R.S. § 41-1026, valid for only 90 days (Supp. 91-2). Emergency expired. Section R4-33-121 renumbered to R4-33-208 by emergency action effective November 29, 1991, pursuant to A.R.S. § 41-1026, valid for only 90 days (Supp. 91-4). Section R4-33-121 renumbered to R4-33-207 by emergency action effective February 28, 1992, pursuant to A.R.S. § 41-1026, valid for only 90 days (Supp. 92-1). Section R4-33-121 renumbered to R4-33-207 by emergency action effective May 28, 1992, pursuant to A.R.S. § 41-1026, valid for only 90 days (Supp. 92-2). Emergency expired. Section R4-33-121 renumbered to R4-33-207 by emergency action effective September 10, 1992, pursuant to A.R.S. § 41-1026, valid for only 90 days (Supp. 92-3). Section R4-33-121 renumbered to R4-33-207 effective November 25, 1992 (Supp. 92-4).

**R4-33-122. Renumbered**

**Historical Note**

Adopted effective July 24, 1978 (Supp. 78-4). Former Section R4-33-22 renumbered as Section R4-33-122 (Supp. 82-1). Section R4-33-122 renumbered to R4-33-209 by emergency action effective June 19, 1991, pursuant to A.R.S. § 41-1026, valid for only 90 days (Supp. 91-2). Emergency expired. Section R4-33-122 renumbered to R4-33-209 by emergency action effective November 29, 1991, pursuant to A.R.S. § 41-1026, valid for only 90 days (Supp. 91-4). Section R4-33-122 renumbered to R4-33-208 by emergency action effective February 28, 1992, pursuant to A.R.S. § 41-1026, valid for only 90 days (Supp. 92-1). Section R4-33-122 renumbered to R4-33-208 by emergency action effective May 28, 1992, pursuant to A.R.S. § 41-1026, valid for only 90 days (Supp. 92-2). Emergency expired. Section R4-33-122 renumbered to R4-33-208 by emergency action effective September 10, 1992, pursuant to A.R.S. § 41-1026, valid for only 90 days (Supp. 92-3).

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10, 1992, pursuant to A.R.S. § 41-1026, valid for only 90 days (Supp. 92-3). Section R4-33-122 renumbered to R4-33-208 effective November 25, 1992 (Supp. 92-4).

**R4-33-123. Renumbered****Historical Note**

Adopted effective October 12, 1976 (Supp. 76-5). Former Section R4-33-23 renumbered as Section R4-33-123 (Supp. 82-1). Section R4-33-123 renumbered to R4-33-210 by emergency action effective June 19, 1991, pursuant to A.R.S. § 41-1026, valid for only 90 days (Supp. 91-2). Emergency expired. Section R4-33-123 renumbered to R4-33-210 by emergency action effective November 29, 1991, pursuant to A.R.S. § 41-1026, valid for only 90 days (Supp. 91-4). Section R4-33-123 renumbered to R4-33-209 by emergency action effective February 28, 1992, pursuant to A.R.S. § 41-1026, valid for only 90 days (Supp. 92-1). Section R4-33-123 renumbered to R4-33-209 by emergency action effective May 28, 1992, pursuant to A.R.S. § 41-1026, valid for only 90 days (Supp. 92-2). Emergency expired. Section R4-33-123 renumbered to R4-33-209 by emergency action effective September 10, 1992, pursuant to A.R.S. § 41-1026, valid for only 90 days (Supp. 92-3). Section R4-33-123 renumbered to R4-33-209 effective November 25, 1992 (Supp. 92-4).

**R4-33-124. Renumbered****Historical Note**

Adopted effective October 12, 1976 (Supp. 76-5). Former Section R4-33-24 renumbered as Section R4-33-124 (Supp. 82-1). Section R4-33-124 renumbered to R4-33-211 by emergency action effective June 19, 1991, pursuant to A.R.S. § 41-1026, valid for only 90 days (Supp. 91-2). Emergency expired. Section R4-33-124 renumbered to R4-33-211 by emergency action effective November 29, 1991, pursuant to A.R.S. § 41-1026, valid for only 90 days (Supp. 91-4). Section R4-33-124 renumbered to R4-33-210 by emergency action effective February 28, 1992, pursuant to A.R.S. § 41-1026, valid for only 90 days (Supp. 92-1). Section R4-33-124 renumbered to R4-33-210 by emergency action effective May 28, 1992, pursuant to A.R.S. § 41-1026, valid for only 90 days (Supp. 92-2). Emergency expired. Section R4-33-124 renumbered to R4-33-210 by emergency action effective September 10, 1992, pursuant to A.R.S. § 41-1026, valid for only 90 days (Supp. 92-3). Section R4-33-124 renumbered to R4-33-210 effective November 25, 1992 (Supp. 92-4).

**R4-33-125. Renumbered****Historical Note**

Section R4-33-125 renumbered to R4-33-211 by emergency action effective February 28, 1992, pursuant to A.R.S. § 41-1026, valid for only 90 days (Supp. 92-1). Section R4-33-125 renumbered to R4-33-211 by emergency action effective May 28, 1992, pursuant to A.R.S. § 41-1026, valid for only 90 days (Supp. 92-2). Emergency expired. Section R4-33-125 renumbered to R4-33-211 by emergency action effective September 10, 1992, pursuant to A.R.S. § 41-1026, valid for only 90 days (Supp. 92-3). Section R4-33-125 renumbered to R4-33-211 effective November 25, 1992 (Supp. 92-4).

**R4-33-126. Renumbered****Historical Note**

Adopted effective August 6, 1991 (Supp. 91-3). Former

Section R4-33-126 renumbered to R4-33-212 by emergency action effective November 29, 1991, pursuant to A.R.S. § 41-1026, valid for only 90 days (Supp. 91-4). Section R4-33-126 renumbered to R4-33-212 by emergency action effective February 28, 1992, pursuant to A.R.S. § 41-1026, valid for only 90 days (Supp. 92-1). Section R4-33-126 renumbered to R4-33-212 by emergency action effective May 28, 1992, pursuant to A.R.S. § 41-1026, valid for only 90 days (Supp. 92-2). Emergency expired. Section R4-33-126 renumbered to R4-33-212 by emergency action effective September 10, 1992, pursuant to A.R.S. § 41-1026, valid for only 90 days (Supp. 92-3). Section R4-33-126 renumbered to R4-33-212 effective November 25, 1992 (Supp. 92-4).

**R4-33-127. Renumbered****Historical Note**

Adopted effective October 12, 1976 (Supp. 76-5). Former Section R4-33-27 renumbered and amended as Section R4-33-127 (Supp. 82-1). Section R4-33-127 renumbered to R4-33-212 by emergency action effective June 19, 1991, pursuant to A.R.S. § 41-1026, valid for only 90 days (Supp. 91-2). Repealed effective August 6, 1991 (Supp. 91-3). Emergency expired. Section R4-33-127 renumbered to R4-33-213 by emergency action effective November 29, 1991, pursuant to A.R.S. § 41-1026, valid for only 90 days (Supp. 91-4). Section R4-33-127 renumbered to R4-33-213 by emergency action effective February 28, 1992, pursuant to A.R.S. § 41-1026, valid for only 90 days (Supp. 92-1). Section R4-33-127 renumbered to R4-33-213 by emergency action effective May 28, 1992, pursuant to A.R.S. § 41-1026, valid for only 90 days (Supp. 92-2). Emergency expired. Section R4-33-127 renumbered to R4-33-213 by emergency action effective September 10, 1992, pursuant to A.R.S. § 41-1026, valid for only 90 days (Supp. 92-3). Section R4-33-127 renumbered to R4-33-213 effective November 25, 1992 (Supp. 92-4).

**R4-33-128. Renumbered****Historical Note**

Adopted effective October 12, 1976 (Supp. 76-5). Former Section R4-33-28 renumbered as Section R4-33-128 (Supp. 82-1). Section R4-33-128 renumbered to R4-33-213 by emergency action effective June 19, 1991, pursuant to A.R.S. § 41-1026, valid for only 90 days (Supp. 91-2). Emergency expired. Section R4-33-128 renumbered to R4-33-214 by emergency action effective November 29, 1991, pursuant to A.R.S. § 41-1026, valid for only 90 days (Supp. 91-4). Section R4-33-128 renumbered to R4-33-214 by emergency action effective February 28, 1992, pursuant to A.R.S. § 41-1026, valid for only 90 days (Supp. 92-1). Section R4-33-128 renumbered to R4-33-214 by emergency action effective May 28, 1992, pursuant to A.R.S. § 41-1026, valid for only 90 days (Supp. 92-2). Emergency expired. Section R4-33-128 renumbered to R4-33-214 by emergency action effective September 10, 1992, pursuant to A.R.S. § 41-1026, valid for only 90 days (Supp. 92-3). Section R4-33-128 renumbered to R4-33-214 effective November 25, 1992 (Supp. 92-4).

**R4-33-129. Renumbered****Historical Note**

Adopted effective October 12, 1976 (Supp. 76-5). Former Section R4-33-29 renumbered as Section R4-33-129 and

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repealed effective February 10, 1982 (Supp. 82-1). Section R4-33-129 renumbered to R4-33-214 by emergency action effective June 19, 1991, pursuant to A.R.S. § 41-1026, valid for only 90 days (Supp. 91-2). Emergency expired. Section R4-33-129 renumbered to R4-33-215 by emergency action effective November 29, 1991, pursuant to A.R.S. § 41-1026, valid for only 90 days (Supp. 91-4). Section R4-33-129 renumbered to R4-33-215 by emergency action effective February 28, 1992, pursuant to A.R.S. § 41-1026, valid for only 90 days (Supp. 92-1). Section R4-33-129 renumbered to R4-33-215 by emergency action effective May 28, 1992, pursuant to A.R.S. § 41-1026, valid for only 90 days (Supp. 92-2). Emergency expired. Section R4-33-129 renumbered to R4-33-215 by emergency action effective September 10, 1992, pursuant to A.R.S. § 41-1026, valid for only 90 days (Supp. 92-3). Section R4-33-129 renumbered to R4-33-215 effective November 25, 1992 (Supp. 92-4).

**R4-33-130. Renumbered**

**Historical Note**

Adopted effective July 24, 1989 (Supp. 78-4). Former Section R4-33-30 renumbered as Section R4-33-130 and repealed, new Section R4-33-130 adopted effective February 10, 1982 (Supp. 82-1). Amended effective August 6, 1991 (Supp. 91-3). Section R4-33-130 renumbered to R4-33-215 by emergency action effective June 19, 1991, pursuant to A.R.S. § 41-1026, valid for only 90 days (Supp. 91-2). Amended effective August 6, 1991 (Supp. 91-3). Emergency expired. Section R4-33-130 renumbered to R4-33-216 by emergency action effective November 29, 1991, pursuant to A.R.S. § 41-1026, valid for only 90 days (Supp. 91-4). Section R4-33-130 renumbered to R4-33-216 by emergency action effective February 28, 1992, pursuant to A.R.S. § 41-1026, valid for only 90 days (Supp. 92-1). Section R4-33-130 renumbered to R4-33-216 by emergency action effective May 28, 1992, pursuant to A.R.S. § 41-1026, valid for only 90 days (Supp. 92-2). Emergency expired. Section R4-33-130 renumbered to R4-33-216 by emergency action effective September 10, 1992, pursuant to A.R.S. § 41-1026, valid for only 90 days (Supp. 92-3). Section R4-33-130 renumbered to R4-33-216 effective November 25, 1992 (Supp. 92-4).

**ARTICLE 2. NURSING CARE INSTITUTION ADMINISTRATOR LICENSING**

*Article 2, consisting of Sections R4-33-201 through R4-33-207 and R4-33-209 through R4-33-215, renumbered from R4-33-115 through R4-33-124 and R4-33-127 through R4-33-130 effective November 25, 1992 (Supp. 92-3).*

*Article 2, consisting of Sections R4-33-201 through R4-33-207 and R4-33-209 through R4-33-215, renumbered by emergency action from R4-33-115 through R4-33-124 and R4-33-127 through R4-33-130 effective June 19, 1991, pursuant to A.R.S. § 41-1026, valid for only 90 days (Supp. 91-2).*

*Article 2, consisting of Sections R4-33-201 through R4-33-215, renumbered by emergency action from R4-33-114 through R4-33-124 and R4-33-127 through R4-33-130 effective June 19, 1991, pursuant to A.R.S. § 41-1026, valid for only 90 days (Supp. 91-2).*

**R4-33-201. Requirements for Initial License by Examination**

To be eligible to receive an initial license by examination as a nursing care institution administrator, an individual shall:

1. Education and training.

- a. Hold a minimum of a baccalaureate degree from an accredited college or university and successfully complete an AIT program;
- b. Hold a minimum of a master's degree in either a health-related field or business administration from an accredited college or university; or
- c. Hold a minimum of an associate of arts degree in nursing from an accredited college or university and:
  - i. Be currently licensed as a registered nurse under A.R.S. § 32-1632,
  - ii. Have worked as a registered nurse for five of the last seven years, and
  - iii. Successfully complete an AIT program.
2. Examination.
  - a. Obtain the scaled passing scores on both the NAB core of knowledge and line of service examinations or qualify with NAB as a Health Services Executive, and
  - b. Obtain a score of at least 80 percent on the Arizona examination;
3. Fingerprint clearance card. Have a valid fingerprint clearance card issued under A.R.S. Title 41, Chapter 12, Article 3.1; and
4. Application. Submit all applicable information required under R4-33-204.

**Historical Note**

Adopted effective October 12, 1976 (Supp. 76-5). Former Section R4-33-15 renumbered and amended as Section R4-33-115 (Supp. 82-1). Section R4-33-202 renumbered from R4-33-115 by emergency action effective June 19, 1991, pursuant to A.R.S. § 41-1026, valid for only 90 days (Supp. 91-2). Amended effective August 6, 1991 (Supp. 91-3). Emergency expired. New Section R4-33-201 renumbered from R4-33-115 by emergency action effective November 29, 1991, pursuant to A.R.S. § 41-1026, valid for only 90 days (Supp. 91-4). New Section R4-33-201 renumbered from R4-33-115 by emergency action effective February 28, 1992, pursuant to A.R.S. § 41-1026, valid for only 90 days (Supp. 92-1). New Section R4-33-201 renumbered from R4-33-115 by emergency action effective May 28, 1992, pursuant to A.R.S. § 41-1026, valid for only 90 days (Supp. 92-2). Emergency expired. New Section R4-33-201 renumbered from R4-33-115 by emergency action effective September 10, 1992, pursuant to A.R.S. § 41-1026, valid for only 90 days (Supp. 92-3). Section R4-33-201 renumbered from R4-33-115 effective November 25, 1992 (Supp. 92-4). Text corrected to include amendments adopted effective August 6, 1991, which were inadvertently omitted (Supp. 95-2). Amended by final rulemaking at 5 A.A.R. 423, effective January 15, 1999 (Supp. 99-1). Former R4-33-201 renumbered to R4-33-204; new R4-33-201 renumbered from R4-33-204 and amended by final rulemaking at 12 A.A.R. 4075, effective December 4, 2006 (Supp. 06-4). Amended by final rulemaking at 14 A.A.R. 516, effective April 5, 2008 (Supp. 08-1). Amended by final rulemaking at 24 A.A.R. 2734, effective November 10, 2018 (Supp. 18-3).

**R4-33-202. Requirements for Initial License by Reciprocity**

To be eligible for an initial license by reciprocity as a nursing care institution administrator, an individual shall:

1. Substantially equivalent educational requirement.
  - a. Hold a minimum of a baccalaureate degree from an accredited college or university, or

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- b. Hold ACHCA certification;
2. Substantially equivalent examination requirement.
  - a. Hold a valid and current license as a nursing care institution administrator:
    - i. Issued at least two years ago,
    - ii. Issued by a state or territory, and
    - iii. Obtained by passing the NAB examination; or
  - b. Have evidence of qualification by NAB as a Health Services Executive; and
  - c. Obtain a score of at least 80 percent on the Arizona examination;
3. Never have had a nursing care administrator license suspended, revoked, or otherwise restricted by any state or territory;
4. Fingerprint clearance card. Have a valid fingerprint clearance card issued under A.R.S. Title 41, Chapter 12, Article 3.1; and
5. Application.
  - a. Submit all applicable information required under R4-33-204,
  - b. Have submitted directly to the Board a certified copy of the valid and current license issued by a state or territory, and
  - c. Have submitted directly to the Board by NAB:
    - i. The examination score referenced under subsection (2)(a), or
    - ii. Evidence of qualification as a Health Services Executive.

#### Historical Note

Adopted effective October 12, 1976 (Supp. 76-5). Former Section R4-33-16 renumbered as Section R4-33-116 (Supp. 82-1). Section R4-33-203 renumbered from R4-33-116 by emergency action effective June 19, 1991, pursuant to A.R.S. § 41-1026, valid for only 90 days (Supp. 91-2). Emergency expired. Amended as Section R4-33-116 effective August 6, 1991 (Supp. 91-3). Section R4-33-202 renumbered from R4-33-116 by emergency action effective November 29, 1991, pursuant to A.R.S. § 41-1026, valid for only 90 days (Supp. 91-4). Section R4-33-202 renumbered from R4-33-116 by emergency action effective February 28, 1992, pursuant to A.R.S. § 41-1026, valid for only 90 days (Supp. 92-1). Section R4-33-202 renumbered from R4-33-116 by emergency action effective May 28, 1992, pursuant to A.R.S. § 41-1026, valid for only 90 days (Supp. 92-2). Emergency expired. Section R4-33-202 renumbered from R4-33-116 by emergency action effective September 10, 1992, pursuant to A.R.S. § 41-1026, valid for only 90 days (Supp. 92-3). Section R4-33-202 renumbered from R4-33-116 effective November 25, 1992 (Supp. 92-4). Text corrected to include amendments adopted effective August 6, 1991, which were inadvertently omitted (Supp. 95-2). Amended by final rulemaking at 5 A.A.R. 423, effective January 15, 1999 (Supp. 99-1). Former R4-33-202 renumbered to R4-33-205; new R4-33-202 renumbered from R4-33-203 and amended by final rulemaking at 12 A.A.R. 4075, effective December 4, 2006 (Supp. 06-4). Amended by final rulemaking at 14 A.A.R. 516, effective April 5, 2008 (Supp. 08-1). Amended by final rulemaking at 24 A.A.R. 2734, effective November 10, 2018 (Supp. 18-3). Amended by final rulemaking at 25 A.A.R. 3709, effective February 1, 2020 (Supp. 19-4).

#### R4-33-203. Requirements for Temporary License

- A. To be eligible for a temporary license as a nursing care institution administrator, an individual shall:
  1. Meet the requirements specified in R4-33-201 or R4-33-202 except for the requirement at R4-33-201(2) or R4-33-202(2)(c);
  2. Have the owner of a nursing care institution that intends to appoint the applicant as administrator if the applicant is successful in obtaining a temporary license submit to the Board a Letter of Intent to Appoint on a form that is available from the Board. The owner of the nursing care institution shall include the following in the Letter of Intent to Appoint:
    - a. Name of the owner of the nursing care institution,
    - b. Name and address of the nursing care institution,
    - c. Name of the applicant,
    - d. An affirmation of intent to appoint the applicant,
    - e. Reason for requesting a temporary license for the applicant,
    - f. License number of the nursing care institution, and
    - g. Signature of the owner of the nursing care institution affirming the information provided is true and complete;
  3. Not have held an Arizona temporary license as a nursing care institution administrator within the past three years; and
  4. Not have failed the Arizona or NAB examination before applying for a temporary license.
- B. At the Board's request, an applicant for a temporary license shall appear or be available by telephone for an interview with the Board.
- C. A temporary license is valid for 150 days and is not renewable. Before expiration of the temporary license, the temporary licensee shall become licensed under A.R.S. § 36-446.04 and this Article or discontinue as administrator of the nursing care institution.
- D. If a temporary licensee fails the Arizona or NAB examination during the term of the temporary license, the temporary license is automatically revoked and the former licensee shall discontinue as administrator of the nursing care institution.

#### Historical Note

Adopted effective October 12, 1976 (Supp. 76-5). Former Section R4-33-17 renumbered and amended as Section R4-33-117 (Supp. 82-1). Section R4-33-204 renumbered from R4-33-117 by emergency action effective June 19, 1991, pursuant to A.R.S. § 41-1026, valid for only 90 days (Supp. 91-2). Emergency expired. Amended as Section R4-33-117 effective August 6, 1991 (Supp. 91-3). Section R4-33-203 renumbered from R4-33-117 by emergency action effective November 29, 1991, pursuant to A.R.S. § 41-1026, valid for only 90 days (Supp. 91-4). Section R4-33-203 renumbered from R4-33-117 by emergency action effective February 28, 1992, pursuant to A.R.S. § 41-1026, valid for only 90 days (Supp. 92-1). Section R4-33-203 renumbered from R4-33-117 by emergency action effective May 28, 1992, pursuant to A.R.S. § 41-1026, valid for only 90 days (Supp. 92-2). Emergency expired. Section R4-33-203 renumbered from R4-33-117 by emergency action effective September 10, 1992, pursuant to A.R.S. § 41-1026, valid for only 90 days (Supp. 92-3). Section R4-33-203 renumbered from R4-33-117 effective November 25, 1992 (Supp. 92-4). Text corrected to include amendments adopted effective August 6, 1991, which were inadvertently omitted (Supp. 95-2). Amended by final rulemaking at 5 A.A.R. 423, effective January 15, 1999 (Supp. 99-1). Former R4-33-

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203 renumbered to R4-33-202; new R4-33-203 renumbered from R4-33-212 and amended by final rulemaking at 12 A.A.R. 4075, effective December 4, 2006 (Supp. 06-4). Amended by final rulemaking at 21 A.A.R. 543, effective June 6, 2015 (Supp. 15-2). Amended by final rulemaking at 25 A.A.R. 3709, effective February 1, 2020 (Supp. 19-4).

**R4-33-204. Initial Application**

- A.** An individual who desires to be licensed as a nursing care institution administrator shall submit the following information to the Board on an application form, which is available from the Board:
1. Full name of the applicant;
  2. Other names that the applicant has used;
  3. Mailing address of the applicant;
  4. E-mail address of the applicant;
  5. Home, work, and mobile telephone numbers of the applicant;
  6. Applicant's date and place of birth;
  7. Applicant's Social Security number;
  8. Address of every residence at which the applicant has lived in the last five years;
  9. Name and address of every accredited college or university attended, dates of attendance, date of graduation, and degree or certificate received;
  10. Information regarding professional licenses or certifications currently or previously held by the applicant, including:
    - a. Name of issuing agency;
    - b. License or certificate number;
    - c. Issuing jurisdiction;
    - d. Date on which the license or certificate was first issued;
    - e. Whether the license or certificate is current; and
    - f. Whether the license or certificate is in good standing and if not, an explanation;
  11. Information regarding the applicant's employment record for the last five years, including:
    - a. Name, address, and telephone number of each employer;
    - b. Title of position held by the applicant;
    - c. Name of applicant's supervisor;
    - d. Dates of employment; and
    - e. Reason for employment termination;
  12. Whether the applicant was ever denied a professional license or certificate and if so, the kind of license or certificate denied, licensing authority making the denial, and date;
  13. Whether the applicant ever voluntarily surrendered a professional license or certificate and if so, the kind of license or certificate surrendered, licensing authority, date, and reason for the surrender;
  14. Whether the applicant ever allowed a professional license or certificate to lapse and if so, the kind of license or certificate that lapsed, licensing authority, date, reason for lapse, and whether the license or certificate was reinstated;
  15. Whether the applicant ever had a limitation imposed on a professional license or certificate and if so, the kind of license or certificate limited, licensing authority, date, nature of limitation, reason for limitation, and whether the limitation was removed;
  16. Whether the applicant ever had a professional license or certificate suspended or revoked and if so, the kind of license or certificate suspended or revoked, licensing authority, date, and reason for the suspension or revocation;
  17. Whether the applicant ever was subject to disciplinary action with regard to a professional license or certificate and if so, the kind of license or certificate involved, licensing authority, date, and reason for and nature of the disciplinary action;
  18. Whether any unresolved complaint against the applicant is pending with a licensing authority, professional association, health care facility, or nursing care institution and if so, the nature of and where the complaint is pending;
  19. Whether the applicant ever was charged with or convicted of a felony or a misdemeanor, other than a minor traffic violation, in any court and if so, the nature of the offense, jurisdiction, and date of discharge; and
  20. Whether the applicant ever was pardoned from or had expunged the record of a felony conviction and if so, the nature of the offense, jurisdiction, and date of pardon or expunging.
- B.** In addition to the application form required under subsection (A), an applicant shall have the following submitted directly to the Board on the applicant's behalf:
1. Official transcript submitted by each accredited college or university attended by the applicant;
  2. Verification of license that is signed, authenticated by seal or notarization, and submitted by each agency that ever issued a professional license to the applicant;
  3. "Character Certification" form submitted by two individuals who have known the applicant for at least three years and are not related to, employed by, or employing the applicant; and
  4. If the applicant is certified by ACHCA, verification of certification submitted by ACHCA;
- C.** In addition to complying with subsections (A) and (B), an applicant shall submit:
1. If the applicant completed an AIT program, a photocopy of the certificate issued upon completion;
  2. For every felony or misdemeanor charge listed under subsection (A)(19), a copy of documents from the appropriate court showing the disposition of each charge;
  3. For every felony or misdemeanor conviction listed under subsection (A)(19), a copy of documents from the appropriate court showing whether the applicant met all judicially imposed sentencing terms;
  4. Full-face photograph of the applicant taken within the last six months;
  5. Fingerprint clearance card.
    - a. Photocopy of the front and back of the applicant's fingerprint clearance card,
    - b. Proof of submission of an application for a fingerprint clearance card, or
    - c. If denied a fingerprint clearance card, proof the applicant qualifies for a good-cause exception hearing under A.R.S. § 41-619.55;
  6. Documentation, as described in A.R.S. § 41-1080(A), of U.S. citizenship or alien status indicating presence in the U.S. is authorized under federal law;
  7. Affirm the information provided in the application is true and complete and authorize others to release information regarding the applicant to the Board; and
  8. Fees required under R4-33-104(A)(1) and (A)(2).
- D.** If required by the Board under A.R.S. § 36-446.03(D), an applicant shall appear before the Board.
- E.** When the information required under subsections (A) through (C) is received and following an appearance before the Board

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required under subsection (D), the Board shall provide notice regarding whether the applicant may take the licensing examinations required under R4-33-201 or R4-33-202.

- F. Because of the time required for the Board to perform an administrative completeness review under R4-33-103, an applicant shall ensure the information required under subsections (A) through (C) is submitted at least 30 days before the applicant expects to take the Arizona examination.

#### Historical Note

Adopted effective October 12, 1976 (Supp. 76-5). Former Section R4-33-18 renumbered as Section R4-33-118 and repealed effective February 10, 1982 (Supp. 82-1). Section R4-33-205 renumbered from R4-33-118 by emergency action effective June 19, 1991, pursuant to A.R.S. § 41-1026, valid for only 90 days (Supp. 91-2). Emergency expired. Section R4-33-204 renumbered from R4-33-118 by emergency action effective November 29, 1991, pursuant to A.R.S. § 41-1026, valid for only 90 days (Supp. 91-4). Section R4-33-204 renumbered from R4-33-118 by emergency action effective February 28, 1992, pursuant to A.R.S. § 41-1026, valid for only 90 days (Supp. 92-1). Section R4-33-204 renumbered from R4-33-118 by emergency action effective May 28, 1992, pursuant to A.R.S. § 41-1026, valid for only 90 days (Supp. 92-2). Emergency expired. Section R4-33-204 renumbered from R4-33-118 by emergency action effective September 10, 1992, pursuant to A.R.S. § 41-1026, valid for only 90 days (Supp. 92-3). Section R4-33-204 renumbered from R4-33-118 effective November 25, 1992 (Supp. 92-4). Final amendment at 5 A.A.R. 423, effective January 15, 1999 (Supp. 99-1). Former R4-33-204 renumbered to R4-33-201; new R4-33-204 renumbered from R4-33-201 and amended by final rulemaking at 12 A.A.R. 4075, effective December 4, 2006 (Supp. 06-4). Amended by final rulemaking at 14 A.A.R. 516, effective April 5, 2008 (Supp. 08-1). Amended by final rulemaking at 24 A.A.R. 2734, effective November 10, 2018 (Supp. 18-3). Amended by final rulemaking at 25 A.A.R. 3709, effective February 1, 2020 (Supp. 19-4).

#### R4-33-205. Administration of Examinations; License Issuance

- A. The Board shall administer the Arizona examination at least twice each year at times and places specified by the Board.
- B. An applicant shall make arrangements directly with NAB to take the NAB examination.
- C. The Board shall provide written notice to an applicant regarding whether the applicant passed a required examination.
- D. An applicant for licensure under R4-33-201 is not required to take or pass both examinations at the same time. An applicant who passes one of the examinations listed in R4-33-201(2) but fails the other is required to retake only the examination failed.
- E. When an applicant passes the examinations required under R4-33-201 or R4-33-202, the Board shall send the applicant a written notice that the Board will issue a license to the applicant when the applicant submits to the Board the fee required under R4-33-104(A)(4). If the applicant fails to submit the fee within six months of the Board's notice, the Board shall administratively close the applicant's file. An individual whose file is administratively closed may receive further consideration only by submitting a new application under R4-33-201 or R4-33-202.

#### Historical Note

Adopted effective October 12, 1976 (Supp. 76-5).  
Amended effective July 24, 1978 (Supp. 78-4). Former

Section R4-33-19 renumbered as Section R4-33-119 and repealed, new Section R4-33-119 adopted effective February 10, 1982 (Supp. 82-1). Amended effective May 2, 1984 (Supp. 84-3). Amended as an emergency effective October 2, 1989, pursuant to A.R.S. § 41-1026, valid for only 90 days (Supp. 89-4). Emergency expired. Emergency amendments readopted without change effective January 3, 1990, pursuant to A.R.S. § 41-1026, valid for only 90 days (Supp. 90-1). Emergency amendments adopted again without change effective April 3, 1990, pursuant to A.R.S. § 41-1026, valid for only 90 days; amended effective June 14, 1990 (Supp. 90-2). Section R4-33-206 renumbered from R4-33-119 by emergency action effective June 19, 1991, pursuant to A.R.S. § 41-1026, valid for only 90 days (Supp. 91-2). Amended as R4-33-119 effective August 6, 1991 (Supp. 91-3). Emergency expired. Section R4-33-206 renumbered from R4-33-119 by emergency action effective November 29, 1991, pursuant to A.R.S. § 41-1026, valid for only 90 days (Supp. 91-4). Section R4-33-205 renumbered from R4-33-119 by emergency action effective February 28, 1992, pursuant to A.R.S. § 41-1026, valid for only 90 days (Supp. 92-1). Section R4-33-205 renumbered from R4-33-119 by emergency action effective May 28, 1992, pursuant to A.R.S. § 41-1026, valid for only 90 days (Supp. 92-2). Emergency expired. Section R4-33-205 renumbered from R4-33-119 by emergency action effective September 10, 1992, pursuant to A.R.S. § 41-1026, valid for only 90 days (Supp. 92-3). Section R4-33-205 renumbered from R4-33-119 effective November 25, 1992 (Supp. 92-4). Text corrected to include amendments adopted effective August 6, 1991, which were inadvertently omitted (Supp. 95-2). Amended by final rulemaking at 5 A.A.R. 423, effective January 15, 1999 (Supp. 99-1). Section repealed by final rulemaking at 10 A.A.R. 805, effective April 13, 2004 (Supp. 04-1). Section R4-33-205 renumbered from R4-33-202 and amended by final rulemaking at 12 A.A.R. 4075, effective December 4, 2006 (Supp. 06-4).

#### R4-33-206. Renewal Application

- A. The Board shall provide a licensee with notice of the need for license renewal. Failure to receive notice of the need for license renewal does not excuse a licensee's failure to renew timely.
- B. An administrator license expires at midnight on June 30 of each even-numbered year.
- C. To renew an administrator license, the licensee shall submit the following information to the Board, on or before June 30, on a renewal application, which is available from the Board:
  1. Current address;
  2. Current e-mail address;
  3. Current home and business telephone numbers;
  4. Whether within the last 24 months the licensee was convicted of or pled guilty or no contest to a criminal offense, other than a minor traffic violation, in any court and if so, attach a copy of the original arrest record and final court judgment;
  5. Whether within the last 24 months the licensee was denied a professional license or had a professional license revoked, suspended, placed on probation, limited, or restricted in any way by a state or federal regulatory authority and if so, the kind of license, license number, issuing authority, nature of the regulatory action, and date;

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6. An affirmation that the number of hours of continuing education required under R4-33-501 has been completed; and
  7. The licensee's dated signature affirming the information provided is true and complete.
- D.** In addition to the renewal application required under subsection (C), a licensee shall submit:
1. A photocopy of the front and back of the licensee's fingerprint clearance card;
  2. Documentation described in A.R.S. § 41-1080(A) unless the documentation previously submitted under R4-33-204(C)(6) established U.S. citizenship or was a non-expiring work authorization issued by the federal government; and
  3. The license renewal fee required under R4-33-104.
- E.** An individual whose license expires because of failure to renew timely may apply for renewal by complying with subsections (C) and (D) if:
1. The individual complies with subsections (C) and (D) on or before July 31,
  2. The individual pays the late renewal fee prescribed under R4-33-104, and
  3. The individual affirms the individual has not acted as a nursing care institution administrator since the license expired.
- F.** An individual whose license expires because of failure to renew timely and who does not comply with subsection (E) may become licensed as a nursing care institution administrator only by complying with R4-33-201 or R4-33-202.

**Historical Note**

Adopted effective October 12, 1976 (Supp. 76-5). Amended effective July 24, 1978 (Supp. 78-4). Former Section R4-33-20 renumbered and amended as Section R4-33-120 (Supp. 82-1). Section R4-33-207 renumbered from R4-33-120 by emergency action effective June 19, 1991, pursuant to A.R.S. § 41-1026, valid for only 90 days (Supp. 91-2). Emergency expired. Amended as R4-33-120 effective August 6, 1991 (Supp. 91-3). Section R4-33-207 renumbered from R4-33-120 by emergency action effective November 29, 1991, pursuant to A.R.S. § 41-1026, valid for only 90 days (Supp. 91-4). Section R4-33-207 renumbered from R4-33-120 by emergency action effective February 28, 1992, pursuant to A.R.S. § 41-1026, valid for only 90 days (Supp. 92-1). Section R4-33-207 renumbered from R4-33-120 by emergency action effective May 28, 1992, pursuant to A.R.S. § 41-1026, valid for only 90 days (Supp. 92-2). Emergency expired. Section R4-33-207 renumbered from R4-33-120 by emergency action effective September 10, 1992, pursuant to A.R.S. § 41-1026, valid for only 90 days (Supp. 92-3). Section R4-33-206 renumbered from R4-33-120 effective November 25, 1992 (Supp. 92-4). Text corrected to include amendments adopted effective August 6, 1991, which were inadvertently omitted (Supp. 95-2). Amended by final rulemaking at 5 A.A.R. 423, effective January 15, 1999 (Supp. 99-1). Amended by final rulemaking at 12 A.A.R. 4075, effective December 4, 2006 (Supp. 06-4). Amended by final rulemaking at 14 A.A.R. 516, effective April 5, 2008 (Supp. 08-1). Amended by final rulemaking at 15 A.A.R. 1975, effective November 3, 2009 (Supp. 09-4). Amended by final rulemaking at 24 A.A.R. 2734, effective November 10, 2018 (Supp. 18-3). Amended by final rulemaking at 25 A.A.R. 3709, effective February 1, 2020 (Supp. 19-4).

**R4-33-207. Inactive Status**

- A.** The Board shall place an administrator's license on inactive status if the administrator:
1. Is in good standing in Arizona,
  2. Submits a written request to the Board to be placed on inactive status, and
  3. Submits evidence that complies with R4-33-501(D) showing that the administrator completed two hours of continuing education for each month in the current biennial period before the request to be placed on inactive status.
- B.** Within seven days after receiving a request to be placed on inactive status, the Board shall provide the administrator written confirmation of inactive status.
- C.** An administrator whose license is on inactive status is not required to comply with R4-33-501.
- D.** An inactive license expires under R4-33-206 unless the administrator timely submits a renewal application and the fee required under R4-33-104(A)(7).
- E.** To resume active licensure status, an administrator shall:
1. Submit evidence that complies with R4-33-501(D) showing that the administrator completed 25 hours of continuing education within the six months before requesting to resume active licensure status, and
  2. Submit a written request to the Board to resume active licensure status.
- F.** The Board shall grant a request to resume active licensure status if the requirements of subsection (E) are met. Within seven days after receiving the written request to resume active licensure status, the Board shall send written notice to the administrator granting or denying active status.

**Historical Note**

Adopted effective October 12, 1976 (Supp. 76-5). Former Section R4-33-21 renumbered and amended as Section R4-33-121 (Supp. 82-1). Section R4-33-208 renumbered from R4-33-121 by emergency action effective June 19, 1991, pursuant to A.R.S. § 41-1026, valid for only 90 days (Supp. 91-2). Emergency expired. Section R4-33-208 renumbered from R4-33-121 by emergency action effective November 29, 1991, pursuant to A.R.S. § 41-1026, valid for only 90 days (Supp. 91-4). Section R4-33-208 renumbered from R4-33-121 by emergency action effective February 28, 1992, pursuant to A.R.S. § 41-1026, valid for only 90 days (Supp. 92-1). Section R4-33-208 renumbered from R4-33-121 by emergency action effective May 28, 1992, pursuant to A.R.S. § 41-1026, valid for only 90 days (Supp. 92-2). Emergency expired. Section R4-33-208 renumbered from R4-33-121 by emergency action effective September 10, 1992, pursuant to A.R.S. § 41-1026, valid for only 90 days (Supp. 92-3). Section R4-33-207 renumbered from R4-33-121 effective November 25, 1992 (Supp. 92-4). Section R4-33-207 renumbered to R4-33-208, new Section adopted by final rulemaking at 5 A.A.R. 423, effective January 15, 1999 (Supp. 99-1). Amended by final rulemaking at 12 A.A.R. 4075, effective December 4, 2006 (Supp. 06-4).

**R4-33-208. Standards of Conduct; Disciplinary Action**

- A.** An administrator shall know and comply with all federal and state laws applicable to operation of a nursing care institution.
- B.** An administrator shall not:
1. Engage in unprofessional conduct as defined at A.R.S. § 36-446;
  2. Be addicted to or dependent on the use of narcotics or other drugs, including alcohol;

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3. Directly or indirectly permit an owner, officer, or employee of a nursing care institution to solicit, offer, or receive any premium, rebate, or other valuable consideration in connection with furnishing goods or services to patients of the institution unless the resulting economic benefit is directly passed to the patients;
  4. Directly or indirectly permit an owner, officer, or employee of a nursing care institution to solicit, offer, or receive any premium, rebate, or other valuable consideration for referring a patient to another person or place unless the resulting economic benefit is directly passed to the patient;
  5. Willfully permit the unauthorized disclosure of information relating to a patient or a patient's records;
  6. Discriminate against a patient or employee on the basis of race, sex, age, religion, disability, or national origin;
  7. Misrepresent the administrator's qualifications, education, or experience;
  8. Aid or abet another person to misrepresent that person's qualifications, education, or experience;
  9. Defend, support, or ignore unethical conduct of an employee, owner, or other administrator;
  10. Engage in any conduct or practice contrary to recognized community standards or ethics of a nursing care institution administrator;
  11. Engage in any conduct or practice that is or might constitute incompetence, gross negligence, repeated negligence, or negligence that might constitute a danger to the health, welfare, or safety of a patient or the public;
  12. Procure or attempt to procure by fraud or misrepresentation a license or renewal of a license as a nursing care institution administrator;
  13. Violate a formal order, condition of probation, or stipulation issued by the Board;
  14. Commit an act of sexual abuse, misconduct, harassment, or exploitation;
  15. Retaliate against any person who reports in good faith to the Board alleged incompetence or illegal or unethical conduct of any administrator; or
  16. Accept an appointment as administrator of a nursing care institution in violation of R4-33-212.
- C. The Board shall consider a final judgment or conviction for a felony, an offense involving moral turpitude, or direct or indirect elder abuse as grounds for disciplinary action under A.R.S. § 36-446.07 including denial of a license or license renewal.
- D. An administrator who violates any provision of A.R.S. Title 36, Chapter 4, Article 6 or this Chapter is subject to discipline under A.R.S. § 36-446.07.

**Historical Note**

Adopted effective July 24, 1978 (Supp. 78-4). Former Section R4-33-22 renumbered as Section R4-33-122 (Supp. 82-1). Section R4-33-209 renumbered from R4-33-122 by emergency action effective June 19, 1991, pursuant to A.R.S. § 41-1026, valid for only 90 days (Supp. 91-2). Emergency expired. Section R4-33-209 renumbered from R4-33-122 by emergency action effective November 29, 1991, pursuant to A.R.S. § 41-1026, valid for only 90 days (Supp. 91-4). Section R4-33-209 renumbered from R4-33-122 by emergency action effective February 28, 1992, pursuant to A.R.S. § 41-1026, valid for only 90 days (Supp. 92-1). Section R4-33-209 renumbered from R4-33-122 by emergency action effective May 28, 1992, pursuant to A.R.S. § 41-1026, valid for only 90 days (Supp. 92-2). Emergency expired. Section

R4-33-209 renumbered from R4-33-122 by emergency action effective September 10, 1992, pursuant to A.R.S. § 41-1026, valid for only 90 days (Supp. 92-3). Section R4-33-208 renumbered from R4-33-122 effective November 25, 1992 (Supp. 92-4). Section R4-33-208 renumbered to R4-33-209, new Section R4-33-208 renumbered from R4-33-207 and amended by final rulemaking at 5 A.A.R. 423, effective January 15, 1999 (Supp. 99-1). Amended by final rulemaking at 12 A.A.R. 4075, effective December 4, 2006 (Supp. 06-4). Amended by final rulemaking at 21 A.A.R. 543, effective June 6, 2015 (Supp. 15-2).

**R4-33-209. Renumbered**

**Historical Note**

Adopted effective October 12, 1976 (Supp. 76-5). Former Section R4-33-23 renumbered as Section R4-33-123 (Supp. 82-1). Section R4-33-210 renumbered from R4-33-123 by emergency action effective June 19, 1991, pursuant to A.R.S. § 41-1026, valid for only 90 days (Supp. 91-2). Emergency expired. Section R4-33-210 renumbered from R4-33-123 by emergency action effective November 29, 1991, pursuant to A.R.S. § 41-1026, valid for only 90 days (Supp. 91-4). Section R4-33-210 renumbered from R4-33-123 by emergency action effective February 28, 1992, pursuant to A.R.S. § 41-1026, valid for only 90 days (Supp. 92-1). Section R4-33-210 renumbered from R4-33-123 by emergency action effective May 28, 1992, pursuant to A.R.S. § 41-1026, valid for only 90 days (Supp. 92-2). Emergency expired. Section R4-33-210 renumbered from R4-33-123 by emergency action effective September 10, 1992, pursuant to A.R.S. § 41-1026, valid for only 90 days (Supp. 92-3). Section R4-33-209 renumbered from R4-33-123 effective November 25, 1992 (Supp. 92-4). Section R4-33-209 renumbered to R4-33-210, new Section R4-33-209 renumbered from R4-33-208 and amended by final rulemaking at 5 A.A.R. 423, effective January 15, 1999 (Supp. 99-1). Section R4-33-209 renumbered to R4-33-106 by final rulemaking at 12 A.A.R. 4075, effective December 4, 2006 (Supp. 06-4).

**R4-33-210. Licensure Following Revocation**

An individual who wishes to be licensed after the individual's license as a nursing care institution administrator is revoked shall:

1. Not apply for licensure until at least 12 months have passed since the revocation; and
2. Apply for licensure under R4-33-201 or R4-33-202.

**Historical Note**

Adopted effective October 12, 1976 (Supp. 76-5). Former Section R4-33-24 renumbered as Section R4-33-124 (Supp. 82-1). Section R4-33-211 renumbered from R4-33-124 by emergency action effective June 19, 1991, pursuant to A.R.S. § 41-1026, valid for only 90 days (Supp. 91-2). Emergency expired. Section R4-33-212 renumbered from R4-33-124 by emergency action effective November 29, 1991, pursuant to A.R.S. § 41-1026, valid for only 90 days (Supp. 91-4). Section R4-33-210 renumbered from R4-33-124 by emergency action effective February 28, 1992, pursuant to A.R.S. § 41-1026, valid for only 90 days (Supp. 92-1). Section R4-33-210 renumbered from R4-33-124 by emergency action effective May 28, 1992, pursuant to A.R.S. § 41-1026, valid for only 90 days (Supp. 92-2). Emergency expired. Section R4-33-210 renumbered from R4-33-124 by emergency action effective September 10, 1992, pursuant to A.R.S. §



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41-1026, valid for only 90 days (Supp. 92-3). Section R4-33-210 renumbered from R4-33-124 effective November 25, 1992 (Supp. 92-4). Section R4-33-210 renumbered to R4-33-211, new Section R4-33-210 renumbered from R4-33-209 and amended by final rulemaking at 5 A.A.R. 423, effective January 15, 1999 (Supp. 99-1). Section repealed; new Section made by final rulemaking at 12 A.A.R. 4075, effective December 4, 2006 (Supp. 06-4).

**R4-33-211. Notice of Appointment**

- A. An administrator shall provide written notice to the Board, within 30 days, of being appointed administrator of a nursing care institution or terminating an appointment.
- B. An administrator shall include the following, as applicable, in a notice regarding the administrator's appointment:
  1. Administrator's name,
  2. Administrator's license number,
  3. Name and address of the nursing care institution to which the administrator is appointed,
  4. Date of appointment,
  5. Name and address of the nursing care institution at which the administrator's appointment is terminated, and
  6. Date of termination.

**Historical Note**

Section R4-33-211 renumbered from R4-33-125 by emergency action effective February 28, 1992, pursuant to A.R.S. § 41-1026, valid for only 90 days (Supp. 92-1). Section R4-33-211 renumbered from R4-33-125 by emergency action effective May 28, 1992, pursuant to A.R.S. § 41-1026, valid for only 90 days (Supp. 92-2). Emergency expired. Section R4-33-211 renumbered from R4-33-125 by emergency action effective September 10, 1992, pursuant to A.R.S. § 41-1026, valid for only 90 days (Supp. 92-3). Section R4-33-211 renumbered from R4-33-125 effective November 25, 1992 (Supp. 92-4). New Section R4-33-211 renumbered from R4-33-210 and amended by final rulemaking at 5 A.A.R. 423, effective January 15, 1999 (Supp. 99-1). Amended by final rulemaking at 12 A.A.R. 4075, effective December 4, 2006 (Supp. 06-4).

**R4-33-212. Appointment as Administrator of Multiple Nursing Care Institutions**

- A. Except as provided in subsection (B), an individual licensed under R4-33-201 or R4-33-202 shall not be appointed as administrator of more than one nursing care institution.
- B. An individual licensed under R4-33-201 or R4-33-202 may be appointed as administrator of a second nursing care institution if:
  1. Neither nursing care institution is operating under a provisional license;
  2. The two nursing care institutions are no more than 25 miles apart; and
  3. The appointment at the second institution is for no more than 90 days.
- C. A licensed administrator who is appointed as administrator of a second nursing care institution under subsection (B) shall:
  1. For both nursing care institutions, designate in writing an individual who is on the nursing care institution premises and accountable for the services provided at the nursing care institution when the licensed administrator is not on the nursing care institution premises. The designated individual shall:
    - a. Be at least 21 years old;

- b. Be qualified through education and experience to fulfill the responsibilities of a nursing care institution administrator; and
  - c. Never have had licensure or certification suspended or revoked by the Board;
2. Ensure that the name of the designated individual is conspicuously displayed at all times in a manner that informs those seeking assistance who is accountable for the services provided;
3. Place the written notice of designation required under subsection (C)(1) in the personnel file of the individual designated; and
4. Be available to the individual designated under subsection (C)(1) by telephone or electronically within 60 minutes.

**Historical Note**

Adopted effective August 6, 1991 (Supp. 91-3). Section R4-33-211 renumbered from R4-33-126 by emergency action effective November 29, 1991, pursuant to A.R.S. § 41-1026, valid for only 90 days (Supp. 91-4). Section R4-33-212 renumbered from R4-33-126 by emergency action effective February 28, 1992, pursuant to A.R.S. § 41-1026, valid for only 90 days (Supp. 92-1). Section R4-33-212 renumbered from R4-33-126 by emergency action effective May 28, 1992, pursuant to A.R.S. § 41-1026, valid for only 90 days (Supp. 92-2). Emergency expired. Section R4-33-212 renumbered from R4-33-126 by emergency action effective September 10, 1992, pursuant to A.R.S. § 41-1026, valid for only 90 days (Supp. 92-3). Section R4-33-212 renumbered from R4-33-126 effective November 25, 1992 (Supp. 92-4). Section R4-33-212 amended by final rulemaking at 5 A.A.R. 423, effective January 15, 1999 (Supp. 99-1). Section R4-33-212 renumbered to R4-33-203 by final rulemaking at 12 A.A.R. 4075, effective December 4, 2006 (Supp. 06-4). New Section made by final rulemaking at 21 A.A.R. 543, effective June 6, 2015 (Supp. 15-2).

**R4-33-213. Repealed**

**Historical Note**

Adopted effective October 12, 1976 (Supp. 76-5). Former Section R4-33-27 renumbered and amended as Section R4-33-127 (Supp. 82-1). Section R4-33-212 renumbered from R4-33-127 by emergency action effective June 19, 1991, pursuant to A.R.S. § 41-1026, valid for only 90 days (Supp. 91-2). Repealed as R4-33-127 effective August 6, 1991 (Supp. 91-3). Emergency expired. Section R4-33-213 renumbered from R4-33-127 by emergency action effective November 29, 1991, pursuant to A.R.S. § 41-1026, valid for only 90 days (Supp. 91-4). Section R4-33-213 renumbered from R4-33-127 by emergency action effective February 28, 1992, pursuant to A.R.S. § 41-1026, valid for only 90 days (Supp. 92-1). Section R4-33-213 renumbered from R4-33-127 by emergency action effective May 28, 1992, pursuant to A.R.S. § 41-1026, valid for only 90 days (Supp. 92-2). Emergency expired. Section R4-33-213 renumbered from R4-33-127 by emergency action effective September 10, 1992, pursuant to A.R.S. § 41-1026, valid for only 90 days (Supp. 92-3). Section R4-33-213 renumbered from R4-33-127 effective November 25, 1992 (Supp. 92-4). Section R4-33-213 renumbered from R4-33-214 and amended by final rulemaking at 5 A.A.R. 423, effective January 15, 1999 (Supp. 99-1). Section repealed by final rulemaking at 12 A.A.R. 4075, effective December 4,

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2006 (Supp. 06-4).

**R4-33-214. Repealed**

**Historical Note**

Adopted effective October 12, 1976 (Supp. 76-5). Former Section R4-33-28 renumbered as Section R4-33-128 (Supp. 82-1). Section R4-33-213 renumbered from R4-33-128 by emergency action effective June 19, 1991, pursuant to A.R.S. § 41-1026, valid for only 90 days (Supp. 91-2). Emergency expired. Section R4-33-214 renumbered from R4-33-128 by emergency action effective November 29, 1991, pursuant to A.R.S. § 41-1026, valid for only 90 days (Supp. 91-4). Section R4-33-214 renumbered from R4-33-128 by emergency action effective February 28, 1992, pursuant to A.R.S. § 41-1026, valid for only 90 days (Supp. 92-1). Section R4-33-214 renumbered from R4-33-128 by emergency action effective May 28, 1992, pursuant to A.R.S. § 41-1026, valid for only 90 days (Supp. 92-2). Emergency expired. Section R4-33-214 renumbered from R4-33-128 by emergency action effective September 10, 1992, pursuant to A.R.S. § 41-1026, valid for only 90 days (Supp. 92-3). Section R4-33-214 renumbered from R4-33-128 effective November 25, 1992 (Supp. 92-4). Section R4-33-214 renumbered from R4-33-216 and amended by final rulemaking at 5 A.A.R. 423, effective January 15, 1999 (Supp. 99-1). Section repealed by final rulemaking at 12 A.A.R. 4075, effective December 4, 2006 (Supp. 06-4).

**R4-33-215. Renumbered**

**Historical Note**

Adopted effective October 12, 1976 (Supp. 76-5). Former Section R4-33-29 renumbered as Section R4-33-129 and repealed effective February 10, 1982 (Supp. 82-1). Section R4-33-214 renumbered from R4-33-129 by emergency action effective June 19, 1991, pursuant to A.R.S. § 41-1026, valid for only 90 days (Supp. 91-2). Emergency expired. Section R4-33-214 renumbered from R4-33-129 by emergency action effective November 29, 1991, pursuant to A.R.S. § 41-1026, valid for only 90 days (Supp. 91-4). Section R4-33-215 renumbered from R4-33-129 by emergency action effective February 28, 1992, pursuant to A.R.S. § 41-1026, valid for only 90 days (Supp. 92-1). Section R4-33-215 renumbered from R4-33-129 by emergency action effective May 28, 1992, pursuant to A.R.S. § 41-1026, valid for only 90 days (Supp. 92-2). Emergency expired. Section R4-33-215 renumbered from R4-33-129 by emergency action effective September 10, 1992, pursuant to A.R.S. § 41-1026, valid for only 90 days (Supp. 92-3). Section R4-33-215 renumbered from R4-33-129 effective November 25, 1992 (Supp. 92-4).

**R4-33-216. Renumbered**

**Historical Note**

Adopted effective July 24, 1989 (Supp. 78-4). Former Section R4-33-30 renumbered as Section R4-33-130 and repealed, new Section R4-33-130 adopted effective February 10, 1982 (Supp. 82-1). Section R4-33-215 renumbered from R4-33-130 by emergency action effective June 19, 1991, pursuant to A.R.S. § 41-1026, valid for only 90 days (Supp. 91-2). Amended as R4-33-130 effective August 6, 1991 (Supp. 91-3). Emergency expired. Section R4-33-216 renumbered from R4-33-130 by emergency action effective November 29, 1991, pursuant

to A.R.S. § 41-1026, valid for only 90 days (Supp. 91-4).

Section R4-33-216 renumbered from R4-33-130 by emergency action effective February 28, 1992, pursuant to A.R.S. § 41-1026, valid for only 90 days (Supp. 92-1).

Section R4-33-216 renumbered from R4-33-130 by emergency action effective May 28, 1992, pursuant to A.R.S. § 41-1026, valid for only 90 days (Supp. 92-2). Emergency expired. Section R4-33-216 renumbered from R4-33-130 by emergency action effective September 10, 1992, pursuant to A.R.S. § 41-1026, valid for only 90 days (Supp. 92-3). Section R4-33-216 renumbered from R4-33-130 effective November 25, 1992 (Supp. 92-4). Text corrected to include amendments adopted effective August 6, 1991, which were inadvertently omitted (Supp. 95-2). Section R4-33-216 renumbered to R4-33-214 by final rulemaking at 5 A.A.R. 423, effective January 15, 1999 (Supp. 99-1).

**ARTICLE 3. ADMINISTRATOR-IN-TRAINING PROGRAM**

**R4-33-301. Approval of an AIT Program**

- A. The Board approves an AIT internship provided at an educational institution with a NAB-accredited program.
- B. The provider of an AIT program that does not meet the standard in subsection (A) may apply to the Board for approval of the AIT program. To apply for approval of an AIT program, the provider of the program shall submit to the Board:
  1. A letter on official letterhead providing the following information:
    - a. Name, address, e-mail address, and telephone and fax numbers of the provider; and
    - b. Name, telephone number, and e-mail address of an individual who can be contacted regarding the information provided;
  2. A description of the procedure required under R4-33-302(2)(d) to measure the success of an AIT and a copy of any materials used to measure the success of an AIT,
  3. A copy of the AIT program monitoring procedure required under R4-33-302(3) and any forms that are used in the monitoring,
  4. A copy of the certificate of completion required under R4-33-302(2)(e),
  5. A detailed outline of the training course required under R4-33-302(4)(d),
  6. A copy of the policy and procedures manual required under R4-33-302(5), and
  7. The signature of an authorized representative of the provider:
    - a. Affirming that the information provided is true and complete, and
    - b. Authorizing the Board to monitor the program's compliance with the standards in R4-33-302.
- C. The Board shall approve an AIT program that the Board determines meets the standards in R4-33-302. The Board's approval of an AIT program is valid for one year if the program remains in compliance with the standards in R4-33-302.
- D. To maintain approval of an AIT program, the provider of the AIT program shall, before the approval expires, submit:
  1. The information required under subsection (B), or
  2. The letter required under subsection (B)(1) and the signature of an authorized representative of the provider affirming the materials previously submitted under subsections (B)(2) through (B)(6) continue to be true and complete and authorizing the Board to monitor the program's compliance with the standards in R4-33-302.

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**Historical Note**

Emergency adoption effective June 19, 1991, pursuant to A.R.S. § 41-1026, valid for only 90 days (Supp. 91-2). Emergency expired. Emergency rule adopted again with changes effective November 29, 1991, pursuant to A.R.S. § 41-1026, valid for only 90 days (Supp. 91-4). Emergency rule adopted again with changes effective February 28, 1992, pursuant to A.R.S. § 41-1026, valid for only 90 days (Supp. 92-1). Emergency rule adopted again effective May 28, 1992, pursuant to A.R.S. § 41-1026, valid for only 90 days (Supp. 92-2). Emergency expired. Emergency rule adopted again effective September 10, 1992, pursuant to A.R.S. § 41-1026, valid for only 90 days (Supp. 92-3). Emergency rule R4-33-301 renumbered as a permanent rule to R4-33-302; new rule R4-33-301 adopted effective November 25, 1992 (Supp. 92-4). Former Section R4-33-301 renumbered to R4-33-401, new Section R4-33-301 adopted by final rulemaking at 5 A.A.R. 423, effective January 15, 1999 (Supp. 99-1). Amended by final rulemaking at 14 A.A.R. 516, effective April 5, 2008 (Supp. 08-1). Amended by final rulemaking at 24 A.A.R. 2734, effective November 10, 2018 (Supp. 18-3).

**R4-33-302. Standards for an AIT Program**

For an AIT program to be approved by the Board, the provider of the AIT program:

1. Shall be:
  - a. An accredited college or university,
  - b. An institution licensed by the Board of Private Post-secondary Education under A.R.S. § 32-3001 et seq.,
  - c. ACHCA or the Arizona chapter of ACHCA, or
  - d. Another nationally recognized organization of long-term care administrators;
2. Shall ensure that the AIT program:
  - a. Provides at least 1,000 hours of full-time educational experience to the AIT in not less than six months and not more than 12 months in the following subject areas:
    - i. Federal and state law regarding nursing care institutions,
    - ii. Nursing care institution administration and policy,
    - iii. Health care quality assurance,
    - iv. Communications skills,
    - v. Health economics,
    - vi. Financial management of a nursing care institution,
    - vii. Personnel management,
    - viii. Resident care,
    - ix. Facility operation and management,
    - x. Safety and environmental management, and
    - xi. Community resources;
  - b. Allows the AIT to work only with a preceptor who meets the standards in subsection (4) and is responsible for supervising the AIT while the AIT participates in the program,
  - c. Is implemented at the nursing care institution of which the preceptor is administrator,
  - d. Measures the AIT's success in acquiring the knowledge and skills necessary to be a competent nursing care institution administrator, and
  - e. Provides the AIT with a certificate of completion that indicates:
    - i. The AIT's name,

- ii. The preceptor's name and license number,
  - iii. The name and address of the facility at which the AIT program was implemented,
  - iv. The beginning and ending dates of the AIT program, and
  - v. The preceptor's signature affirming that the AIT successfully completed the AIT program;
3. Shall develop a procedure to monitor the AIT program, assess the AIT's progress through the AIT program, and make adjustments necessary to ensure that the AIT acquires the knowledge and skills necessary to be a competent nursing care institution administrator;
4. Shall ensure that an individual who serves as an AIT preceptor:
  - a. Has been licensed by the Board for at least two years,
  - b. Is appointed full-time as a nursing care institution administrator at a facility that the Department determines is in compliance with applicable standards,
  - c. Is in good standing and has no disciplinary actions against the individual's license in the last three years, and
  - d. Completes a training course regarding the role and responsibilities of a preceptor; and
5. Shall develop a written policy and procedures manual that includes at least the following:
  - a. Procedure and forms required to apply to be an AIT;
  - b. Procedure and forms required to apply to be a preceptor;
  - c. Procedure for matching an AIT applicant with a preceptor;
  - d. Goals of the AIT program related to each of the subject areas listed in subsection (2)(a);
  - e. Learning experiences to achieve each goal;
  - f. Estimated time to accomplish each goal;
  - g. Responsibilities of a preceptor;
  - h. Responsibilities of an AIT;
  - i. Procedures for deviating from the goals of the AIT program, changing the facility at which the AIT program is implemented, changing preceptor, and extending the AIT program; and
  - j. Procedure for evaluating the preceptor.

**Historical Note**

R4-33-302 adopted by emergency action effective June 19, 1991, pursuant to A.R.S. § 41-1026, valid for only 90 days (Supp. 91-2). Emergency expired. Emergency rule adopted again with changes effective November 29, 1991, pursuant to A.R.S. § 41-1026, valid for only 90 days (Supp. 91-4). Emergency rule adopted again with changes effective February 28, 1992, pursuant to A.R.S. § 41-1026, valid for only 90 days (Supp. 92-1). Emergency rule adopted again effective May 28, 1992, pursuant to A.R.S. § 41-1026, valid for only 90 days (Supp. 92-2). Emergency expired. Emergency rule adopted again effective September 10, 1992, pursuant to A.R.S. § 41-1026, valid for only 90 days (Supp. 92-3). Emergency rule R4-33-302 renumbered as a permanent rule to R4-33-303; new R4-33-302 renumbered from emergency rule R4-33-301 and adopted with changes effective November 25, 1992 (Supp. 92-4). Former Section R4-33-302 renumbered to R4-33-402, new Section R4-33-302 adopted by final rulemaking at 5 A.A.R. 423, effective January 15, 1999 (Supp. 99-1). Section repealed; new Section made by final rulemaking at 14 A.A.R. 516, effective April 5, 2008 (Supp. 08-1). Amended by final rulemaking at 21

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A.A.R. 543, effective June 6, 2015 (Supp. 15-2).

**R4-33-303. Repealed****Historical Note**

R4-33-303 adopted by emergency action effective June 19, 1991, pursuant to A.R.S. § 41-1026, valid for only 90 days (Supp. 91-2). Emergency expired. Emergency rule adopted again with changes effective November 29, 1991, pursuant to A.R.S. § 41-1026, valid for only 90 days (Supp. 91-4). Emergency rule adopted again with changes effective February 28, 1992, pursuant to A.R.S. § 41-1026, valid for only 90 days (Supp. 92-1). Emergency rule adopted again effective May 28, 1992, pursuant to A.R.S. § 41-1026, valid for only 90 days (Supp. 92-2). Emergency expired. Emergency rule adopted again effective September 10, 1992, pursuant to A.R.S. § 41-1026, valid for only 90 days (Supp. 92-3). Emergency rule R4-33-303 renumbered as a permanent rule to R4-33-304; new R4-33-303 renumbered from emergency rule R4-33-302 and adopted with changes effective November 25, 1992 (Supp. 92-4). Former Section R4-33-303 renumbered to R4-33-403, new Section R4-33-303 adopted by final rulemaking at 5 A.A.R. 423, effective January 15, 1999 (Supp. 99-1). Section repealed by final rulemaking at 14 A.A.R. 516, effective April 5, 2008 (Supp. 08-1).

**R4-33-304. Renumbered****Historical Note**

R4-33-304 adopted by emergency action effective June 19, 1991, pursuant to A.R.S. § 41-1026, valid for only 90 days (Supp. 91-2). Emergency expired. Emergency rule adopted again with changes effective November 29, 1991, pursuant to A.R.S. § 41-1026, valid for only 90 days (Supp. 91-4). Emergency rule adopted again effective February 28, 1992, pursuant to A.R.S. § 41-1026, valid for only 90 days (Supp. 92-1). Emergency rule adopted again effective May 28, 1992, pursuant to A.R.S. § 41-1026, valid for only 90 days (Supp. 92-2). Emergency expired. Emergency rule adopted again effective September 10, 1992, pursuant to A.R.S. § 41-1026, valid for only 90 days (Supp. 92-3). Emergency rule R4-33-304 renumbered as a permanent rule to R4-33-305, new rule R4-33-304 renumbered from emergency rule R4-33-303 and adopted with changes effective November 25, 1992 (Supp. 92-4). Section R4-33-304 renumbered to R4-33-404 by final rulemaking at 5 A.A.R. 423, effective January 15, 1999 (Supp. 99-1).

**R4-33-305. Renumbered****Historical Note**

Emergency adoption effective June 19, 1991, pursuant to A.R.S. § 41-1026, valid for only 90 days (Supp. 91-2). Emergency expired. Emergency rule adopted again with changes effective November 29, 1991, pursuant to A.R.S. § 41-1026, valid for only 90 days (Supp. 91-4). Emergency rule adopted again with changes effective February 28, 1992, pursuant to A.R.S. § 41-1026, valid for only 90 days (Supp. 92-1). Emergency rule adopted again effective May 28, 1992, pursuant to A.R.S. § 41-1026, valid for only 90 days (Supp. 92-2). Emergency expired. Emergency rule adopted again effective September 10, 1992, pursuant to A.R.S. § 41-1026, valid for only 90 days (Supp. 92-3). Emergency rule R4-33-305 renumbered as a permanent rule to R4-33-306, new R4-33-305 renumbered from emergency rule R4-33-304 and adopted with

changes effective November 25, 1992 (Supp. 92-4). Section R4-33-305 renumbered to R4-33-405 by final rulemaking at 5 A.A.R. 423, effective January 15, 1999 (Supp. 99-1).

**R4-33-306. Renumbered****Historical Note**

Emergency adoption effective June 19, 1991, pursuant to A.R.S. § 41-1026, valid for only 90 days (Supp. 91-2). Emergency expired. Emergency rule adopted again with changes effective November 29, 1991, pursuant to A.R.S. § 41-1026, valid for only 90 days (Supp. 91-4). Emergency rule adopted again with changes effective February 28, 1992, pursuant to A.R.S. § 41-1026, valid for only 90 days (Supp. 92-1). Emergency rule adopted again effective May 28, 1992, pursuant to A.R.S. § 41-1026, valid for only 90 days (Supp. 92-2). Emergency expired. Emergency rule adopted again effective September 10, 1992, pursuant to A.R.S. § 41-1026, valid for only 90 days (Supp. 92-3). Emergency rule R4-33-306 renumbered as a permanent rule to R4-33-307, new R4-33-306 renumbered from emergency rule R4-33-305 and adopted with changes effective November 25, 1992 (Supp. 92-4). Section R4-33-306 renumbered to R4-33-406 by final rulemaking at 5 A.A.R. 423, effective January 15, 1999 (Supp. 99-1).

**R4-33-307. Renumbered****Historical Note**

Emergency adoption effective June 19, 1991, pursuant to A.R.S. § 41-1026, valid for only 90 days (Supp. 91-2). Emergency expired. Emergency rule adopted again with changes effective November 29, 1991, pursuant to A.R.S. § 41-1026, valid for only 90 days (Supp. 91-4). Emergency rule adopted again with changes effective February 28, 1992, pursuant to A.R.S. § 41-1026, valid for only 90 days (Supp. 92-1). Emergency rule adopted again effective May 28, 1992, pursuant to A.R.S. § 41-1026, valid for only 90 days (Supp. 92-2). Emergency expired. Emergency rule adopted again effective September 10, 1992, pursuant to A.R.S. § 41-1026, valid for only 90 days (Supp. 92-3). Emergency rule R4-33-307 renumbered as a permanent rule to R4-33-308, new R4-33-307 renumbered from emergency rule R4-33-306 and adopted with changes effective November 25, 1992 (Supp. 92-4). Amended effective February 6, 1995 (Supp. 95-1). Section R4-33-307 renumbered to R4-33-407 by final rulemaking at 5 A.A.R. 423, effective January 15, 1999 (Supp. 99-1).

**R4-33-308. Renumbered****Historical Note**

Emergency adoption effective June 19, 1991, pursuant to A.R.S. § 41-1026, valid for only 90 days (Supp. 91-2). Emergency expired. Emergency rule adopted as R4-33-307 renumbered to R4-33-311 by emergency action effective November 29, 1991, pursuant to A.R.S. § 41-1026, valid for only 90 days; new emergency rule adopted as R4-33-307 renumbered from R4-33-312 and amended by emergency action effective November 29, 1991, pursuant to A.R.S. § 41-1026, valid for only 90 days (Supp. 91-4). Emergency rule adopted again with changes effective February 28, 1992, pursuant to A.R.S. § 41-1026, valid for only 90 days (Supp. 92-1). Emergency rule adopted again effective May 28, 1992, pursuant to

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A.R.S. § 41-1026, valid for only 90 days (Supp. 92-2). Emergency expired. Emergency rule adopted again effective September 10, 1992, pursuant to A.R.S. § 41-1026, valid for only 90 days (Supp. 92-3). Emergency rule R4-33-308 renumbered as a permanent rule to R4-33-309, new R4-33-308 renumbered from emergency rule R4-33-307 and adopted with changes effective November 25, 1992 (Supp. 92-4). Section R4-33-308 renumbered to R4-33-408 by final rulemaking at 5 A.A.R. 423, effective January 15, 1999 (Supp. 99-1).

**R4-33-309. Renumbered**

**Historical Note**

Emergency adoption effective June 19, 1991, pursuant to A.R.S. § 41-1026, valid for only 90 days (Supp. 91-2). Emergency expired. New emergency rule adopted as R4-33-308 renumbered from emergency rule R4-33-309 and amended effective November 29, 1991, pursuant to A.R.S. § 41-1026, valid for only 90 days (Supp. 91-4). Emergency rule adopted again effective February 28, 1992, pursuant to A.R.S. § 41-1026, valid for only 90 days (Supp. 92-1). Emergency rule adopted again effective May 28, 1992, pursuant to A.R.S. § 41-1026, valid for only 90 days (Supp. 92-2). Emergency expired. Emergency rule adopted again effective September 10, 1992, pursuant to A.R.S. § 41-1026, valid for only 90 days (Supp. 92-3). Emergency rule R4-33-309 renumbered as a permanent rule to R4-33-310, new R4-33-309 renumbered from emergency rule R4-33-308 and adopted without change effective November 25, 1992 (Supp. 92-4). Section R4-33-309 renumbered to R4-33-409 by final rulemaking at 5 A.A.R. 423, effective January 15, 1999 (Supp. 99-1).

**R4-33-310. Renumbered**

**Historical Note**

Emergency adoption effective June 19, 1991, pursuant to A.R.S. § 41-1026, valid for only 90 days (Supp. 91-2). Emergency expired. Emergency rule adopted as R4-33-309 renumbered to emergency rule R4-33-308; new emergency rule adopted as R4-33-309 renumbered from emergency rule R4-33-310 and amended effective November 29, 1991, pursuant to A.R.S. § 41-1026, valid for only 90 days (Supp. 91-4). Emergency rule adopted again with changes effective February 28, 1992, pursuant to A.R.S. § 41-1026, valid for only 90 days (Supp. 92-1). Emergency rule adopted again effective May 28, 1992, pursuant to A.R.S. § 41-1026, valid for only 90 days (Supp. 92-2). Emergency expired. Emergency rule adopted again effective September 10, 1992, pursuant to A.R.S. § 41-1026, valid for only 90 days (Supp. 92-3). Emergency rule R4-33-310 renumbered as a permanent rule to R4-33-311, new R4-33-310 renumbered from emergency rule R4-33-309 and adopted with changes effective November 25, 1992 (Supp. 92-4). Section R4-33-310 renumbered to R4-33-410 by final rulemaking at 5 A.A.R. 423, effective January 15, 1999 (Supp. 99-1).

**R4-33-311. Renumbered**

**Historical Note**

Emergency adoption effective June 19, 1991, pursuant to A.R.S. § 41-1026, valid for only 90 days (Supp. 91-2). Emergency expired. Emergency rule adopted as R4-33-310 renumbered to R4-33-309; new emergency rule R4-33-310 renumbered from emergency rule R4-33-311 and

amended effective November 29, 1991, pursuant to A.R.S. § 41-1026, valid for only 90 days (Supp. 91-4). Emergency rule adopted again effective February 28, 1992, pursuant to A.R.S. § 41-1026, valid for only 90 days (Supp. 92-1). Emergency rule adopted again effective May 28, 1992, pursuant to A.R.S. § 41-1026, valid for only 90 days (Supp. 92-2). Emergency expired. Emergency rule adopted again effective September 10, 1992, pursuant to A.R.S. § 41-1026, valid for only 90 days (Supp. 92-3). Emergency rule R4-33-311 renumbered as a permanent rule to R4-33-312, new R4-33-311 renumbered from emergency rule R4-33-310 and adopted without change effective November 25, 1992 (Supp. 92-4). Section R4-33-311 renumbered to R4-33-411 by final rulemaking at 5 A.A.R. 423, effective January 15, 1999 (Supp. 99-1).

**R4-33-312. Renumbered**

**Historical Note**

Emergency adoption effective June 19, 1991, pursuant to A.R.S. § 41-1026, valid for only 90 days (Supp. 91-2). Emergency expired. R4-33-312 renumbered from emergency rule R4-33-311 and adopted with changes effective November 25, 1992 (Supp. 92-4). Section R4-33-312 renumbered to R4-33-412 by final rulemaking at 5 A.A.R. 423, effective January 15, 1999 (Supp. 99-1).

**ARTICLE 4. ASSISTED LIVING FACILITY MANAGER CERTIFICATION**

**R4-33-401. Requirements for Initial Certification by Examination**

- A. Except as provided in subsection (B), an individual who wishes to receive an initial certificate by examination as an assisted living facility manager shall:
- Education:
    - Earn a high school diploma or G.E.D. or hold a license in good standing issued under A.R.S. Title 32, Chapters 13, 15, or 17 or 4 A.A.C. 33, Article 2;
    - Complete an assisted living facility caregiver training program that is approved by the Board under Article 7; and
    - Complete an assisted living facility manager training program that is approved by the Board under or Article 6;
  - Work experience. Complete at least 2,080 hours of paid work experience in a health-related field within the five years before application;
  - Examination. Obtain a score of at least 75 percent on the Arizona examination;
  - Training. Complete an adult cardiopulmonary resuscitation and basic first-aid training program;
  - Fingerprint clearance card. Have a valid fingerprint clearance card issued under A.R.S. Title 41, Chapter 12, Article 3.1; and
  - Submit all applicable information required under R4-33-403.
- B. An individual who holds a license in good standing issued under A.R.S. Title 32, Chapter 13, 15, or 17 or 4 A.A.C. 33, Article 2 is exempt from the requirements specified in subsections (A)(1)(b) and (4).

**Historical Note**

Section R4-33-401 renumbered from R4-33-301 by final rulemaking at 5 A.A.R. 423, effective January 15, 1999 (Supp. 99-1). Section expired under A.R.S. § 41-1056(E) at 10 A.A.R. 3897, effective July 31, 2004 (Supp. 04-3).

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Section R4-33-401 renumbered from R4-33-402 and amended by final rulemaking at 12 A.A.R. 4075, effective December 4, 2006 (Supp. 06-4). Amended by final rulemaking at 14 A.A.R. 516, effective April 5, 2008 (Supp. 08-1). Amended by final rulemaking at 21 A.A.R. 543, effective June 6, 2015 (Supp. 15-2). Amended by final rulemaking at 25 A.A.R. 3709, effective February 1, 2020 (Supp. 19-4).

**R4-33-402. Requirements for a Temporary Certificate**

- A.** To be eligible for a temporary certificate as an assisted living facility manager, an individual shall:
1. Meet the requirements under R4-33-401 except for the requirement at R4-33-401(3);
  2. Have the owner of an assisted living facility that intends to appoint the applicant as manager if the applicant is successful in obtaining a temporary certificate submit to the Board a Letter of Intent to Appoint on a form that is available from the Board. The owner of the assisted living facility shall include the following in the Letter of Intent to Appoint:
    - a. Name of the owner of the assisted living facility;
    - b. Name and address of the assisted living facility;
    - c. Name of the applicant;
    - d. An affirmation of intent to appoint the applicant;
    - e. Reason for requesting a temporary certificate for the applicant;
    - f. License number of the assisted living facility; and
    - g. Signature of the owner of the assisted living facility affirming the information provided is true and complete;
  3. Not have held an Arizona temporary certificate as an assisted living facility manager within the past three years; and
  4. Not have failed the Arizona examination before applying for the temporary certificate.
- B.** At the Board's request, an applicant for a temporary certificate shall appear or be available by telephone for an interview with the Board.
- C.** A temporary certificate is valid for 150 days and is not renewable. Before expiration of the temporary certificate, the temporary certificate holder shall obtain a certificate under A.R.S. § 36-446.04 and this Article or discontinue as manager of the assisted living facility.
- D.** If a temporary certificate holder fails the Arizona examination during the term of the temporary certificate, the temporary certificate is automatically revoked and the former temporary certificate holder shall discontinue as manager of the assisted living facility.

**Historical Note**

Section R4-33-402 renumbered from R4-33-302 by final rulemaking at 5 A.A.R. 423, effective January 15, 1999 (Supp. 99-1). Former R4-33-402 renumbered to R4-33-401; new R4-33-402 renumbered from R4-33-410 and amended by final rulemaking at 12 A.A.R. 4075, effective December 4, 2006 (Supp. 06-4). R4-33-402(A)(1) citation to R4-33-401(A)(3) corrected to R4-33-401(3) at the request of the Department, see Office File No. M10-416 filed October 18, 2010 (Supp. 09-4). Amended by final rulemaking at 21 A.A.R. 543, effective June 6, 2015 (Supp. 15-2). Amended by final rulemaking at 25 A.A.R. 3709, effective February 1, 2020 (Supp. 19-4).

**R4-33-403. Initial Application**

- A.** An individual who desires to be certified as a manager of an assisted living facility shall submit the following information

to the Board on an application form, which is available from the Board:

1. Full name of the applicant;
2. Other names that the applicant has used;
3. Mailing address of the applicant;
4. Home, work, and mobile telephone numbers of the applicant;
5. Applicant's date and place of birth;
6. Applicant's Social Security number;
7. Address of every residence at which the applicant has lived in the last five years;
8. Education information regarding the applicant, including:
  - a. Name and location of last high school attended;
  - b. Date of high school graduation or date on which a G.E.D. was earned; and
  - c. Name and address of every accredited college or university attended, dates of attendance, date of graduation, and degree or certificate earned;
9. Information regarding professional licenses or certifications currently or previously held by the applicant, including:
  - a. Name of issuing agency;
  - b. License or certificate number;
  - c. Issuing jurisdiction;
  - d. Date on which the license or certificate was first issued;
  - e. Whether the license or certificate is current; and
  - f. Whether the license or certificate is in good standing and if not, an explanation;
10. Information regarding the applicant's employment record for the last five years, including:
  - a. Name, address, and telephone number of each employer;
  - b. Title of position held by the applicant;
  - c. Name of applicant's supervisor;
  - d. Dates of employment;
  - e. Number of hours worked each week;
  - f. Whether the employment was full or part time; and
  - g. Reason for termination;
11. Whether the applicant was ever denied a professional license or certificate and if so, the kind of license or certificate denied; licensing authority making the denial, and date;
12. Whether the applicant ever voluntarily surrendered a professional license or certificate and if so, the kind of license or certificate surrendered, licensing authority, date, and reason for the surrender;
13. Whether the applicant ever allowed a professional license or certificate to lapse and if so, the kind of license or certificate that lapsed, licensing authority, date, reason for lapse, and whether the license or certificate was reinstated;
14. Whether the applicant ever had a limitation imposed on a professional license or certificate and if so, the kind of license or certificate limited, licensing authority, date, nature of limitation, reason for limitation, and whether the limitation was removed;
15. Whether the applicant ever had a professional license or certificate suspended or revoked and if so, the kind of license or certificate suspended or revoked, licensing authority, date, and reason for suspension or revocation;
16. Whether the applicant ever was subject to disciplinary action with regard to a professional license or certificate and if so, the kind of license or certificate involved,

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- licensing authority, date, and reason for and nature of the disciplinary action;
17. Whether any unresolved complaint against the applicant is pending with a licensing authority, professional association, health care facility, or assisted living facility and if so, the nature of and where the complaint is pending;
  18. Whether the applicant ever was charged with or convicted of a felony or a misdemeanor, other than a minor traffic violation, in any court and if so, the nature of the offense, jurisdiction, and date of discharge; and
  19. Whether the applicant ever was pardoned from or had the record expunged of a felony conviction and if so, the nature of the offense, jurisdiction, and date of pardon or expunging.
- B.** In addition to the application form required under subsection (A), an applicant shall submit or have submitted on the applicant's behalf:
1. Education:
    - a. Copy of the applicant's high school diploma or G.E.D. and certificates of completion issued from the training courses described under R4-33-401(A)(1)(b) and (c); or
    - b. Copy of the applicant's license issued under A.R.S. Title 32, Chapter 13, 15, or 17 or 4 A.A.C. 33, Article 2, and certificate of completion issued from the training course described under R4-33-401(A)(1)(c);
  2. Documentation of 2,080 hours of paid work experience in a health-related field;
  3. Copy of current certification in adult cardiopulmonary resuscitation and first aid;
  4. Verification of license that is signed, authenticated by seal or notarization, and submitted directly to the Board by each agency that ever issued a professional license to the applicant;
  5. "Character Certification" form submitted directly to the Board by two individuals who have known the applicant for at least three years and are not related to, employed by, or employing the applicant;
  6. For every felony or misdemeanor charge listed under subsection (A)(18), a copy of documents from the appropriate court showing the disposition of each charge;
  7. For every felony or misdemeanor conviction listed under subsection (A)(18), a copy of documents from the appropriate court showing whether the applicant met all judicially imposed sentencing terms;
  8. Full-faced photograph of the applicant taken within the last six months;
  9. Fingerprint clearance card.
    - a. Photocopy of the front and back of the applicant's fingerprint clearance card;
    - b. Proof of submission of an application for a fingerprint clearance card; or
    - c. If denied a fingerprint clearance card, proof that the applicant qualifies for a good-cause exception hearing under A.R.S. § 41-619.55;
  10. Documentation, as described in A.R.S. § 41-1080(A), of U.S. citizenship or alien status indicating presence in the U.S. is authorized under federal law;
  11. Affirm the information provided in the application is true and complete and authorize others to release information regarding the applicant to the Board; and
  12. Fees required under R4-33-104(B)(1) and (B)(2).
- C.** If required by the Board under A.R.S. § 36-446.03(D), an applicant shall appear before the Board.

- D.** When the information required under subsections (A) and (B) is received and following an appearance before the Board required under subsection (C), the Board shall provide notice regarding whether the applicant may take the Arizona examination required under R4-33-401(3).
- E.** Because of the time required for the Board to perform an administrative completeness review under R4-33-103, an applicant shall submit the information required under subsections (A) and (B) at least 30 days before the applicant expects to take the Arizona examination.

**Historical Note**

Section R4-33-403 renumbered from R4-33-303 by final rulemaking at 5 A.A.R. 423, effective January 15, 1999 (Supp. 99-1). Amended by final rulemaking at 12 A.A.R. 4075, effective December 4, 2006 (Supp. 06-4). Amended by final rulemaking at 14 A.A.R. 516, effective April 5, 2008 (Supp. 08-1). Amended by final rulemaking at 25 A.A.R. 3709, effective February 1, 2020 (Supp. 19-4).

**R4-33-404. Administration of Examination; Certificate Issuance**

- A.** The Board shall administer the Arizona examination at least twice each year at times and places specified by the Board.
- B.** The Board shall provide written notice to an applicant regarding whether the applicant passed the Arizona examination.
- C.** When an applicant passes the Arizona examination, the Board shall send the applicant a written notice that the Board will issue a certificate to the applicant when the applicant submits to the Board the fee required under R4-33-104(B)(4). If the applicant fails to submit the fee within six months of the Board's notice, the Board shall administratively close the applicant's file. An individual whose file is administratively closed may receive further consideration only by submitting a new application under R4-33-401.

**Historical Note**

Section R4-33-404 renumbered from R4-33-304 by final rulemaking at 5 A.A.R. 423, effective January 15, 1999 (Supp. 99-1). Amended by final rulemaking at 12 A.A.R. 4075, effective December 4, 2006 (Supp. 06-4). R4-33-404 corrected by adding a subsection (C) at the request of the Department, Office File No. M10-416 filed October 18, 2010 (Supp. 09-4).

**R4-33-405. Renewal Application**

- A.** The Board shall provide a certificate holder with notice of the need for certificate renewal. Failure to receive notice of the need for certificate renewal does not excuse a certificate holder's failure to renew timely.
- B.** A manager certificate expires at midnight on June 30 of each odd-numbered year.
- C.** To renew a manager certificate, the certificate holder shall submit the following information to the Board, on or before June 30, on a renewal application, which is available from the Board:
  1. Current address;
  2. Current home and business telephone numbers;
  3. Whether within the last 24 months the certificate holder was convicted of or pled guilty to or no contest to a criminal offense, other than a minor traffic violation, in any court and if so, attach a copy of the original arrest record and final court judgment;
  4. Whether within the last 24 months the certificate holder was denied a professional license or had a professional license revoked, suspended, placed on probation, limited,

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- or restricted in any way by a state or federal regulatory authority and if so, the kind of license, license number, issuing authority, nature of the regulatory action, and date;
5. An affirmation that the number of hours of continuing education required under R4-33-501 has been completed;
  6. An affirmation that the certificate holder complies with the disclosure requirements under R4-33-408; and
  7. The certificate holder's dated signature affirming the information provided is true and complete.
- D.** In addition to the renewal application required under subsection (C), a certificate holder shall submit:
1. A photocopy of the front and back of the certificate holder's fingerprint clearance card;
  2. Documentation described in A.R.S. § 41-1080(A) unless the documentation previously submitted under R4-33-403(B)(10) established U.S. citizenship or was a non-expiring work authorization issued by the federal government; and
  3. The renewal fee required under R4-33-104.
- E.** An individual whose certificate expires because of failure to renew timely may apply for renewal by complying with subsections (C) and (D) if:
1. The individual complies with subsections (C) and (D) on or before July 31,
  2. The individual pays the late renewal fee prescribed under R4-33-104, and
  3. The individual affirms that the individual has not acted as an assisted living facility manager since the certificate expired.
- F.** An individual whose certificate expires because of failure to renew timely and who does not comply with subsection (E) may obtain a manager certificate only by complying with R4-33-401.
- D.** An inactive certificate expires under R4-33-405 unless the manager timely submits a renewal application and the fee required under R4-33-104(B)(7).
- E.** To resume active certificate status, a manager shall:
1. Submit evidence that complies with R4-33-501(D) showing that the manager completed 12 hours of continuing education within the six months before requesting to resume active certificate status,
  2. Submit a written request to the Board to resume active certificate status, and
  3. Submit the fee required under R4-33-104(B)(4).
- F.** The Board shall grant a request to resume active certificate status if the requirements of subsection (E) are met. Within seven days after receiving the written request to resume active certificate status, the Board shall send written notice to the manager granting or denying active status.

#### Historical Note

New Section R4-33-406 renumbered from R4-33-306 by final rulemaking at 5 A.A.R. 423, effective January 15, 1999 (Supp. 99-1). Former R4-33-406 renumbered to R4-33-405; new R4-33-406 made by final rulemaking at 12 A.A.R. 4075, effective December 4, 2006 (Supp. 06-4).

#### R4-33-407. Standards of Conduct; Disciplinary Action

- A.** A manager shall know and comply with all federal and state laws applicable to the operation of an assisted living facility.
- B.** A manager shall not:
1. Engage in unprofessional conduct as defined at A.R.S. § 36-446;
  2. Be addicted to or dependent on the use of narcotics or other drugs, including alcohol;
  3. Directly or indirectly permit an owner, officer, or employee of an assisted living facility to solicit, offer, or receive any premium, rebate, or other valuable consideration in connection with furnishing goods or services to residents unless the resulting economic benefit is directly passed to the residents;
  4. Directly or indirectly permit an owner, officer, or employee of an assisted living facility to solicit, offer, or receive any premium, rebate, or other valuable consideration for referring a resident to another person or place unless the resulting economic benefit is directly passed to the resident;
  5. Willfully permit the unauthorized disclosure of information relating to a resident or a resident's records;
  6. Discriminate against a resident or employee on the basis of race, sex, age, religion, disability, or national origin;
  7. Misrepresent the manager's qualifications, education, or experience;
  8. Aid or abet another person to misrepresent that person's qualifications, education, or experience;
  9. Defend, support, or ignore unethical conduct of an employee, owner, or other manager;
  10. Engage in any conduct or practice contrary to recognized community standards or ethics of an assisted living facility manager;
  11. Engage in any conduct or practice that is or might constitute incompetence, gross negligence, repeated negligence, or negligence that might constitute a danger to the health, welfare, or safety of a resident or the public;
  12. Procure or attempt to procure by fraud or misrepresentation a certificate or renewal of a certificate as an assisted living facility manager;
  13. Violate a formal order, condition of probation, or stipulation issued by the Board;

#### Historical Note

Section R4-33-405 renumbered from R4-33-305 by final rulemaking at 5 A.A.R. 423, effective January 15, 1999 (Supp. 99-1). Section repealed by final rulemaking at 10 A.A.R. 805, effective April 13, 2004 (Supp. 04-1). Section R4-33-405 renumbered from R4-33-406 and amended by final rulemaking at 12 A.A.R. 4075, effective December 4, 2006 (Supp. 06-4). Amended by final rulemaking at 14 A.A.R. 516, effective April 5, 2008 (Supp. 08-1). Amended by final rulemaking at 15 A.A.R. 1975, effective November 3, 2009 (Supp. 09-4). Amended by final rulemaking at 25 A.A.R. 3709, effective February 1, 2020 (Supp. 19-4).

#### R4-33-406. Inactive Status

- A.** The Board shall place a manager's certificate on inactive status if the manager:
1. Is in good standing in Arizona,
  2. Submits a written request to the Board to be placed on inactive status, and
  3. Submits evidence that complies with R4-33-501(D) showing that the manager completed one hour of continuing education for each month in the current biennial period before the request to be placed on inactive status.
- B.** Within seven days after receiving a request to be placed on inactive status, the Board shall provide the manager written confirmation of inactive status.
- C.** A manager whose certificate is on inactive status is not required to comply with R4-33-501.



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14. Commit an act of sexual abuse, misconduct, harassment, or exploitation;
  15. Retaliate against any person who reports in good faith to the Board alleged incompetence or illegal or unethical conduct of any manager;
  16. Allow the manager's certificate to be displayed as required under R4-33-108(B) unless the manager has been appointed as specified in R4-33-410; or
  17. Manage an assisted living facility in violation of R4-33-411.
- C. The Board shall consider a final judgment or conviction for a felony, an offense involving moral turpitude, or direct or indirect elder abuse as grounds for disciplinary action under A.R.S. § 36-446.07, including denial of a certificate or certificate renewal.
- D. A manager who violates any provision of A.R.S. Title 36, Chapter 4, Article 6 or this Chapter is subject to discipline under A.R.S. § 36-446.07.

**Historical Note**

Section R4-33-407 renumbered from R4-33-307 by final rulemaking at 5 A.A.R. 423, effective January 15, 1999 (Supp. 99-1). Amended by final rulemaking at 12 A.A.R. 4075, effective December 4, 2006 (Supp. 06-4). Amended by final rulemaking at 21 A.A.R. 543, effective June 6, 2015 (Supp. 15-2).

**R4-33-408. Referral Requirements**

- A. A manager who is appointed by an assisted living facility that pays a fee to an individual or entity for referral of a resident to the assisted living facility shall ensure that the assisted living facility:
1. Has on file a contract with the individual or entity making the referral;
  2. Maintains a file of the names of the residents referred by the individual or entity; and
  3. Obtains at the time of admission and maintains a statement, signed by the resident or the resident's representative or legal guardian, which discloses that:
    - a. A fee was paid for referring the resident to the assisted living facility;
    - b. The resident or the resident's representative or legal guardian was informed of the fee arrangement; and
    - c. The resident or the resident's representative or legal guardian was informed of any ownership interest between the assisted living facility and the individual or entity making the referral.
- B. A manager shall maintain the records required under subsection (A)(1) for five years and shall maintain the records required under subsections (A)(2) and (A)(3) for five years after the resident ceases to reside in the assisted living facility.
- C. A manager shall make the records required under this Section available for review upon request by the Board.

**Historical Note**

Section R4-33-408 renumbered from R4-33-308 by final rulemaking at 5 A.A.R. 423, effective January 15, 1999 (Supp. 99-1). Section repealed; new Section made by final rulemaking at 12 A.A.R. 4075, effective December 4, 2006 (Supp. 06-4). Amended by final rulemaking at 21 A.A.R. 543, effective June 6, 2015 (Supp. 15-2).

**R4-33-409. Certification Following Revocation**

An individual who wishes to be certified after the individual's certificate as an assisted living facility manager is revoked shall:

1. Not apply for certification until at least 12 months have passed since the revocation, and
2. Apply for certification under R4-33-401.

**Historical Note**

Section R4-33-409 renumbered from R4-33-309 by final rulemaking at 5 A.A.R. 423, effective January 15, 1999 (Supp. 99-1). Section repealed by final rulemaking at 12 A.A.R. 4075, effective December 4, 2006 (Supp. 06-4). New Section made by final rulemaking at 14 A.A.R. 516, effective April 5, 2008 (Supp. 08-1).

**R4-33-410. Notice of Appointment**

- A. A manager shall provide written notice to the Board, within 30 days, of being appointed manager of an assisted living facility or terminating an appointment.
- B. A manager shall include the following, as applicable, in a notice regarding the manager's appointment:
1. Manager's name,
  2. Manager's certificate number,
  3. Name and address of the assisted living facility to which the manager is appointed,
  4. Date of appointment,
  5. Name and address of the assisted living facility at which the manager's appointment is terminated, and
  6. Date of termination.

**Historical Note**

Section R4-33-410 renumbered from R4-33-310 by final rulemaking at 5 A.A.R. 423, effective January 15, 1999 (Supp. 99-1). Section R4-33-410 renumbered to R4-33-402 by final rulemaking at 12 A.A.R. 4075, effective December 4, 2006 (Supp. 06-4). New Section made by final rulemaking at 14 A.A.R. 516, effective April 5, 2008 (Supp. 08-1).

**R4-33-411. Appointment as Manager of Multiple Assisted Living Facilities**

- A. An individual certified under R4-33-401 shall not be appointed to manage more than two assisted living facilities at one time.
- B. A individual certified under R4-33-401 who is appointed to manage two assisted living facilities shall:
1. Ensure that the two assisted living facilities are no more than 25 miles apart;
  2. Designate in writing one or more individuals who are on the assisted living facility premises and accountable for the services provided at the assisted living facility when the appointed certified manager is not on the assisted living facility premises. A designated individual shall:
    - a. Be at least 21 years old;
    - b. Be a caregiver with at least three years' experience as a caregiver or hold a temporary certificate issued under R4-33-402; and
    - c. Never have had licensure or certification suspended or revoked by the Board;
  3. Ensure that the name of the designated individual is conspicuously displayed at all times in a manner that informs those seeking assistance who is accountable for the services provided;
  4. Place the written notice of designation required under subsection (B)(2) in the personnel file of the individual designated; and
  5. Be available to the individual designated under subsection (B)(2) by telephone or electronically within 60 minutes.

**Historical Note**

Section R4-33-411 renumbered from R4-33-311 by final rulemaking at 5 A.A.R. 423, effective January 15, 1999 (Supp. 99-1). Section repealed by final rulemaking at 12

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A.A.R. 4075, effective December 4, 2006 (Supp. 06-4).  
New Section made by final rulemaking at 21 A.A.R. 543,  
effective June 6, 2015 (Supp. 15-2).

**R4-33-412. Repealed**

**Historical Note**

Section R4-33-412 renumbered from R4-33-312 by final rulemaking at 5 A.A.R. 423, effective January 15, 1999 (Supp. 99-1). Section repealed by final rulemaking at 12 A.A.R. 4075, effective December 4, 2006 (Supp. 06-4).

**ARTICLE 5. CONTINUING EDUCATION**

**R4-33-501. Continuing Education Requirement**

- A.** Continuing education is a prerequisite of license or certificate renewal.
1. A licensed administrator shall obtain 50 credit hours of Board-approved continuing education during each biennial period. During the biennial period in which an administrator is initially licensed, the administrator shall obtain two credit hours of Board-approved continuing education for each month or part of a month remaining in the biennial period.
  2. A certified manager shall obtain 24 credit hours of Board-approved continuing education during each biennial period. During the biennial period in which a manager is initially certified, the manager shall obtain one credit hour of Board-approved continuing education for each month or part of a month remaining in the biennial period.
- B.** The Board shall award credit hours in an approved continuing education as follows:
1. Seminar or workshop. One credit hour of continuing education for each contact hour;
  2. Course at an accredited educational institution. Fifteen credit hours of continuing education for each course hour;
  3. Attendance at a business meeting of a national health care organization or of a state association affiliated with a national health care organization. One-half credit hour of continuing education for each business meeting attended;
  4. Self-study, online, or correspondence course. Approved credit hours of continuing education requested by the course provider;
  5. Serving as a preceptor. Two credit hours of continuing education for each month that an administrator serves as an AIT preceptor; and
  6. Teaching a Board-approved continuing education. One credit hour of continuing education for each hour taught.
- C.** The Board shall limit the number of credit hours of Board-approved continuing education awarded as follows:
1. No more than 40 percent of the required credit hours may be obtained using self-study, online, or correspondence courses;
  2. No more than 50 percent of the required credit hours may be obtained from serving as an AIT preceptor;
  3. Hours may be obtained for teaching a particular continuing education only once during each biennial period; and
  4. Hours that exceed the minimum required for a biennial period may not be carried over to a subsequent biennial period.
- D.** An administrator or manager shall obtain a certificate or other evidence of attendance from the provider of each continuing education attended that includes the following:
1. Name of the administrator or manager;
  2. License or certificate number of the administrator or manager;

3. Name of the continuing education;
4. Name of the continuing education provider;
5. Date, time, and location of the continuing education; and
6. Number of credit hours in the continuing education.

- E.** An administrator or manager shall maintain the evidence of attendance described in subsection (D) for three years and make the evidence available to the Board under R4-33-503 and as otherwise required under this Chapter.

**Historical Note**

New Section made by final rulemaking at 12 A.A.R. 4075, effective December 4, 2006 (Supp. 06-4).  
Amended by final rulemaking at 15 A.A.R. 1975, effective November 3, 2009 (Supp. 09-4).

**R4-33-502. Approval of Continuing Education**

- A.** The Board shall approve any continuing education approved by NAB or the ACHCA.
- B.** The Board shall approve a continuing education only if it is taught by a qualified instructor and addresses at least one of the following subject areas:
1. Laws regarding environmental health and safety,
  2. Principles of management,
  3. Psychology and principles of patient or resident care,
  4. Personal and social care,
  5. Therapeutic and supportive care and services in long-term or assisted care,
  6. Community health and social resources,
  7. Quality assurance,
  8. Ethics, and
  9. Recordkeeping.
- C.** To obtain the Board's approval of a continuing education, an administrator, manager, or continuing education provider shall:
1. Submit a form, which is available from the Board, containing the following information:
    - a. Title of the continuing education;
    - b. Name and address of the continuing education provider;
    - c. Name, telephone and fax numbers, and e-mail address of a contact person for the continuing education provider;
    - d. Date, time, and place at which the continuing education will be taught;
    - e. Whether the continuing education is intended for administrators or managers;
    - f. Subject matter of the continuing education;
    - g. Teaching methods and learning activities that will be used;
    - h. Learning objectives;
    - i. Description of how learning objectives will be evaluated;
    - j. Whether an examination will be given;
    - k. Number of continuing education hours requested; and
    - l. Signature of the person requesting approval of the continuing education.
  2. Submit the following documents:
    - a. Copy of any examination that will be given to those who attend the continuing education;
    - b. Curriculum vitae of each instructor;
    - c. Agenda of the continuing education showing the hours of instruction;
    - d. Certificate of attendance that meets the requirements in R4-33-501(D);

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- e. Copy of any brochure prepared regarding the continuing education; and
  - f. Fee required under R4-33-104.
- D. The Board's approval of a continuing education is valid for one year unless there is a change in subject matter, instructor, or hours of instruction. At the end of one year or when there is a change in subject matter, instructor, or hours of instruction, the continuing education provider shall apply again for approval.

**Historical Note**

New Section made by final rulemaking at 12 A.A.R. 4075, effective December 4, 2006 (Supp. 06-4).

**R4-33-503. Audit of Compliance and Sanction for Noncompliance with Continuing Education Requirement**

When notice of the need to renew a license or certificate is provided, the Board shall also provide notice of an audit of continuing education records to a random sample of administrators or managers. An administrator or manager subject to a continuing education audit shall submit the documentation required under R4-33-501(D) at the same time that the administrator or manager submits the renewal application required under R4-33-206 or R4-33-405. If an administrator or manager fails to submit the required documentation with the renewal application on or before June 30, the license or certificate expires unless the administrator or manager obtains an extension of time in which to complete the continuing education requirement under R4-33-504.

**Historical Note**

New Section made by final rulemaking at 12 A.A.R. 4075, effective December 4, 2006 (Supp. 06-4).

**R4-33-504. Extension of Time to Complete the Continuing Education Requirement**

- A. To obtain an extension of time under A.R.S. § 36-446.07(G) to complete the continuing education requirement, an administrator or manager shall submit to the Board a written request that includes the following:
1. Ending date of the requested extension,
  2. Continuing education completed during the current biennial period and the documentation required under R4-33-501(D),
  3. Proof of registration for additional continuing education that is sufficient to enable the administrator or manager to fulfill the continuing education requirement before the end of the requested extension, and
  4. Administrator's or manager's attestation that the continuing education obtained under the extension will be reported only to fulfill the current renewal requirement and will not be reported on a subsequent renewal application.
- B. The Board shall grant an extension of time within seven days after receiving a request for an extension of time if the request:
1. Specifies an ending date no later than October 31,
  2. Includes the required documentation and attestation,
  3. Is submitted no sooner than April 30, and
  4. Will facilitate the safe and professional regulation of nursing care institutions or assisted living facilities in this state.

**Historical Note**

New Section made by final rulemaking at 12 A.A.R. 4075, effective December 4, 2006 (Supp. 06-4).

**ARTICLE 6. ASSISTED LIVING FACILITY MANAGER TRAINING PROGRAMS**

**R4-33-601. Definitions**

"Owner" means the person responsible for ensuring that an assisted living facility training program complies with this Article.

"Resident" means an individual who lives in an assisted living facility.

"Student cohort" means a group of individuals who begin participation in an assisted living facility training program at the same time.

**Historical Note**

New Section made by final rulemaking at 19 A.A.R. 1619, effective August 4, 2013 (Supp. 13-2).

**R4-33-602. Minimum Standards for Assisted Living Facility Manager Training Program**

- A. Organization and administration. The owner of an assisted living facility manager training program shall:
1. Provide the Board with a written description of the training program that includes:
    - a. Length of the training program in hours and days, and
    - b. Educational goals that demonstrate the training program is consistent with state requirements;
  2. Execute a written agreement with each assisted living facility at which students enrolled in the training program receive training that includes the following information:
    - a. The rights and responsibilities of both the facility and the training program,
    - b. The role and authority of the governing bodies of both the facility and the training program, and
    - c. A termination clause that provides time for students enrolled in the training program to complete training at the facility upon termination of the agreement;
  3. Develop and adhere to written policies and procedures regarding:
    - a. Attendance. Ensure that a student receives at least 40 hours of instruction;
    - b. Grading. Require a student to attain at least 75 percent on each theoretical examination or 75 percent on a comprehensive theoretical examination;
    - c. Reexamination. Inform students that a reexamination:
      - i. Addresses the same competencies examined in the original examination,
      - ii. Contains items different from those on the original examination, and
      - iii. Is documented in the student's record;
    - d. Student records. Include the following information:
      - i. Records maintained,
      - ii. Retention period for each record,
      - iii. Location of records,
      - iv. Documents required under subsections (E)(1) and (E)(2), and
      - v. Procedure for accessing records and who is authorized to access records;
    - e. Student fees and financial aid, if any;
    - f. Withdrawal and dismissal;
    - g. Student grievances including a chain of command for disputing a grade;
    - h. Admission requirements including any criminal background or drug testing required;
    - i. Criteria for training program completion; and
    - j. Procedure for documenting that a student has received notice of Board requirements for certification, including the fingerprint clearance card requirement, before the student is enrolled;

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4. Date each policy and procedure developed under subsection (A)(3), review within one year from the date made and every year thereafter, update if necessary, and date the policy or procedure at the time of each review;
  5. Provide each student who completes the training program with evidence of completion, within 15 days of completion, which includes the following:
    - a. Name of the student;
    - b. Name and classroom location of the training program;
    - c. Number of classroom hours in the training program;
    - d. Date on which the training program was completed;
    - e. Board's approval number of the training program; and
    - f. Signature of the training program owner, administrator, or instructor;
  6. Provide the Board, within 15 days of completion, the following information regarding each student who completed the training program:
    - a. Student's name, date of birth, Social Security number, address, and telephone number;
    - b. Student's examination scores as provided by the examining entity;
    - c. Name and classroom location of the training program;
    - d. Number of classroom hours in the training program;
    - e. Date on which the training program was completed; and
    - f. Board's approval number of the training program; and
  7. Execute and maintain under subsections (E)(1) and (E)(2) the following documents for each student:
    - a. A skills checklist containing documentation the student achieved competency in the assisted living facility manager skills listed in R4-33-603(C), and
    - b. An evaluation form containing the student's responses to questions about the quality of the classroom experiences provided by the training program.
- B.** Program administrator responsibilities. The owner of an assisted living facility manager training program shall ensure that a program administrator performs the following responsibilities:
1. Supervises and evaluates the training program,
  2. Uses only instructors who are qualified under subsection (C), and
  3. Makes the written policies and procedures required under subsection (A)(3) available to each student on or before the first day of the training program;
- C.** The owner of an assisted living facility manager training program shall ensure that a program instructor:
1. Is a certified assisted living facility manager who:
    - a. Holds an assisted living facility manager certificate that is in good standing and issued under A.R.S. Title 36, Chapter 4;
    - b. Has held the assisted living facility manager certificate referenced in subsection (C)(1)(a) for at least five years;
    - c. Has not been subject to any disciplinary action against the assisted living facility manager certificate during the last five years; and
    - d. Has at least three years' experience within the last five years as an assisted living facility manager of record immediately before becoming a training program instructor;
  2. Performs the following responsibilities:
    - a. Plans each learning experience,
    - b. Accomplishes educational goals of the training program and lesson objectives,
    - c. Enforces a grading policy that meets the requirement specified in subsection (A)(3)(b),
    - d. Requires satisfactory performance of all critical elements of each assisted living facility manager skill specified under R4-33-603(C),
    - e. Prevents a student from performing an activity unless the student has received instruction and been found able to perform the activity competently,
    - f. Is present in the classroom during all instruction,
    - g. Supervises health-care professionals who assist in providing training program instruction, and
    - h. Ensures that a health-care professional who assists in providing training program instruction:
      - i. Is licensed or certified as a health-care professional,
      - ii. Has at least one year of experience in the field of licensure or certification, and
      - iii. Teaches only a learning activity that is within the scope of practice of the field of licensure or certification.
- D.** Instructional and educational resources. The owner of an assisted living facility manager training program shall provide or provide access to the following instructional and educational resources adequate to implement the training program for all students and staff:
1. Current reference materials related to the level of the curriculum;
  2. Equipment, including computers, in good working condition to simulate facility management;
  3. Audio-visual equipment and media; and
  4. Designated space that provides a clean, distraction-free, learning environment for accomplishing educational goals of the training program;
- E.** The owner of an assisted living facility manager training program shall:
1. Maintain the following training program records for three years:
    - a. Curriculum and course schedule for each student cohort;
    - b. Results of state-approved written and manual skills testing;
    - c. Evaluation forms completed by students, a summary of the evaluation forms for each student cohort, and measures taken, if any, to improve the training program based on student evaluations; and
    - d. Copy of all Board reports, applications, or correspondence related to the training program; and
  2. Maintain the following student records for three years:
    - a. Name, date of birth, and Social Security number;
    - b. Completed skills checklist;
    - c. Attendance record including a record of any make-up class sessions;
    - d. Score on each test, quiz, and examination and, if applicable, whether a test, quiz, or examination was retaken; and
    - e. Copy of the certificate of completion issued to the student as required under subsection (A)(5);
- F.** Examination and evaluation requirements. The owner of an assisted living facility manager training program shall ensure that each student in the training program:

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1. Takes an examination that covers each of the subjects listed in R4-33-603(C) and passes each examination using the standard specified in subsection (A)(3)(b);
  2. Is evaluated and determined to possess the practical skills listed in R4-33-603(C);
  3. Passes, using the standard specified in subsection (A)(3)(b), a final examination approved by the Board and given by a Board-approved provider; and
  4. Does not take the final examination referenced in subsection (F)(3) more than two times. If a student fails the final examination referenced in subsection (F)(3) two times, the student is able to obtain evidence of completion only by taking the assisted living facility manager training program again;
- G.** Periodic evaluation. The owner of an assisted living facility manager training program shall allow a representative of the Board or a state agency designated by the Board to conduct:
1. An onsite scheduled evaluation:
    - a. Before initial approval of the training program as specified under R4-33-604(D),
    - b. Before renewal of the training program approval as specified under R4-33-605, and
    - c. During a time of correction as specified under R4-33-606(B); and
  2. An onsite unscheduled evaluation of the training program if the evaluation is in response to a complaint or reasonable cause, as determined by the Board; and
- H.** Notice of change. The owner of an assisted living facility manager training program shall provide the documentation and information specified regarding the following changes within 10 days after making the change:
1. New training program administrator. Name and license number;
  2. New instructor. Name, license number, and evidence of being qualified under subsection (C)(1);
  3. Decrease in number of training program hours. Description of and reason for the change, a revised curriculum outline, and revised course schedule;
  4. Change in classroom location. Address of new location and description of the new classroom; and
  5. For a training program that is based within an assisted living facility:
    - a. Change in name of the facility. Former and new name of the assisted living facility; and
    - b. Change in ownership of the facility. Names of the former and current owners of the assisted living facility.
- Historical Note**
- New Section made by final rulemaking at 19 A.A.R. 1619, effective August 4, 2013 (Supp. 13-2).
- R4-33-603. Curriculum for Assisted Living Facility Manager Training Program**
- A.** The owner of an assisted living facility manager training program shall ensure that the training program consists of at least 40 hours of classroom instruction.
- B.** The owner of an assisted living facility manager training program shall provide a written curriculum plan to each student that includes overall educational goals and for each required subject:
1. Measurable learner-centered objectives,
  2. Outline of the material to be taught,
  3. Time allotted to each unit of instruction, and
  4. Learning activities or reading assignments.
- C.** The owner of an assisted living facility manager training program shall ensure that the training program includes instruction regarding each of the following subjects:
1. Resident services management. Developing policies and procedures regarding:
    - a. Resident rights and confidentiality;
    - b. Developing, implementing, and updating resident service plans;
    - c. Resident agreements;
    - d. Providing social and recreational services;
    - e. Maintaining resident records and managing documentation systems;
    - f. Managing ancillary services;
    - g. Responding to and reporting specific incidents, accidents, and emergencies involving residents;
    - h. Managing dining services to meet resident needs;
    - i. Preventing abuse, neglect, and exploitation;
    - j. Accepting and retaining residents; and
    - k. Developing systems for managing residents with dementia, Alzheimer's Disease, or difficult behaviors;
  2. Personnel management.
    - a. Complying with federal, state and local laws relating to hiring personnel;
    - b. Developing and implementing systems related to qualifying, orienting, training, and other recurring personnel requirements; and
    - c. Evaluating personnel;
  3. Medication management.
    - a. Developing and evaluating policies and procedures for:
      - i. Medication management including medical restraints; and
      - ii. Non-medication intervention; and
    - b. Developing systems for:
      - i. Receiving and documenting doctors' orders;
      - ii. Ordering, refilling, and storing medications; and
      - iii. Recordkeeping related to receipt and administration of medication; and
  4. Legal management.
    - a. Board-prescribed requirements for certification and re-certification,
    - b. Delegation,
    - c. Ethics,
    - d. Advanced directives and do-not-resuscitate orders,
    - e. Standards of conduct under R4-33-407,
    - f. Department of Health Services compliance and complaint inspections:
      - i. Statement of deficiencies,
      - ii. Plan for correction, and
      - iii. Enforcement action; and
    - g. Risk management and quality improvement;
  5. Financial management.
    - a. Developing and implementing policies, procedures, and practices that comply with:
      - i. State and local laws; and
      - ii. Generally accepted accounting principles regarding accounts receivable, accounts payable, payroll, resident funds, and refunds;
    - b. Developing, implementing, and evaluating facility budgeting including revenues, expenses, capital expenditures, and long-term projections; and
    - c. Maintaining appropriate insurance coverage; and
  6. Physical environment management.

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- a. Complying with federal, state, and local laws regarding:
  - i. Occupational Safety and Health Administration,
  - ii. Americans with Disabilities Act, and
  - iii. Fire and safety requirements for assisted living facilities;
- b. Preparedness for and prevention of fire, emergencies, and disasters;
- c. Resident safety and security including evacuation, relocation, and transportation; and
- d. Daily and preventative maintenance plans for buildings, equipment, and grounds.
- D.** The owner of an assisted living facility manager training program shall ensure that the training program provides a student with at least:
  - 1. Eight hours of classroom instruction and skills practice in each of the subjects identified in subsections (C)(1) through (C)(4), and
  - 2. Four hours of classroom instruction and skills practice in each of the subjects identified in subsections (C)(5) and (C)(6).
- E.** The owner of an assisted living facility manager training program shall ensure that the training program uses textbooks that are relevant to the subjects being taught and have been published within the last five years.
- d. A statement of whether the license of the assisted living facility is in good standing; and
- e. Date and results of the most recent compliance inspection conducted by the Department of Health Services;
- 9. Evidence of compliance with R4-33-602 and R4-33-603, including the following:
  - a. Written training program description, consistent with R4-33-602(A)(1), and an implementation plan that includes timelines;
  - b. Description of classroom facilities, equipment, and instructional tools available, consistent with R4-33-602(D);
  - c. Written curriculum, consistent with R4-33-603(B);
  - d. Skills checklist used to verify whether a student has acquired the necessary assisted living facility manager skills, consistent with R4-33-602(A)(7)(a);
  - e. Evaluation form required under R4-33-602(A)(7)(b) to enable students to assess the quality of the classroom experience provided by the training program;
  - f. Evidence of completion issued to a student under R4-33-602(A)(5);
  - g. Name of textbook used, author, publication date, and publisher; and
  - h. Copy of written policies and procedures required under R4-33-602(A)(3);
- 10. Signature of the owner of the training program; and
- 11. The fee prescribed under R4-33-104(C)(1).
- C.** The owner of an assisted living facility manager training program shall ensure that the application materials submitted under subsection (B) are printed on only one side of white, letter-sized paper, and are not bound in any manner.
- D.** After review of the materials submitted under subsection (B), the Board shall schedule an onsite evaluation of the training program and take one of the following actions:
  - 1. If requirements are met, approve the training program for one year; or
  - 2. If requirements are not met, deny approval of the training program.
- E.** The owner of an assisted living facility manager training program that is denied approval by the Board may request a hearing regarding the denial by filing a written request with the Board within 30 days after service of the Board's order denying approval of the training program. The Board shall conduct hearings under A.R.S. Title 41, Chapter 6, Article 10.

**Historical Note**

New Section made by final rulemaking at 19 A.A.R. 1619, effective August 4, 2013 (Supp. 13-2).

**R4-33-604. Application for Approval of an Assisted Living Facility Manager Training Program**

- A.** The owner of an assisted living facility manager training program shall ensure that no training is provided until the program is approved by the Board.
- B.** To obtain approval of an assisted living facility manager training program, the owner of the training program shall submit to the Board an application packet that contains the following:
  - 1. Name, address, telephone number, and e-mail address of the owner;
  - 2. Name, address, telephone and fax numbers, and web site of the training program;
  - 3. Form of business organization under which the training program is operated and a copy of the establishing documents and organizational chart;
  - 4. A statement of whether the training program is based within an assisted living facility or other location;
  - 5. Name, telephone number, and license or certificate number of the program administrator required under R4-33-602(B);
  - 6. Name, telephone number, and certificate number of each program instructor and evidence that each program instructor is qualified under R4-33-602(C);
  - 7. A statement of whether the training program is accredited and if so, name of the accrediting body and date of last review;
  - 8. For all assisted living facilities at which the training program will provide classroom instruction:
    - a. Name, address, and telephone number of the assisted living facility;
    - b. Name and telephone number of a contact person at the assisted living facility;
    - c. License number of the assisted living facility issued by the Department of Health Services;

**Historical Note**

New Section made by final rulemaking at 19 A.A.R. 1619, effective August 4, 2013 (Supp. 13-2).

**R4-33-605. Renewal of Approval of an Assisted Living Facility Manager Training Program**

- A.** The approval of an assisted living facility manager training program expires one year from the date of approval. If the approval of an assisted living facility manager training program expires, the owner of the training program shall immediately stop all training program activity.
- B.** To renew approval of an assisted living facility manager training program, the owner of the training program shall submit to the Board, no fewer than 60 and no more than 120 days before expiration of the current approval, an application packet that contains the following:
  - 1. Name, address, e-mail, and telephone number of the owner;
  - 2. Name, address, telephone and fax numbers, and web site of the training program;

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3. Name, telephone number, and license number of the program administrator required under R4-33-602(B);
  4. Name, telephone number, and license number of each program instructor and evidence that each program instructor is qualified under R4-33-602(C);
  5. Written training program description, consistent with R4-33-602(A)(1);
  6. Written curriculum, consistent with R4-33-603(B);
  7. Since the time the training program was last approved:
    - a. Number of student-cohort classes to which training was provided,
    - b. Number of students who completed the training program,
    - c. Results obtained on the Board-approved written and skills examinations for each student, and
    - d. Percentage of students who passed the examinations on the first attempt;
  8. For an assisted living facility at which the training program has started to provide classroom instruction since the training program was last approved, the information required under R4-33-604(B)(8);
  9. Evaluation form required under R4-33-602(A)(7)(b) to enable students to assess the quality of the classroom experience provided by the training program;
  10. Summary of evaluations for each student cohort, required under R4-33-602(E)(1)(c), and measures taken, if any, to improve the training program based on student evaluations;
  11. Evidence of completion issued to a student under R4-33-602(A)(5);
  12. Name of textbook used, author, publication date, and publisher;
  13. Copy of written policies and procedures required under R4-33-602(A)(3);
  14. Signature of the owner of the program; and
  15. The fee prescribed under R4-33-104(C)(2).
- C.** After review of the materials submitted under subsection (B), the Board shall ensure that the training program is evaluated at either an onsite or telephonic meeting. The program owner shall ensure that the program owner, program administrator, and all instructors are available to participate in the evaluation meeting.
- D.** The Board shall ensure that each training program receives an onsite evaluation at least every four years. An onsite evaluation includes visiting each assisted living facility at which the training program provides classroom instruction.
- E.** If the Board approves a training program following an onsite evaluation, no deficiencies were identified during the onsite evaluation, and no complaints are filed with the Board, the Board shall evaluate the training program under subsection (C) using a telephonic meeting for at least two years.
- F.** After conducting the evaluation required under subsection (C), the Board shall:
1. Renew approval of a training program that the Board determines complies with R4-33-602 and R4-33-603, or
  2. Issue a notice of deficiency under R4-33-606 to the owner of a training program that the Board determines does not comply with R4-33-602 or R4-33-603.
- G.** The owner of an assisted living facility manager training program that is issued a notice of deficiency by the Board under subsection (F)(2) may request a hearing regarding the deficiency notice by filing a written request with the Board within 30 days after service of the Board's order. The Board shall conduct hearings under A.R.S. Title 41, Chapter 6, Article 10.

**Historical Note**

New Section made by final rulemaking at 19 A.A.R. 1619, effective August 4, 2013 (Supp. 13-2).

**R4-33-606. Notice of Deficiency; Correction Plan; Disciplinary Action; Voluntary Termination**

- A.** Notice of deficiency. If the Board determines that an assisted living facility manager training program does not comply with the requirements in this Article, the Board shall issue a written notice of deficiency to the owner of the training program. The Board shall include the following in the notice of deficiency:
1. Description of each deficiency;
  2. Citation to the requirement in this Article with which the training program is not in compliance; and
  3. The time, to a maximum of three months, allowed by the Board for correction of the deficiencies.
- B.** Correction plan.
1. Within 10 days after service of a notice of deficiency under subsection (A), the owner of the served training program shall submit to the Board a written plan to correct the identified deficiencies;
  2. The Board may conduct onsite or telephonic evaluations during the time for correction to assess progress towards compliance;
  3. The owner of a training program implementing a correction plan shall notify the Board when all corrections have been made; and
  4. After receiving notice under subsection (B)(3) or after the time provided under subsection (A)(3) has expired, the Board shall conduct an onsite evaluation to determine whether all deficiencies listed in the notice under subsection (A) have been corrected.
    - a. If the Board determines that all deficiencies have been corrected, the Board shall renew approval of the training program; or
    - b. If the Board determines that all deficiencies have not been corrected, the Board shall take disciplinary action under subsection (C).
- C.** Disciplinary action.
1. Under A.R.S. § 36-446.03(P), the Board shall issue a civil money penalty, suspend or revoke approval of an assisted living facility manager training program, or place the training program on probation if, following a hearing, the Board determines that the owner of the assisted living facility caregiver training program:
    - a. Failed to submit a plan of correction to the Board under R4-33-606(B) within 10 days after service of a notice of deficiency;
    - b. Failed to comply with R4-33-602 or R4-33-603 within the time set by the Board under R4-33-606(A)(3) for correction of deficiencies;
    - c. Failed to comply with a federal or state requirement;
    - d. Failed to allow the Board to conduct an evaluation under R4-33-602(G);
    - e. Failed to comply with R4-33-602(H);
    - f. Lent or transferred training program approval to another individual or entity or another training program, including one owned by the same owner;
    - g. Conducted an assisted living facility manager training program before obtaining Board approval;
    - h. Conducted an assisted living facility manager training program after expiration of program approval without submitting an application for renewal under R4-33-605;

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- i. Falsified an application for assisted living facility manager training program approval under R4-33-604 or R4-33- 605;
  - j. Violated an order, condition of probation, or stipulation issued by the Board; or
  - k. Failed to respond to a complaint filed with the Board.
- 2. The Board shall conduct hearings under A.R.S. Title 41, Chapter 6, Article 10.
- 3. The Board shall include in an order suspending or revoking approval of an assisted living facility manager training program the time and circumstances under which the owner of the suspended or revoked training program may apply again under R4-33-604 for training program approval.
- D. Voluntary termination.** If the owner of an approved assisted living facility manager training program decides to terminate the training program, the owner shall:
  - 1. Provide written notice of the planned termination to the Board; and
  - 2. Ensure that the training program, including the instructors, is maintained according to this Article until the last student is transferred or completes the training program.

**Historical Note**

New Section made by final rulemaking at 19 A.A.R. 1619, effective August 4, 2013 (Supp. 13-2).

**ARTICLE 7. ASSISTED LIVING FACILITY CAREGIVER TRAINING PROGRAMS**

**R4-33-701. Definitions**

In addition to the definitions in R4-33-601, the following definitions apply in this Article:

- 1. "CMA" means certified medication assistant, an LNA certified by the Arizona Board of Nursing under A.R.S. § 32-1650.02.
- 2. "CNA" means certified nursing assistant, an individual licensed by the Arizona Board of Nursing under A.R.S. § 32-1645.
- 3. "DCW" means direct-care worker, an individual who meets the standards and requirements specified in Section 1240(A) of the Arizona Health Care Cost Containment System policy manual.
- 4. "Distance learning" means the use of technology to teach students who may or may not be physically present in a classroom.
- 5. "LNA" means licensed nursing assistant, an individual licensed by the Arizona Board of Nursing under A.R.S. § 32-1645.
- 6. "Skills training" means experiential learning focused on acquiring the ability to provide caregiving services to residents.

**Historical Note**

New Section made by final rulemaking at 19 A.A.R. 1619, effective August 4, 2013 (Supp. 13-2). Amended by final rulemaking at 24 A.A.R. 2734, effective November 10, 2018 (Supp. 18-3).

**EMERGENCY RULEMAKING**

**R4-33-702. Minimum Standards for Assisted Living Facility Caregiver Training Program**

- A. Organization and administration.** The owner of an assisted living facility caregiver training program shall:
  - 1. Provide the Board with a written description of the training program that includes:
    - a. Length of the training program in hours:

- i. Number of hours of classroom instruction,
  - ii. Number of hours of skills training, and
  - iii. Number of hours of distance learning, and
- b. Educational goals that demonstrate the training program is consistent with state requirements;
- 2. Develop and adhere to written policies and procedures regarding:
  - a. Attendance. Ensure that a student receives at least 62 hours of instruction;
  - b. Grading. Require a student to attain at least 75 percent on each knowledge examination or 75 percent on a comprehensive knowledge examination;
  - c. Reexamination. Inform students that a reexamination:
    - i. Addresses the same competencies examined in the original examination,
    - ii. Contains items different from those on the original examination, and
    - iii. Is documented in the student's record;
  - d. Student records. Include the following information:
    - i. Records maintained,
    - ii. Retention period for each record,
    - iii. Location of records,
    - iv. Documents required under subsections (G)(1) and (G)(2), and
    - v. Procedure for accessing records and who is authorized to access records;
  - e. Student fees and financial aid, if any;
  - f. Withdrawal and dismissal;
  - g. Student grievances including a chain of command for disputing a grade;
  - h. Admission requirements including any criminal background or drug testing required;
  - i. Criteria for training program completion; and
  - j. Procedure for documenting that a student has received notice of the fingerprint clearance card requirement before the student is enrolled;
- 3. Date each policy and procedure developed under subsection (A)(2), review within one year from the date made and every year thereafter, update if necessary, and date the policy or procedure at the time of each review;
- 4. Provide each student who completes the training program with evidence of completion, within 15 days of completion, which includes the following:
  - a. Name of the student;
  - b. Name and classroom location of the training program;
  - c. Number of classroom, skills training, and distance learning hours in the training program;
  - d. Date on which the training program was completed;
  - e. Board's approval number of the training program; and
  - f. Signature of the training program owner, administrator, or instructor;
- 5. Provide the Board, within 15 days of completion, the following information regarding each student who completed the training program:
  - a. Student's name, date of birth, Social Security number, address, and telephone number;
  - b. Student's examination score as provided by a Board-approved provider;
  - c. Name and classroom location of the training program;
  - d. Number of classroom hours in the training program;



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- e. Number of distance learning hours in the training program;
  - f. Number of skills training hours in the training program;
  - g. Date on which the training program was completed; and
  - h. Board's approval number of the training program; and
- 6. Execute and maintain under subsections (G)(1) and (G)(2) the following documents for each student:
  - a. A skills checklist containing documentation the student achieved competency in the assisted living facility caregiver skills listed in R4-33-703(C),
  - b. A copy of the current food-handler's card issued to the student by the county in which the student lives, and
  - c. An evaluation form containing the student's responses to questions about the quality of the instructional experiences provided by the training program.
- B.** Program administrator responsibilities. The owner of an assisted living facility caregiver training program shall ensure that a program administrator performs the following responsibilities:
  - 1. Supervises and evaluates the training program,
  - 2. Uses only instructors who are qualified under subsection (C), and
  - 3. Makes the written policies and procedures required under subsection (A)(2) available to each student on or before the first day of the training program;
- C.** The owner of an assisted living facility caregiver training program shall ensure that a program instructor is qualified under subsection (C)(1), (C)(2), or (C)(3):
  - 1. Is a certified assisted living facility manager:
    - a. Holds an assisted living facility manager certificate that is in good standing and issued under A.R.S. Title 36, Chapter 4;
    - b. Has held the assisted living facility manager certificate referenced in subsection (C)(1)(a) for at least two years;
    - c. Has not been subject to disciplinary action against the assisted living facility manager certificate during the last two years; and
    - d. Has at least two years' experience within the last five years as an assisted living facility manager of record immediately before becoming a training program instructor;
  - 2. Is a licensed health professional:
    - a. Holds a license that is in good standing and issued under A.R.S. Title 32, Chapter, 13, 15, 17, or 25;
    - b. Has held the health professional license referenced in subsection (C)(2)(a) for at least two years;
    - c. Has not been subject to disciplinary action against the health professional license during the last two years; and
    - d. Has at least two years' experience within the last five years in management, operation, or training in assisted living immediately before becoming a training program instructor; or
  - 3. Other qualified individual:
    - a. Holds at least a baccalaureate degree in a health-related field from an accredited college or university;
- b. Has not been subject to disciplinary action against any professional or occupational license or certificate during the last two years; and
  - c. Has at least two years' experience within the last five years in management, operation, or training in assisted living immediately before becoming a training program instructor.
- D.** The owner of an assisted living facility caregiver training program shall ensure that a program instructor performs the following responsibilities:
  - 1. Plans each learning experience,
  - 2. Accomplishes educational goals of the training program and lesson objectives,
  - 3. Enforces a grading policy that meets the requirement specified in subsection (A)(2)(b),
  - 4. Requires satisfactory performance of all critical elements of each assisted living facility caregiver skill specified under R4-33-703(C),
  - 5. Prevents a student from performing an activity unless the student has received instruction and been found able to perform the activity competently,
  - 6. Is present in the classroom during all instruction,
  - 7. Uses a maximum of 20 hours of distance learning,
  - 8. Supervises health professionals who assist in providing training program instruction, and
  - 9. Ensures that a health professional who assists in providing training program instruction:
    - a. Is licensed or certified as a health professional,
    - b. Has at least one year of experience in the field of licensure or certification, and
    - c. Teaches only a learning activity that is within the scope of practice of the field of licensure or certification.
- E.** Skill training requirements. The owner of an assisted living facility caregiver training program shall:
  - 1. Provide each student with at least 12 hours of instructor-supervised skills training, and
  - 2. Ensure that each student develops skill proficiency in the subjects listed in R4-33-703(C).
- F.** Instructional and educational resources. The owner of an assisted living facility caregiver training program shall provide, or provide access to, the following instructional and educational resources adequate to implement the training program for all students and staff:
  - 1. Current reference materials related to the level of the curriculum;
  - 2. Equipment in functional condition for simulating resident care, including:
    - a. Patient bed, over-bed table, and nightstand;
    - b. Privacy curtain and call bell;
    - c. Thermometers, stethoscopes, including a teaching stethoscope, blood-pressure cuff, and balance scale;
    - d. Hygiene supplies, elimination equipment, drainage devices, and linens;
    - e. Hand-washing equipment and clean gloves; and
    - f. Wheelchair, gait belt, walker, anti-embolic hose, and cane;
  - 3. Computer in good working condition;
  - 4. Audio-visual equipment and media; and
  - 5. Designated space that provides a clean, distraction-free, learning environment for accomplishing educational goals of the training program;
- G.** Records. The owner of an assisted living facility caregiver training program shall:

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1. Maintain the following training program records for three years:
    - a. Curriculum and course schedule for each student cohort;
    - b. Results of state-approved written examination and skills checklist;
    - c. Evaluation forms completed by students, a summary of the evaluation forms for each student cohort, and measures taken, if any, to improve the training program based on student evaluations; and
    - d. Copy of all Board reports, applications, or correspondence related to the training program; and
  2. Maintain the following student records for three years:
    - a. Name, date of birth, and Social Security number;
    - b. Completed skills checklist;
    - c. Attendance record including a record of any make-up class sessions;
    - d. Score on each test, quiz, and examination and, if applicable, whether a test, quiz, or examination was retaken;
    - e. Documentation from the program instructor indicating the:
      - i. Number of skills training hours completed by the student,
      - ii. Student performance during the skills training, and
      - iii. Verification of distance learning hours completed by the student; and
    - f. Copy of the evidence of completion issued to the student as required under subsection (A)(4);
- H.** Examination and evaluation requirements for students. The owner of an assisted living facility caregiver training program shall ensure each student in the training program:
1. Takes an examination that covers each of the subjects listed in R4-33-703(C) and passes each examination using the standard specified in subsection (A)(2)(b);
  2. Is evaluated and determined to possess the practical skills listed in R4-33-703(C);
  3. Passes, using the standard specified in subsection (A)(2)(b), a final examination approved by the Board and given by a Board-approved provider; and
  4. Does not take the final examination referenced in subsection (H)(3) more than three times. If a student fails the final examination referenced in subsection (H)(3) three times, the student is able to obtain evidence of completion only by taking the assisted living facility caregiver training program again;
- I.** Examination passing standard. The owner of an assisted living facility caregiver training program shall attain an annual first-time passing rate of 70 percent for all students who take the examination specified under subsection (H)(3). The Board may waive this requirement for a program if fewer than 10 students took the examination during the year.
- J.** Periodic evaluation. The owner of an assisted living facility caregiver training program shall allow a representative of the Board or a state agency designated by the Board to conduct:
1. A scheduled evaluation:
    - a. Before initial approval of the training program as specified under R4-33-704(D),
    - b. Before renewal of the training program approval as specified under R4-33-705(C), and
    - c. During a time of correction as specified under R4-33-706(B); and
  2. An onsite unscheduled evaluation of the training program if the evaluation is in response to a complaint or reasonable cause, as determined by the Board;
- K.** Notice of change. The owner of an assisted living facility caregiver training program shall provide the documentation and information specified regarding the following changes within 10 days after making the change:
1. New training program administrator. Name and license number;
  2. New instructor. Name, license number, and evidence of being qualified under subsection (C);
  3. Decrease in number of training program hours. Description of and reason for the change, a revised curriculum outline, and revised course schedule;
  4. Change in classroom location. Address of new location, if applicable, and description of the new classroom; and
  5. For a training program that is based within an assisted living facility:
    - a. Change in name of the facility. Former and new name of the assisted living facility; and
    - b. Change in ownership of the facility. Names of the former and current owners of the assisted living facility.
- L.** Medication management training program. The owner of an assisted living facility caregiver training program may provide a medication management training program for a student who, at the time of admission, is in good standing and a CNA, LNA, or DCW. The owner shall ensure the medication management training program provides the classroom instruction listed in subsection R4-33-703(C)(14) and meets the standards in R4-33-703.1.

**Historical Note**

Amended Section R4-33-702 made by emergency rulemaking at 26 A.A.R. 1091, with an immediate effective date of May 5, 2020 as established under A.R.S. § 41-1032(A); effective for 180 days under A.R.S. § 41-1032(D).

**R4-33-702. Minimum Standards for Assisted Living Facility Caregiver Training Program**

- A.** Organization and administration. The owner of an assisted living facility caregiver training program shall:
1. Provide the Board with a written description of the training program that includes:
    - a. Length of the training program in hours:
      - i. Number of hours of classroom instruction,
      - ii. Number of hours of skills training, and
      - iii. Number of hours of distance learning, and
    - b. Educational goals that demonstrate the training program is consistent with state requirements;
  2. Develop and adhere to written policies and procedures regarding:
    - a. Attendance. Ensure that a student receives at least 62 hours of instruction;
    - b. Grading. Require a student to attain at least 75 percent on each theoretical examination or 75 percent on a comprehensive theoretical examination;
    - c. Reexamination. Inform students that a reexamination:
      - i. Addresses the same competencies examined in the original examination,
      - ii. Contains items different from those on the original examination, and
      - iii. Is documented in the student's record;
    - d. Student records. Include the following information:

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- i. Records maintained,
  - ii. Retention period for each record,
  - iii. Location of records,
  - iv. Documents required under subsections (G)(1) and (G)(2), and
  - v. Procedure for accessing records and who is authorized to access records;
- e. Student fees and financial aid, if any;
- f. Withdrawal and dismissal;
- g. Student grievances including a chain of command for disputing a grade;
- h. Admission requirements including any criminal background or drug testing required;
- i. Criteria for training program completion; and
- j. Procedure for documenting that a student has received notice of the fingerprint clearance card requirement before the student is enrolled;
3. Date each policy and procedure developed under subsection (A)(2), review within one year from the date made and every year thereafter, update if necessary, and date the policy or procedure at the time of each review;
4. Provide each student who completes the training program with evidence of completion, within 15 days of completion, which includes the following:
  - a. Name of the student;
  - b. Name and classroom location of the training program;
  - c. Number of classroom, skills training, and distance learning hours in the training program;
  - d. Date on which the training program was completed;
  - e. Board's approval number of the training program; and
  - f. Signature of the training program owner, administrator, or instructor;
5. Provide the Board, within 15 days of completion, the following information regarding each student who completed the training program:
  - a. Student's name, date of birth, Social Security number, address, and telephone number;
  - b. Student's examination score as provided by a Board-approved provider;
  - c. Name and classroom location of the training program;
  - d. Number of classroom hours in the training program;
  - e. Number of distance learning hours in the training program;
  - f. Number of skills training hours in the training program;
  - g. Date on which the training program was completed; and
  - h. Board's approval number of the training program; and
6. Execute and maintain under subsections (G)(1) and (G)(2) the following documents for each student:
  - a. A skills checklist containing documentation the student achieved competency in the assisted living facility caregiver skills listed in R4-33-703(C),
  - b. A copy of the current food-handler's card issued to the student by the county in which the student lives, and
  - c. An evaluation form containing the student's responses to questions about the quality of the instructional experiences provided by the training program.
- B. Program administrator responsibilities. The owner of an assisted living facility caregiver training program shall ensure that a program administrator performs the following responsibilities:
  1. Supervises and evaluates the training program,
  2. Uses only instructors who are qualified under subsection (C), and
  3. Makes the written policies and procedures required under subsection (A)(2) available to each student on or before the first day of the training program;
- C. The owner of an assisted living facility caregiver training program shall ensure that a program instructor is qualified under subsection (C)(1), (C)(2), or (C)(3):
  1. Is a certified assisted living facility manager:
    - a. Holds an assisted living facility manager certificate that is in good standing and issued under A.R.S. Title 36, Chapter 4;
    - b. Has held the assisted living facility manager certificate referenced in subsection (C)(1)(a) for at least two years;
    - c. Has not been subject to disciplinary action against the assisted living facility manager certificate during the last two years; and
    - d. Has at least two years' experience within the last five years as an assisted living facility manager of record immediately before becoming a training program instructor;
  2. Is a licensed health professional:
    - a. Holds a license that is in good standing and issued under A.R.S. Title 32, Chapter, 13, 15, 17, or 25;
    - b. Has held the health professional license referenced in subsection (C)(2)(a) for at least two years;
    - c. Has not been subject to disciplinary action against the health professional license during the last two years; and
    - d. Has at least two years' experience within the last five years in management, operation, or training in assisted living immediately before becoming a training program instructor; or
  3. Other qualified individual:
    - a. Holds at least a baccalaureate degree in a health-related field from an accredited college or university;
    - b. Has not been subject to disciplinary action against any professional or occupational license or certificate during the last two years; and
    - c. Has at least two years' experience within the last five years in management, operation, or training in assisted living immediately before becoming a training program instructor.
- D. The owner of an assisted living facility caregiver training program shall ensure that a program instructor performs the following responsibilities:
  1. Plans each learning experience,
  2. Accomplishes educational goals of the training program and lesson objectives,
  3. Enforces a grading policy that meets the requirement specified in subsection (A)(2)(b),
  4. Requires satisfactory performance of all critical elements of each assisted living facility caregiver skill specified under R4-33-703(C),
  5. Prevents a student from performing an activity unless the student has received instruction and been found able to perform the activity competently,
  6. Is present in the classroom during all instruction,

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7. Uses a maximum of 20 hours of distance learning.
8. Supervises health professionals who assist in providing training program instruction, and
9. Ensures that a health professional who assists in providing training program instruction:
  - a. Is licensed or certified as a health professional,
  - b. Has at least one year of experience in the field of licensure or certification, and
  - c. Teaches only a learning activity that is within the scope of practice of the field of licensure or certification.
- E. Skill training requirements. The owner of an assisted living facility caregiver training program shall:
  1. Provide each student with at least 12 hours of instructor-supervised skills training, and
  2. Ensure that each student develops skill proficiency in the subjects listed in R4-33-703(C).
- F. Instructional and educational resources. The owner of an assisted living facility caregiver training program shall provide, or provide access to, the following instructional and educational resources adequate to implement the training program for all students and staff:
  1. Current reference materials related to the level of the curriculum;
  2. Equipment in functional condition for simulating resident care, including:
    - a. Patient bed, over-bed table, and nightstand;
    - b. Privacy curtain and call bell;
    - c. Thermometers, stethoscopes, including a teaching stethoscope, blood-pressure cuff, and balance scale;
    - d. Hygiene supplies, elimination equipment, drainage devices, and linens;
    - e. Hand-washing equipment and clean gloves; and
    - f. Wheelchair, gait belt, walker, anti-embolic hose, and cane;
  3. Computer in good working condition;
  4. Audio-visual equipment and media; and
  5. Designated space that provides a clean, distraction-free, learning environment for accomplishing educational goals of the training program;
- G. Records. The owner of an assisted living facility caregiver training program shall:
  1. Maintain the following training program records for three years:
    - a. Curriculum and course schedule for each student cohort;
    - b. Results of state-approved written examination and skills checklist;
    - c. Evaluation forms completed by students, a summary of the evaluation forms for each student cohort, and measures taken, if any, to improve the training program based on student evaluations; and
    - d. Copy of all Board reports, applications, or correspondence related to the training program; and
  2. Maintain the following student records for three years:
    - a. Name, date of birth, and Social Security number;
    - b. Completed skills checklist;
    - c. Attendance record including a record of any make-up class sessions;
    - d. Score on each test, quiz, and examination and, if applicable, whether a test, quiz, or examination was retaken;
    - e. Documentation from the program instructor indicating the:
      - i. Number of skills training hours completed by the student,
      - ii. Student performance during the skills training, and
      - iii. Verification of distance learning hours completed by the student; and
    - f. Copy of the evidence of completion issued to the student as required under subsection (A)(4);
- H. Examination and evaluation requirements for students. The owner of an assisted living facility caregiver training program shall ensure each student in the training program:
  1. Takes an examination that covers each of the subjects listed in R4-33-703(C) and passes each examination using the standard specified in subsection (A)(2)(b);
  2. Is evaluated and determined to possess the practical skills listed in R4-33-703(C);
  3. Passes, using the standard specified in subsection (A)(2)(b), a final examination approved by the Board and given by a Board-approved provider; and
  4. Does not take the final examination referenced in subsection (H)(3) more than three times. If a student fails the final examination referenced in subsection (H)(3) three times, the student is able to obtain evidence of completion only by taking the assisted living facility caregiver training program again;
- I. Examination passing standard. The owner of an assisted living facility caregiver training program shall attain an annual first-time passing rate of 70 percent for all students who take the examination specified under subsection (H)(3). The Board may waive this requirement for a program if fewer than 10 students took the examination during the year.
- J. Periodic evaluation. The owner of an assisted living facility caregiver training program shall allow a representative of the Board or a state agency designated by the Board to conduct:
  1. A scheduled evaluation:
    - a. Before initial approval of the training program as specified under R4-33-704(D),
    - b. Before renewal of the training program approval as specified under R4-33-705(C), and
    - c. During a time of correction as specified under R4-33-706(B); and
  2. An onsite unscheduled evaluation of the training program if the evaluation is in response to a complaint or reasonable cause, as determined by the Board;
- K. Notice of change. The owner of an assisted living facility caregiver training program shall provide the documentation and information specified regarding the following changes within 10 days after making the change:
  1. New training program administrator. Name and license number;
  2. New instructor. Name, license number, and evidence of being qualified under subsection (C);
  3. Decrease in number of training program hours. Description of and reason for the change, a revised curriculum outline, and revised course schedule;
  4. Change in classroom location. Address of new location, if applicable, and description of the new classroom; and
  5. For a training program that is based within an assisted living facility:
    - a. Change in name of the facility. Former and new name of the assisted living facility; and
    - b. Change in ownership of the facility. Names of the former and current owners of the assisted living facility.

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- L.** Reduced-hours training program. The owner of an assisted living facility caregiver training program may provide a reduced-hours training program for a student who, at the time of admission, is in good standing and a CNA, LNA, or DCW.
1. The owner of an assisted living facility caregiver training program shall ensure a reduced-hours training program provides the following:
    - a. For a CNA or LNA, the classroom instruction listed in subsection R4-33-703(C)(14); and
    - b. For a DCW, the classroom instruction listed in subsections R4-33-703(C)(1) through (C)(8), (C)(11), (C)(12), and (C)(14).
  2. The owner of an assisted living facility caregiver training program shall ensure a CNA, LNA, or DCW in a reduced-hours training program or a CMA complies fully with the examination and evaluation requirements in subsection (H).
- Historical Note**  
 New Section made by final rulemaking at 19 A.A.R. 1619, effective August 4, 2013 (Supp. 13-2). Amended by final rulemaking at 24 A.A.R. 2734, effective November 10, 2018 (Supp. 18-3).
- R4-33-703. Curriculum for Assisted Living Facility Caregiver Training Program**
- A.** The owner of an assisted living facility caregiver training program shall ensure that the training program consists of at least 62 hours of instruction including:
1. Fifty hours of classroom instruction, of which a maximum of 20 hours may be provided by distance learning, and
  2. Twelve hours of instructor-supervised skills training.
- B.** The owner of an assisted living facility caregiver training program shall provide a written curriculum plan to each student that includes overall educational goals and for each required subject:
1. Measurable learner-centered objectives,
  2. Outline of the material to be taught,
  3. Time allotted to each unit of instruction, and
  4. Learning activities or reading assignments.
- C.** The owner of an assisted living facility caregiver training program shall ensure the training program includes classroom instruction and skills training regarding each of the following subjects:
1. Orientation to and overview of the assisted living facility caregiver training program (at least one classroom hour).
    - a. Levels of care within an assisted living facility, and
    - b. Impact of each level of care on residents;
  2. Legal and ethical issues and resident rights (at least two classroom hours).
    - a. Confidentiality (HIPAA);
    - b. Ethical principles;
    - c. Resident rights specified in R9-10-710;
    - d. Abuse, neglect, and exploitation;
    - e. Mandatory reporting; and
    - f. Do-not-resuscitate order and advanced directives;
  3. Communication and interpersonal skills (at least two classroom hours).
    - a. Components of effective communication,
    - b. Styles of communication,
    - c. Attitude in communication,
    - d. Barriers to effective communication:
      - i. Culture,
      - ii. Language, and
      - iii. Physical and mental disabilities, and
    - e. Techniques of communication;
  4. Job management skills (at least one classroom hour).
    - a. Stress management, and
    - b. Time management;
  5. Service plans (at least two classroom hours). Developing, using, and maintaining resident service plans;
  6. Infection control (at least three classroom hours).
    - a. Common types of infectious diseases,
    - b. Preventing infection,
    - c. Controlling infection:
      - i. Washing hands,
      - ii. Using gloves, and
      - iii. Disposing of sharps and other waste;
  7. Nutrition and food preparation (at least two classroom hours).
    - a. Basic nutrition;
    - b. Menu planning and posting;
    - c. Procuring, handling, and storing food safely; and
    - d. Special diets;
  8. Fire, safety, and emergency procedures (at least two classroom hours).
    - a. Emergency planning,
    - b. Medical emergencies,
    - c. Environmental emergencies,
    - d. Fire safety,
    - e. Fire drills and evacuations, and
    - f. Fire-code requirements;
  9. Home environment and maintenance (at least two classroom hours).
    - a. Housekeeping,
    - b. Laundry, and
    - c. Physical plant;
  10. Basic caregiver skills (at least eight classroom hours).
    - a. Taking vital signs and measuring height and weight;
    - b. Maintaining a resident's environment;
    - c. Observing and reporting pain;
    - d. Assisting with diagnostic tests;
    - e. Providing assistance to residents with drains and tubes;
    - f. Recognizing and reporting abnormal changes to a supervisor;
    - g. Applying clean bandages;
    - h. Providing peri-operative care;
    - i. Assisting ambulation of residents including transferring and using assistive devices;
    - j. Bathing, caring for skin, and dressing;
    - k. Caring for teeth and dentures;
    - l. Shampooing and caring for hair;
    - m. Caring for nails;
    - n. Toileting, caring for perineum, and caring for ostomy;
    - o. Feeding and hydration including proper feeding techniques and use of assistive devices in feeding;
    - p. Preventing pressure sores; and
    - q. Maintaining and treating skin;
  11. Mental health and social service needs (at least three classroom hours).
    - a. Modifying the caregiver's behavior in response to resident behavior,
    - b. Understanding the developmental tasks associated with the aging process,
    - c. Responding to resident behavior,
    - d. Promoting resident dignity,
    - e. Providing culturally sensitive care,
    - f. Caring for the dying resident, and
    - g. Interacting with the resident's family;

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12. Care of the cognitively impaired resident (at least four classroom hours).
  - a. Anticipating and addressing the needs and behaviors of residents with dementia or Alzheimer's disease;
  - b. Communicating with cognitively impaired residents;
  - c. Understanding the behavior of cognitively impaired residents; and
  - d. Reducing the effects of cognitive impairment;
13. Skills for basic restorative services (at least two classroom hours).
  - a. Understanding body mechanics;
  - b. Assisting resident self-care;
  - c. Using assistive devices for transferring, walking, eating, and dressing;
  - d. Assisting with range-of-motion exercises;
  - e. Providing bowel and bladder training;
  - f. Assisting with care for and use of prosthetic and orthotic devices; and
  - g. Facilitating family and group activities; and
14. Medication management (at least 16 classroom hours).
  - a. Determining whether a resident needs assistance with medication administration and if so, the nature of the assistance;
  - b. Assisting a resident to self-administer medication;
  - c. Observing, documenting, and reporting changes in resident condition before and after medication is administered;
  - d. Knowing the rights of a resident regarding medication administration;
  - e. Knowing classifications of and responses to medications;
  - f. Taking, reading, and implementing a physician's medication and treatment orders;
  - g. Storing medication properly and securely;
  - h. Documenting medication and treatment services;
  - i. Maintaining records of medication and treatment services;
  - j. Using medication organizers properly;
  - k. Storing and documenting use of narcotic drugs and controlled substances;
  - l. Understanding how metabolism and physical conditions affect medication absorption;
  - m. Knowing the proper administration of all forms of medication;
  - n. Using drug-reference guides (Physician's Desk Reference); and
  - o. Preventing, identifying, documenting, reporting, and responding to medication errors.
- D. The owner of an assisted living facility caregiver training program shall ensure that the training program:
  1. Provides a student with at least the number of classroom hours specified in subsection (C);
  2. Subject to the limitations specified, uses distance learning for a maximum of 20 hours only for the classroom hours specified in subsections (C)(1) through (C)(9), (C)(11) and (C)(12):
    - a. Only one of the classroom hours specified in subsection (C)(6) may be taught by distance learning; and
    - b. Only two of the classroom hours specified in subsection (C)(12) may be taught by distance learning.
  3. Provides a student with at least the number of skills training hours specified in subsection (A)(2).
- E. The owner of an assisted living facility caregiver training program shall ensure that the training program uses textbooks that are relevant to the subjects being taught and have been published within the last five years.
- F. The owner of an assisted living facility caregiver training program shall ensure that any distance learning provided uses materials that are relevant to the subjects being taught and have been produced within the last five years.

**Historical Note**

New Section made by final rulemaking at 19 A.A.R. 1619, effective August 4, 2013 (Supp. 13-2). Amended by final rulemaking at 24 A.A.R. 2734, effective November 10, 2018 (Supp. 18-3).

**EMERGENCY RULEMAKING**

**R4-33-703.1. Minimum Standards and Curriculum for an Assisted Living Facility Caregiver Medication Management Training Program**

- A. An assisted living facility caregiver medication management training program may be established by:
  1. The owner or manager of an assisted living facility; or
  2. The owner of an assisted living facility caregiver training program.
- B. A person under subsection (A) may offer an assisted living facility caregiver medication management training program to:
  1. A CNA who is in good standing and whose certification by the Arizona Board of Nursing under A.R.S. § 32-1645 is verified;
  2. An LNA who is in good standing and whose licensure by the Arizona Board of Nursing under A.R.S. § 32-1645 is verified; and
  3. A DCW who is in good standing and whose training, including training about caregiving fundamentals and aging and physical disabilities, and testing record is verified through the AHCCCS online database.
- C. A person under subsection (A) that offers an assisted living facility caregiver medication management training program to individuals specified under subsection (B) shall ensure the assisted living facility caregiver medication management training program:
  1. Consists of at least the 16 classroom hours specified under R4-33-703(C)(14);
  2. Is not taught by distance learning;
  3. Is taught by a health professional who holds a license in good standing and issued under A.R.S. Title 32, Chapter 13, 15, 17, 18, or 25; and
  4. Requires passing an examination regarding assisted living facility caregiver medication management, using the standard specified in R4-33-702(A)(2)(b), that is approved by the Board and given by a Board-approved provider. An individual under subsection (B) shall pass the required examination in no more than three attempts. After failing three times, the individual may take the assisted living facility caregiver medication management program again.
- D. In addition to complying with subsection (C), a person under subsection (A) shall ensure each individual under subsection (B) who participates in an assisted living facility caregiver medication management training program:
  1. Receives notice, before participating in the training program, of:
    - a. The fingerprint clearance card requirement; and
    - b. The need to obtain a food-handler's card from the county in which the individual lives.
  2. Provides written documentation, which is dated and signed, indicating the person under subsection (A) complied with subsection (D)(1). The person under subsection (A) shall ensure that the training program uses textbooks that are relevant to the subjects being taught and have been published within the last five years.

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tion (A) shall maintain the written documentation under R4-33-702(G)(2).

- E. In addition to complying with subsection (C), a person under subsection (A) that offers an assisted living facility caregiver medication management training program to individuals specified under subsection (B) shall comply with the following subsections of R4-33-702:

1. (A)(4)(a), (b), and (d) through (f);
2. (A)(5)(a) through (d), (g), and (h);
3. (A)(6)(b) and (c);
4. (G)(1)(b) through (d);
5. (G)(2)(a), (c), (d), and (f);
6. (I) and
7. (J).

**Historical Note**

Amended Section R4-33-703.1 made by emergency rulemaking at 26 A.A.R. 1091, with an immediate effective date of May 5, 2020 as established under A.R.S. § 41-1032(A); effective for 180 days under A.R.S. § 41-1032(D).

**R4-33-703.1. Minimum Standards and Curriculum for an Assisted Living Facility Caregiver Medication Management Training Program**

- A. An assisted living facility caregiver medication management training program may be established by:
1. The owner or manager of an assisted living facility, or
  2. The owner of an assisted living facility caregiver training program.
- B. A person under subsection (A) may offer an assisted living facility caregiver medication management training program to a CNA or LNA who is in good standing.
- C. A person under subsection (A) that offers an assisted living facility caregiver medication management training program to individuals specified under subsection (B) shall ensure the assisted living facility caregiver medication management training program:
1. Consists of at least the 16 classroom hours specified under R4-33-703(C)(14);
  2. Is not taught by distance learning;
  3. Is taught by a health professional who holds a license in good standing and issued under A.R.S. Title 32, Chapter 13, 15, 17, 18, or 25; and
  4. Complies fully with the examination and evaluation requirements specified in R4-33-702(H).
- D. In addition to complying with subsection (C), a person under subsection (A) that offers an assisted living facility caregiver medication management training program to individuals specified under subsection (B) shall comply with the following subsections of R4-33-702:
1. (A)(4)(a), (b), and (d) through (f);
  2. (A)(5)(a) through (d), (g), and (h);
  3. (A)(6);
  4. (G)(1)(b) through (d);
  5. (G)(2)(a) through (d) and (f);
  6. (I) and
  7. (J).

**Historical Note**

New Section made by final rulemaking at 24 A.A.R. 2734, effective November 10, 2018 (Supp. 18-3).

**R4-33-704. Application for Approval of an Assisted Living Facility Caregiver Training Program**

- A. The owner of an assisted living facility caregiver training program shall ensure no training is provided until the program is approved by the Board.
- B. To obtain approval of an assisted living facility caregiver training program, the owner of the training program shall submit to the Board an application packet that contains the following:
1. Name, address, telephone number, and e-mail address of the owner;
  2. Name, address, telephone and fax numbers, and web site of the training program;
  3. Form of business organization under which the training program is operated and a copy of the establishing documents and organizational chart;
  4. A statement of whether the training program is based within an assisted living facility or other location;
  5. Name, telephone number, e-mail address, and license or certificate number of the program administrator required under R4-33-702(B);
  6. Name, telephone number, e-mail address, and license number of each program instructor and evidence each program instructor is qualified under R4-33-702(C);
  7. A statement of whether the training program is accredited and if so, name of the accrediting body and date of last review;
  8. For all assisted living facilities at which the training program will provide instruction:
    - a. Name, address, and telephone number of the assisted living facility;
    - b. Name, e-mail address, and telephone number of a contact person at the assisted living facility;
    - c. License number of the assisted living facility issued by the Department of Health Services;
    - d. A statement of whether the license of the assisted living facility is in good standing; and
    - e. Date and results of the most recent compliance inspection conducted by the Department of Health Services;
  9. Evidence of compliance with R4-33-702 and R4-33-703, including the following:
    - a. Written training program description, consistent with R4-33-702(A)(1), and an implementation plan that includes timelines;
    - b. Description of classroom facilities, equipment, and instructional tools available, consistent with R4-33-702(F);
    - c. Written curriculum, consistent with R4-33-703(C);
    - d. Skills checklist used to verify whether a student has acquired the necessary assisted living facility caregiver skills, consistent with R4-33-702(A)(6)(a);
    - e. Evaluation form required under R4-33-702(A)(6)(c) to enable students to assess the quality of the instructional experience provided by the training program;
    - f. Evidence of completion issued to a student under R4-33-702(A)(4);
    - g. Name of textbook used, author, publication date, and publisher;
    - h. Name of any distance learning materials used, producer of the material, and date produced; and
    - i. Copy of written policies and procedures required under R4-33-702(A)(2);
  10. Signature of the owner of the training program; and
  11. The fee prescribed under R4-33-104(D)(1).
- C. The owner of an assisted living facility caregiver training program shall ensure the application materials submitted under

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subsection (B) are printed on only one side of white, letter-sized paper, and are not bound in any manner.

- D. After review of the materials submitted under subsection (B), the Board shall schedule an onsite evaluation of the training program and take one of the following actions:
  1. If requirements are met, approve the training program for one year; or
  2. If requirements are not met, deny approval of the training program.
- E. The owner of an assisted living facility caregiver training program denied approval by the Board may request a hearing regarding the denial by filing a written request with the Board within 30 days after service of the Board's order denying approval of the training program. The Board shall conduct hearings under A.R.S. Title 41, Chapter 6, Article 10.

**Historical Note**

New Section made by final rulemaking at 19 A.A.R. 1619, effective August 4, 2013 (Supp. 13-2). Amended by final rulemaking at 24 A.A.R. 2734, effective November 10, 2018 (Supp. 18-3).

**R4-33-704.1. Application for Approval of an Assisted Living Facility Caregiver Medication Management Training Program**

- A. A person described under R4-33-703.1(A) shall ensure no training is provided until the assisted living facility medication management training program is approved by the Board.
- B. To obtain approval of an assisted living facility medication management training program, a person described under R4-33-703.1(A) shall submit to the Board an application packet that contains the following:
  1. Name, address, telephone number, and e-mail address of the person described under R4-33-703.1(A);
  2. A statement of whether the training program is based within an assisted living facility or other location and address of the location;
  3. Name, telephone number, e-mail address, and license number of each program instructor and evidence each program instructor is qualified under R4-33-703.1(C)(3);
  4. The information required under R4-33-704(B)(8);
  5. The following evidence of compliance with R4-33-703.1(D):
    - a. Skills checklist used to verify whether a student has acquired the necessary assisted living facility caregiver skills, consistent with R4-33-702(A)(6)(a);
    - b. Evaluation form required under R4-33-702(A)(6)(c) to enable students to assess the quality of the instructional experience provided by the training program; and
    - c. Evidence of completion issued to a student under R4-33-702(A)(4);
  6. Signature of the person described under R4-33-703.1(A); and
  7. The fee prescribed under R4-33-104(E)(1) except a person that has an assisted living facility caregiver training program approved under R4-33-704 is not required to pay a fee for approval under this Section.
- C. R4-33-704(C) through (E) applies to this Section.

**Historical Note**

New Section made by final rulemaking at 24 A.A.R. 2734, effective November 10, 2018 (Supp. 18-3).

**R4-33-705. Renewal of Approval of an Assisted Living Facility Caregiver Training Program**

- A. The approval of an assisted living facility caregiver training program expires one year from the date of approval. If the approval of the training program expires, the owner of the

training program shall immediately stop all training program activity.

- B. To renew approval of an assisted living facility caregiver training program, the owner of the training program shall submit to the Board, no fewer than 60 and no more than 120 days before expiration of the current approval, an application packet that contains the following:
  1. Name, address, telephone number, and e-mail address of the owner;
  2. Name, address, telephone and fax numbers, and web site of the training program;
  3. Name, telephone number, e-mail address, and license number of the program administrator required under R4-33-702(B);
  4. Name, telephone number, e-mail address, and license number of each program instructor and evidence each program instructor is qualified under R4-33-702(C);
  5. Written training program description, consistent with R4-33-702(A)(1);
  6. Written curriculum, consistent with R4-33-703(C);
  7. Since the time the training program was last approved:
    - a. Number of student-cohort classes to which training was provided,
    - b. Number of students who completed the training program,
    - c. Results obtained on the Board-approved written examination and skills checklist for each student, and
    - d. Percentage of students who passed the examination on the first attempt;
  8. For an assisted living facility at which the training program has started to provide instruction since the training program was last approved, the information required under R4-33-704(B)(8);
  9. Evaluation form required under R4-33-702(A)(6)(c) to enable students to assess the quality of the instructional experience provided by the training program;
  10. Summary of evaluations for each student cohort, required under R4-33-702(G)(1)(c), and measures taken, if any, to improve the training program based on student evaluations;
  11. Evidence of completion issued to a student under R4-33-702(A)(4);
  12. Name of textbook used, author, publication date, and publisher;
  13. Name of any distance learning materials used, producer of the material, and date produced;
  14. Copy of written policies and procedures required under R4-33-702(A)(2);
  15. Signature of the owner of the training program; and
  16. The fee prescribed under R4-33-104(D)(2).
- C. After review of the materials submitted under subsection (B), the Board shall ensure the training program is evaluated at either an onsite or telephonic meeting. The program owner shall ensure the program owner, program administrator, and all instructors are available to participate in the evaluation meeting.
- D. The Board shall ensure each training program receives an onsite evaluation at least every four years. An onsite evaluation includes visiting each assisted living facility at which the training program provides instruction.
- E. If the Board approves a training program following an onsite evaluation, no deficiencies were identified during the onsite evaluation, and no complaints are filed with the Board, the



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Board shall evaluate the training program under subsection (C) using a telephonic meeting for at least two years.

- F. After conducting the evaluation required under subsection (C), the Board shall:
1. Renew approval of a training program the Board determines complies with R4-33-702 and R4-33-703, or
  2. Issue a notice of deficiency under R4-33-706 to the owner of a training program the Board determines does not comply with R4-33-702 or R4-33-703.
- G. The owner of an assisted living facility training program issued a notice of deficiency by the Board under subsection (F)(2) may request a hearing regarding the deficiency notice by filing a written request with the Board within 30 days after service of the Board's order. The Board shall conduct hearings under A.R.S. Title 41, Chapter 6, Article 10.

**Historical Note**

New Section made by final rulemaking at 19 A.A.R. 1619, effective August 4, 2013 (Supp. 13-2). Amended by final rulemaking at 24 A.A.R. 2734, effective November 10, 2018 (Supp. 18-3).

**R4-33-705.1. Renewal of Approval of an Assisted Living Facility Caregiver Medication Management Training Program**

- A. The approval of an assisted living facility caregiver medication management training program expires one year from the date of approval. If the approval expires, the person described under R4-33-703.1(A) shall immediately stop all medication management training program activity.
- B. To renew approval of an assisted living facility caregiver medication management training program, the person described under R4-33-703.1(A) shall submit to the Board, no fewer than 60 and no more than 120 days before expiration of the current approval, an application packet that contains the following:
1. Name, address, telephone number and e-mail address of the person described under R4-33-703.1(A);
  2. Name, telephone number, e-mail address, and license number of each program instructor and evidence each program instructor is qualified under R4-33-703.1(C)(3);
  3. The information required under R4-33-705(B)(7) through (11);
  4. Signature of the person described under R4-33-703.1(A); and
  5. The fee prescribed under R4-33-104(E)(2) except a person that has approval of an assisted living facility caregiver training program renewed under R4-33-705 is not required to pay a fee for approval under this Section.
- C. R4-33-705(C) through (G) applies to this Section.

**Historical Note**

New Section made by final rulemaking at 24 A.A.R. 2734, effective November 10, 2018 (Supp. 18-3).

**R4-33-706. Notice of Deficiency; Correction Plan; Disciplinary Action; Voluntary Termination**

- A. Notice of deficiency. If the Board determines an assisted living facility caregiver or medication management training program does not comply with the requirements in this Article, the Board shall issue a written notice of deficiency to the program owner or person described under R4-33-703.1(A) of the training. The Board shall include the following in the notice of deficiency:
1. Description of each deficiency;
  2. Citation to the requirement in this Article with which the training program is not in compliance; and
  3. The time, to a maximum of three months, allowed by the Board for correction of the deficiencies.

**B. Correction plan.**

1. Within 10 days after service of a notice of deficiency under subsection (A), the owner or person described under R4-33-703.1(A) of the served training program shall submit to the Board a written plan to correct the identified deficiencies;
2. The Board may conduct onsite or telephonic evaluations during the time for correction to assess progress towards compliance;
3. The owner or person described under R4-33-703.1(A) of a training program implementing a correction plan shall notify the Board when all corrections have been made; and
4. After receiving notice under subsection (B)(3) or after the time provided under subsection (A)(3) has expired, the Board shall conduct an onsite evaluation to determine whether all deficiencies listed in the notice under subsection (A) have been corrected.
  - a. If the Board determines all deficiencies have been corrected, the Board shall renew approval of the training program; or
  - b. If the Board determines all deficiencies have not been corrected, the Board shall take disciplinary action under subsection (C).

**C. Disciplinary action.**

1. Under A.R.S. § 36-446.03(P), the Board shall issue a civil money penalty, suspend or revoke approval of an assisted living facility caregiver or medication management training program, or place the training program on probation if, following a hearing, the Board determines that the owner or the person described under R4-33-703.1(A):
  - a. Failed to submit a plan of correction to the Board under R4-33-706(B) within 10 days after service of a notice of deficiency;
  - b. Failed to comply with R4-33-702, R4-33-703, or R4-33-703.1, as applicable, within the time set by the Board under R4-33-706(A)(3) for correction of deficiencies;
  - c. Failed to comply with a federal or state requirement;
  - d. Failed to allow the Board to conduct an evaluation under R4-33-702(J) or R4-33-703.1(D)(6);
  - e. Failed to comply with R4-33-702(K);
  - f. Lent or transferred training program approval to another individual or entity or another training program, including one owned by the same owner or person described under R4-33-703.1(A);
  - g. Conducted an assisted living facility caregiver or medication management training program before obtaining Board approval;
  - h. Conducted an assisted living facility caregiver or medication management training program after expiration of program approval without timely submitting an application for renewal under R4-33-705 or R4-33-705.1, as applicable;
  - i. Falsified an application for assisted living facility caregiver or medication management training program approval under R4-33-704, R4-33-704.1, R4-33-705, or R4-33-705.1;
  - j. Violated an order, condition of probation, or stipulation issued by the Board; or
  - k. Failed to respond to a complaint filed with the Board.
2. The Board shall conduct hearings under A.R.S. Title 41, Chapter 6, Article 10.

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CHAPTER 33. BOARD OF EXAMINERS OF NURSING CARE INSTITUTION ADMINISTRATORS AND ASSISTED LIVING FACILITY MANAGERS

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3. The Board shall include in an order suspending or revoking approval of an assisted living facility caregiver or medication management training program the time and circumstances under which the owner or person described under R4-33-703.1(A) of the suspended or revoked training program may apply again under R4-33-704 or R4-33-704.1 for training program approval.
- D.** Voluntary termination. If the owner or person described under R4-33-703.1(A) of an approved assisted living facility caregiver or medication management training program decides to terminate the training program, the owner or person described under R4-33-703.1(A) shall:
1. Provide written notice of the planned termination to the Board; and
  2. Ensure that the training program, including the instructors, is maintained according to this Article until the last student is transferred or completes the training program.

**Historical Note**

New Section made by final rulemaking at 19 A.A.R. 1619, effective August 4, 2013 (Supp. 13-2). Amended by final rulemaking at 24 A.A.R. 2734, effective November 10, 2018 (Supp. 18-3).

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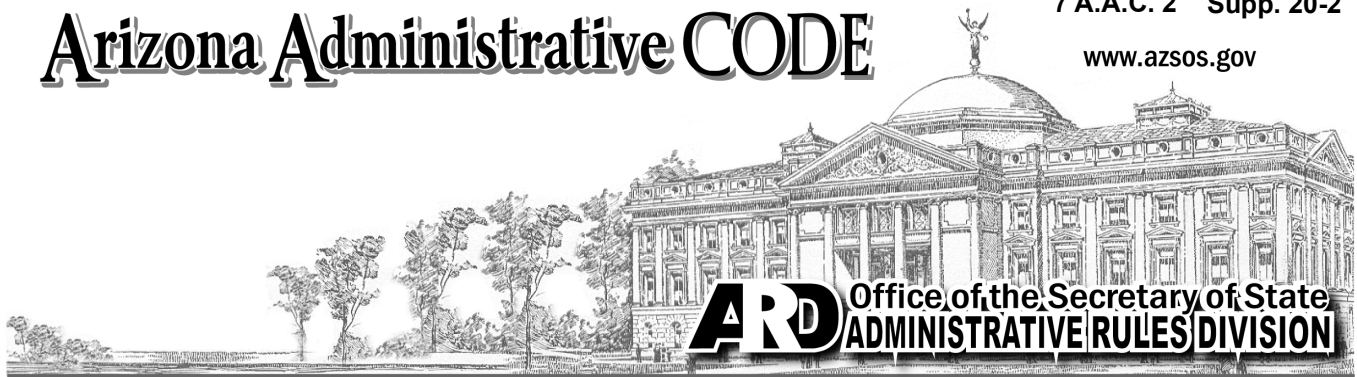
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FACILITY MANAGERS

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## TITLE 7. EDUCATION

### CHAPTER 2. STATE BOARD OF EDUCATION

The table of contents on the first page contains quick links to the referenced page numbers in this Chapter. Refer to the notes at the end of a Section to learn about the history of a rule as it was published in the *Arizona Administrative Register*.

Sections, Parts, Exhibits, Tables or Appendices codified in this supplement. The list provided contains quick links to the updated rules.

This Chapter contains rule Sections that were filed to be codified in the *Arizona Administrative Code* between the dates of April 1, 2020 through June 30, 2020 (Supp. 20-2).

<a href="#">R7-2-302.11.</a>	<a href="#">Minimum Course of Study and Competency Requirements During Public Health Emergency in the 2019-2020 School Year</a>	<a href="#">14</a>
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**The release of this Chapter in Supp. 20-2 replaces Supp. 20-1, 1-156 pages**

Please note that the Chapter you are about to replace may have rules still in effect after the publication date of this supplement. Therefore, all superseded material should be retained in a separate binder and archived for future reference.



## Administrative Rules Division

The Arizona Secretary of State electronically publishes each A.A.C. Chapter with a digital certificate. The certificate-based signature displays the date and time the document was signed and can be validated in Adobe Acrobat Reader.

## TITLE 7. EDUCATION

## CHAPTER 2. STATE BOARD OF EDUCATION

Authority: A.R.S. § 15-201 et seq.

*Editor's Note: This Chapter contains rules in Articles 10 and 11 that were filed in 2015 but were adopted in 2014. The Office has corrected all Supp. 15-3 historical notes in these Articles to reflect the true effective year of the rules to July 1, 2014 (Supp. 18-2).*

*Editor's Note: This Chapter contains rules that were filed out of sequence by adoption date. The Office has made every effort to codify the previous filings with the current Chapter and update the historical references where necessary. Refer to the historical notes for more information (Supp. 16-2).*

*Editor's Note: Supp. 16-1 contains rules that were submitted as final exempt rules and approved by the Board February 25, 2008. Although approved by the Board in 2008, the rulemaking was not filed in the Secretary of State's Office for publication in this Chapter until 2016. The final exempt rulemaking was filed by the Board on January 6, 2016 (Supp. 16-1).*

*Editor's Note: Supp. 15-3 contains rules that were submitted as final exempt rules. Pursuant to the Board's rulemaking procedures a public hearing was held on the rules after they were proposed at a Board meeting. Even though the proposed rules were not published in the Register, the Office of the Secretary of State makes a distinction between exempt rulemakings and final exempt rulemakings. Final exempt rulemakings are those filed with conditional exemptions to the Arizona Administrative Procedures Act such as requirements to conduct a public hearing or accept public comments on a proposed exempt rulemaking. Although approved by the Board, these final exempt rulemakings were not filed with the Secretary of State's Office at the time of approval. Therefore these rules were in effect prior to the release of Supp. 15-3. Refer to the historical notes for effective dates.*

*Editor's Note: This Chapter contains rules made, amended, repealed, renumbered and approved by the State Board of Education that were exempt from the rulemaking process. Although approved by the Board, certain rulemakings were not filed with the Secretary of State's Office at the time of approval. These rulemakings were filed in 2009 and 2010 and printed as Exempt Rulemakings in the Arizona Administrative Register. The Office has expedited the publishing of these Sections in the Arizona Administrative Code because these rules were in effect prior to Supp. 09-1, Supp. 09-2, Supp. 09-3, Supp. 09-4, Supp. 10-1, Supp. 10-2, Supp. 10-3, Supp. 10-4, Supp. 11-1, and Supp. 12-2 releases. Refer to the historical notes for more information.*

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*Article 6, consisting of Sections R7-2-601 through R7-2-608, repealed effective December 4, 1998 (Supp. 98-4).*

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## CHAPTER 2. STATE BOARD OF EDUCATION

**ARTICLE 1. STATE BOARD OF EDUCATION MEETINGS****R7-2-101. Governance****A. Officers**

1. The elective officers of the State Board of Education ("Board") shall be a President and a Vice President.
2. The State Superintendent of Public Instruction shall serve as the Secretary and as the Executive Officer of the Board.
3. The President shall preside over all meetings of the Board, call meetings as herein provided and perform such other special duties as may be vested in him or her by the Board.
4. In the absence of the President, the Vice President shall preside over all meetings and shall perform such other special duties as may be vested in him or her by the Board.
5. The President shall appoint a nominating committee that will prepare a slate of candidates for presentation to the Board at the first regular meeting following January 1 of each year. Other candidates may be nominated from the floor. The two elected officers shall be elected by written ballot and shall serve for one year, or until their successors are elected.
6. If a vacancy occurs in the office of President, the Vice President shall immediately become the President. As soon as practicable, the Board shall elect a new Vice President.

**B. Regular and special meetings**

1. Unless otherwise agreed upon by a majority of the Board, meetings shall be held on the fourth Monday of each month.
2. The place of the meeting shall be designated by the President. In the absence of the President, the place of meeting shall be designated by the Vice President.

**C. Public input to the Board**

1. Requests for matters to be placed on the agenda.
  - a. When any person wishes to have a matter placed on the agenda, that person shall submit a written request to the President of the Board not less than 21 days prior to the Board meeting.
  - b. The President of the Board may choose not to place an item submitted by a person other than a Board member on the agenda.
2. Public comment on agenda items.
  - a. Any member of the public who wishes to address the Board regarding a matter on the agenda for Board action may submit a written request to be heard on forms provided by the Board.
  - b. The President of the Board or a majority of the Board may allot a reasonable time for members of the public to address the Board with respect to agenda items.

**Historical Note**

Former Section R7-2-101 repealed, new Section R7-2-101 adopted effective December 4, 1978 (Supp. 78-6). Amended effective February 27, 1980 (Supp. 80-1). Former Section R7-2-101 repealed, new Section R7-2-101 adopted effective June 17, 1985 (Supp. 85-3).

**R7-2-102. Repealed****Historical Note**

Repealed effective December 4, 1978 (Supp. 78-6).

**R7-2-103. Repealed****Historical Note**

Repealed effective December 4, 1978 (Supp. 78-6).

**ARTICLE 2. STATE BOARD OF EDUCATION COMMITTEES****R7-2-201. Advisory Committees**

- A.** The State Board of Education ("Board") may create an advisory committee for the purpose of providing advice and recommendations as assigned by the Board. In this rule, unless the context otherwise requires, the following definitions shall apply:
  1. "Ad Hoc Advisory Committee" means a committee, established by the Board, for a limited time and scope, for the purpose of providing advice and recommendations to the Board.
  2. "Executive Committee" means a committee, whose members consist of the President and Vice-President of the Board, established for the purpose of appointing ad hoc advisory committee members.
  3. "Standing Advisory Committee" means the Certification Advisory Committee, the Professional Practices Advisory Committee, or any other designated permanent committee, established by the Board, for the specific purpose of providing ongoing advice and recommendations as assigned by the Board.
- B.** Any advisory committee or similar body that has been created by either the Board or statute shall be appointed and conduct its business in accordance with this rule except as otherwise required by law.
- C.** The Board shall determine the structure, membership, and tasks of any standing advisory committee the Board has created.
- D.** The Board's Appointments Subcommittee, whose members are appointed by the President of the Board, shall review nominations submitted by the Board members for appointment to a standing advisory committee and shall provide a recommendation to the Board for consideration. A vacancy on a standing advisory committee shall be filled in the manner described in this Section.
- E.** The Board shall determine the structure and task of an ad hoc advisory committee it has created and may make suggestions as to members. The Executive Committee shall appoint the members of an ad hoc advisory committee. An ad hoc advisory committee shall exist for the time necessary to accomplish its assigned task or for one year from the date it is created, whichever is less. An ad hoc advisory committee may continue to function beyond a one-year period only with the express approval of the Executive Committee. A vacancy on an ad hoc advisory committee shall be filled in the manner prescribed by the Executive Committee.
- F.** The Board may in its discretion remove any member from and dissolve any standing advisory committee that the Board has created. The Executive Committee may in its discretion remove any member from and dissolve any ad hoc advisory committee that the Executive Committee has created.
- G.** An advisory committee shall not conduct a meeting of its members without prior acknowledgment from the Executive Director of the Board that the notice and agenda for the meeting have been approved by the President of the Board and posted and that there are sufficient funds to meet all expenses that would be incurred in connection with such meeting. An advisory committee member shall not obligate the payment of Board funds.
- H.** The meetings of a committee shall be held at the offices of the Board or any other facility for which no charges would be incurred for use of the facility.

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- I. Activities of an advisory committee are limited to preparation of advice and recommendations to be presented to the Board for issues which relate directly to the task assigned by the Board.
- J. Advisory committees are not authorized the use of Board letterhead stationery without the express approval of the President of the Board and are not authorized the use of Department of Education letterhead stationery without the express approval of the Superintendent of Public Instruction.
- K. An advisory committee shall:
  1. Annually select from its members a chair and vice chair;
  2. Request information, assistance, or opinions from the Department of Education necessary to accomplish its task. An advisory committee shall convey any such request through the Department liaison designated pursuant to this rule.
- L. A quorum of an advisory committee shall be a majority of the voting members of the advisory committee. Voting members shall be only those members specifically appointed by the Board or Executive Committee. A quorum of an advisory committee is necessary to conduct its business. An affirmative vote of the majority of voting members present is necessary for an advisory committee to take action.
- M. The Superintendent shall designate an employee of the Department of Education to serve as a liaison to each advisory committee. The President of the Board may appoint a member of the Board to serve as an additional liaison to each advisory committee as the President deems appropriate.

**Historical Note**

Amended effective July 1, 1977 (Supp. 77-4). Former Section R7-2-201 repealed, new Section R7-2-201 adopted effective December 4, 1978 (Supp. 78-6).  
 Amended effective February 25, 1987 (Supp. 87-1). Section repealed, new Section adopted effective March 18, 1994 (Supp. 94-1). Amended by final exempt rulemaking at 22 A.A.R. 2239, effective August 1, 2016 (Supp. 16-3).  
 Amended by final exempt rulemaking at 25 A.A.R. 98, effective December 17, 2018 (Supp. 18-4).

**R7-2-202. Repealed****Historical Note**

Former Section R7-2-202 repealed, new Section R7-2-202 adopted effective December 4, 1978 (Supp. 78-6).  
 Former Section R7-2-202 repealed, new Section R7-2-202 adopted effective June 21, 1979 (Supp. 79-3).  
 Amended effective June 12, 1989 (Supp. 89-2). Amended effective December 12, 1990 (90-4). Amended effective August 28, 1992 (Supp. 92-3). Repealed effective March 18, 1994 (Supp. 94-1).

**R7-2-203. Repealed****Historical Note**

Former Section R7-2-203 repealed, new Section R7-2-203 adopted effective April 9, 1984 (Supp. 84-2).  
 Amended subsections (A) and (B) effective December 30, 1988 (Supp. 88-4). Repealed effective February 20, 1997 (Supp. 97-1).

**R7-2-204. Repealed****Historical Note**

Adopted effective December 4, 1978 (Supp. 78-6). Former Section R7-2-204 repealed, new Section R7-2-204 adopted effective December 31, 1984 (Supp. 84-6).  
 Amended effective August 28, 1992 (Supp. 92-3).

Repealed effective February 20, 1997 (Supp. 97-1).

**R7-2-205. Certification Review, Suspension, and Revocation**

- A. Professional Practices Advisory Committees ("Committees") shall act in an advisory capacity to the State Board of Education ("Board") in regard to certification or recertification matters related to immoral conduct, unprofessional conduct, unfitness to teach, and revocation, suspension, or surrender of certificates.
- B. Committees shall each consist of seven members comprised of the following:
  1. One elementary classroom teacher,
  2. One secondary classroom teacher,
  3. One principal,
  4. One superintendent or assistant/associate superintendent,
  5. Two lay members, one lay member who shall be a parent of a student currently attending public school in Arizona, and
  6. One local Governing Board member.
- C. Members appointed pursuant to subsections (B)(1), (2), (3) and (4) of this rule shall meet at least the following requirements:
  1. Certified to teach in Arizona.
  2. Currently employed in or retired from the education profession in the specific category of their appointment.
  3. If currently employed, shall have been employed in this category for the three years immediately preceding their appointment.
- D. Terms of the members
  1. All regular terms shall be for four years except as set forth in subsection (E) below.
  2. A member may be reappointed with Board approval.
- E. The Board may remove any member from the Committee. All vacancies shall be filled as prescribed in subsections (C) above, and those persons appointed to fill vacancies shall serve to complete the term of the person replaced.
- F. The Committee shall:
  1. Select from its members a Chairman and Vice-Chairman,
  2. A quorum shall be a majority of members of the Committee. A quorum is necessary to conduct business. An affirmative vote of the majority of the members present is needed to take action.
  3. Hold meetings as needed to conduct hearings or other Committee business by call of the Chairman of the Committee. If the Chairman neglects or declines to call a meeting, then a majority of the Committee may call a meeting. The Board may call a meeting as required to conduct necessary business. Notice of any meeting shall be given to Committee members seven days prior to the meeting.
  4. Recommend the removal of any member who is absent from three consecutive meetings.
  5. Refer to R7-2-1308 to assist in determining whether the acts complained of constitute unprofessional conduct.
  6. Conduct its business pursuant to R7-2-1301 et seq. and hearings pursuant to R7-2-701 et seq.

**Historical Note**

Adopted effective December 4, 1978 (Supp. 78-6). Former Section R7-2-205 repealed, new Section R7-2-205 adopted effective February 24, 1982 (Supp. 82-1). Former Section R7-2-205 repealed, new Section R7-2-205 adopted effective August 30, 1984 (Supp. 84-4).  
 Amended effective February 21, 1986 (Supp. 86-1).  
 Amended subsections (H), (I), and (J) effective February 3, 1987 (Supp. 87-1). Amended effective December 15,

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1989 (Supp. 89-4). Amended effective May 31, 1991 (Supp. 91-2). Amended effective April 9, 1993 (Supp. 93-2). Amended effective December 3, 1998 (Supp. 98-4). Amended by final rulemaking at 6 A.A.R. 1132, effective March 10, 2000 (Supp. 00-1). Amended by final exempt rulemaking at 21 A.A.R. 1775, effective May 20, 2013 (Supp. 15-3). Amended by final exempt rulemaking at 23 A.A.R. 725, effective January 23, 2017 (Supp. 17-1).

**R7-2-206. Certification Denial Appeals Process for Applications for Certification that Do Not Involve Allegations of Immoral or Unprofessional Conduct**

**A.** Request for hearing. A person who has had an application for certification denied by the Department of Education pursuant to A.R.S. § 15-534.01(B) may file a written request for a hearing with the Board within 15 days after being served notice of the denial pursuant to subsection (C). Intermediate Saturdays, Sundays and legal holidays shall be included in the computation of the 15 days. If the final day of the 15 day deadline falls on a Saturday, Sunday or legal holiday, the next business day is the final day of the deadline. Applications for certification that involve allegations of immoral or unprofessional conduct shall be reviewed by the Professional Practices Advisory Committee pursuant to R7-2-205.

**B.** Notice of hearing

1. If an applicant requests a hearing to appeal the denial of an application for certification, a notice of hearing shall be given at least 20 days prior to the date set for the hearing.
2. The notice shall include:
  - a. A statement of the time, place and nature of the hearing.
  - b. A statement of the legal authority and jurisdiction under which the hearing is to be held.
  - c. A reference to the particular sections of the statutes and rules involved.
  - d. A short and plain statement of the matters asserted. If a party is unable to state the matters in detail at the time the notice is served, the initial notice may be limited to a statement of the issues involved. Thereafter upon application a more definite and detailed statement shall be furnished.

**C.** Service of documents; change of address notice requirement

1. Every notice or decision issued by the Board or the Department pertaining to the denial of an application for initial certification or renewal of a certificate shall be served by personal delivery, first class mail or certified mail, return receipt requested, to the applicant or certificated person's last address of record with the Department of Education or by any other method that is reasonably calculated to give actual notice to the applicant or the certificated person. A document is filed with the Board on the date it is received by the Board, as established by the Board's date stamp on the face of the document. A document issued by the Board or the Department pursuant to this Section is served on a party as follows:
  - a. On the date it is personally served.
  - b. Five days after it is mailed by first class mail.
  - c. On the date of the return receipt if it is mailed by certified mail.
2. Each applicant or certificated person shall inform the Department of Education and the Board of any change of address within 30 days of the change of address.

**D.** Hearing process

1. All hearings shall be conducted before the Board or a hearing officer pursuant to A.R.S. Title 41, Chapter 6, Article 6 and this Section.
2. Parties may participate in the hearing in person or through an attorney.
3. Upon request of either party, the hearing officer may schedule a prehearing conference. The purpose of a prehearing conference shall be to narrow issues, attempt settlement, address evidentiary issues or for any other purpose deemed necessary by the hearing officer.
4. Opportunity shall be afforded all parties to respond and present evidence and argument on the issues involved.
5. The Board may dispose of any certification appeal by decision or approved stipulation, agreed settlement, consent agreement or by default.
6. A hearing shall be recorded manually or by a recording device and shall be transcribed on request of any party, unless otherwise provided by law. The cost of such transcript shall be paid by the party making the request, unless otherwise provided by law or unless assessment of the cost is waived by the Board.
7. The hearing may be rescheduled, maintaining due regard for the interests of justice and the orderly and prompt conduct of the proceedings.
8. The record in an appeal of a certification denial shall include:
  - a. All pleadings, motions and interlocutory rulings;
  - b. Evidence received or considered;
  - c. A statement of matters officially noticed;
  - d. Objections and offers of proof and rulings thereon;
  - e. Proposed findings of fact and conclusions of law and exceptions thereto;
  - f. Any decision, opinion, recommendation or report of the hearing officer;
  - g. All staff memoranda, other than privileged communications, or data submitted to the hearing officer in connection with its consideration of the case.
9. Findings of fact shall be based exclusively on the evidence and on matters officially noticed.
10. A hearing may be conducted in an informal manner and without adherence to the rules of evidence required in judicial proceedings. Neither the manner of conducting the hearing nor the failure to adhere to the rules of evidence required in judicial proceedings shall be grounds for reversing any administrative decision or order, providing the evidence supporting such decision or order is substantial, reliable, and probative. Irrelevant, immaterial or unduly repetitious evidence shall be excluded. Every person who is a party to such proceedings shall have the right to be represented by counsel, to submit evidence in open hearing and shall have the right of cross-examination. Unless otherwise provided by law, hearings may be held at any place determined by the Board. At such hearing such applicant shall be the moving party and have the burden of proof.
11. Copies of documentary evidence may be received in the discretion of the hearing officer. Upon request, the parties shall be given an opportunity to compare the copy with the original.
12. Notice may be taken of judicially cognizable facts. In addition, notice may be taken of generally recognized technical or scientific facts within the specialized knowledge of the hearing officer. Parties shall be notified either before or during the hearing or by reference in preliminary reports or otherwise of the material noticed including any staff memoranda or data and they shall be

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afforded an opportunity to contest the material so noticed. The hearing officer's experience, technical competence and specialized knowledge may be utilized in the evaluation of the evidence.

**E. Subpoenas**

1. The hearing officer may issue subpoenas for the attendance of witnesses and for the production of books, records, documents and other evidence on the hearing officer's own volition or at the request of a party.
2. A request for a hearing subpoena shall be in writing and served on each party at least seven days prior to the date set for hearing and shall state:
  - a. The name of the case, the case number, and the date, time and place where the witness is expected to appear and testify;
  - b. The name and address of the witness subpoenaed;
  - c. The documents, if any, sought to be provided; and
  - d. A brief statement of the relevance of the testimony or documents.
3. On application of a party or the agency and for use as evidence, the hearing officer may permit a deposition to be taken, in the manner and upon the terms designated by the hearing officer, of a witness who cannot be subpoenaed or is unable to attend the hearing.
4. The individual to whom a subpoena is directed shall comply with its provisions unless, prior to the date set for appearance, the hearing officer grants a written request to quash or modify the subpoena. The request shall state the reasons why it should be granted. The hearing officer shall grant or deny such request by order.
5. The hearing officer shall quash or modify the subpoena if:
  - a. It is unreasonable or oppressive; or
  - b. The desired testimony or evidence may be obtained by an alternative method.
6. The party requesting the subpoena shall prepare it and cause it to be served upon the individual to whom it is directed in the same manner as provided for service of subpoenas in civil matters before the superior court. The return of service shall be filed with the Board.

**F. Conduct of hearing**

1. The hearing officer may conduct all or part of the hearing by telephone or other electronic means, as long as each party has an opportunity to participate in the entire proceeding as it takes place.
2. Except for those hearings which may involve presentation of evidence protected by law as confidential, or which are otherwise closed pursuant to an express provision of law, all hearings are open to public observation.
3. Conduct at any hearing that is disruptive or shows contempt for the proceedings shall be grounds for exclusion from further participation or observation.

**G. Evidence**

1. All witnesses shall testify under oath or affirmation.
2. The hearing officer shall have the power to administer oaths and affirmations.
3. All parties shall have the right to present such oral or documentary evidence and to conduct such cross-examination as may be required for a full and fair disclosure of the facts.
4. The hearing officer shall receive evidence, rule upon offers of proof, and exclude evidence the hearing officer has determined to be irrelevant, immaterial, or unduly repetitious.
5. Unless otherwise ordered by the hearing officer, documentary evidence shall be limited in size when folded to

8 1/2 by 11 inches. The submitting party shall identify documentary exhibits by number or letter and party and furnish a copy of each exhibit to each party present. One additional copy shall be furnished to the hearing officer unless the hearing officer otherwise directs. When evidence offered by any party appears in a larger work, containing other information, the party shall plainly designate the portion offered. If the evidence offered is so voluminous as would unnecessarily encumber the record, the book, paper, or document shall not be received in evidence but may be marked for identification and, if properly authenticated, the designated portion may be read into or photocopied for the record. All documentary evidence offered shall be subject to appropriate and timely objection.

- H. Stipulations.** Parties to an appeal of a certification denial may stipulate, in writing, agreement upon any matter involved in the proceeding. If approved by the hearing officer, agreement on matters of procedure shall be binding upon the parties to the stipulation. The hearing officer may require presentation of evidence for proof of stipulated facts for the hearing officer's consideration. No substantive matter agreed to by the parties shall be binding upon the Board unless incorporated into the decision of the Board.

**I. Recommendations**

1. A recommended decision shall be prepared for the Board by the hearing officer and shall include findings of fact and conclusions of law, separately stated.
2. Parties shall be notified either personally or by mail to their last known address of any decision or order.
3. A recommended decision shall be delivered to the Board within 30 days after the close of the hearing unless the Board extends the period for good cause.

**J. Decisions and orders**

1. Any final decision or order adverse to a party shall be in writing or stated in the record.
2. When the Board is the hearing body, the decision shall be rendered within 60 days following the final day of the hearing.
3. Within 30 days after receipt of any recommended decision from the hearing officer, the Board shall render a decision to affirm, reverse, adopt, modify, supplement, amend or reject the recommendation and may remand the matter to the hearing officer with instructions, or may convene itself as the hearing body.

**K. Rehearing and review of decisions**

1. After a hearing is held, a party in an appeal of a certification denial who is aggrieved by a decision rendered by the Board may file with the Board, not later than 30 days after such decision has been made, a written motion for rehearing specifying the particular grounds therefor. A motion for rehearing under this Section may be amended at any time before it is ruled upon by the Board. A response may be filed within 15 days after service of such motion by any other party. The Board may require the filing of written briefs on the issues raised in the motion or response and may provide for oral argument.
2. A rehearing of a decision by the Board may be granted for any of the following causes materially affecting the moving party's rights:
  - a. Irregularity in the administrative proceedings of the hearing body, or abuse of discretion, whereby the moving party was deprived of a fair hearing.
  - b. Misconduct of the hearing body or the prevailing party.

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- c. Accident or surprise which could not have been prevented by ordinary prudence.
  - d. Newly discovered material evidence which could not with reasonable diligence have been discovered and produced at the hearing.
  - e. Excessive or insufficient penalties.
  - f. Error in the admission or rejection of evidence or other errors of law occurring at the administrative hearing.
  - g. That the decision is not justified by the evidence or is contrary to the law.
3. The Board may affirm or modify the decision or grant a rehearing to all or any of the parties, on all or part of the issues, for any of the reasons set forth in subsection (K)(2). An order granting a rehearing shall specify with particularity the ground or grounds on which the rehearing is granted, and the rehearing shall cover only those matters so specified.
  4. After giving the parties or their counsel notice and an opportunity to be heard on the matter, the Board may grant a motion for rehearing for a reason not stated in the motion. The order granting such a rehearing shall specify the grounds therefor.
  5. Not later than 20 days after a decision is rendered, the Board may, on its own initiative, order a rehearing of its decision for any reasons for which it might have granted a rehearing on motion of a party. The order granting such a rehearing shall specify the grounds therefor.
  6. When a motion for rehearing is based upon affidavits they shall be served with the motion. An opposing party may, within 10 days after service of such motion, serve opposing affidavits and this period may be extended for an additional period not exceeding 20 days, by the Board for good cause shown or by written stipulation of the parties. Reply affidavits may be permitted.
  7. After a hearing has been held and a final administrative decision has been entered, a party is not required to file a motion for rehearing or review of the decision in order to exhaust the party's administrative remedies.
  8. Any party in an appeal of a certification denial who is aggrieved by a decision rendered by the Board may file with the Board, not later than 20 days after such decision has been made, a written request for review of the decision. If a review of the decision is granted, the Board may affirm or modify the previous decision.

**Historical Note**

Former Section R7-2-206 adopted effective December 4, 1978 (Supp. 78-6). Repealed effective February 24, 1982 (Supp. 82-1). New Section R7-2-206 adopted effective August 9, 1989 (Supp. 89-3). Repealed effective March 18, 1994 (Supp. 94-1). New Section made by exempt rulemaking at 16 A.A.R. 156, effective December 7, 2009 (Supp. 09-4). Amended by final exempt rulemaking at 25 A.A.R. 98, effective December 17, 2018 (Supp. 18-4).

**R7-2-207. Repealed****Historical Note**

Adopted effective August 9, 1989 (Supp. 89-3). Repealed effective March 18, 1994 (Supp. 94-1).

**ARTICLE 3. CURRICULUM REQUIREMENTS AND SPECIAL PROGRAMS****R7-2-300. Adoption of Assessments**

As required in A.R.S. §15-741, the Board shall adopt assessments as Arizona instruments to measure standards in order to measure

pupil achievement of the state board adopted academic standards in at least grades 3 through 10.

**Historical Note**

New Section made by final exempt rulemaking at 22 A.A.R. 143, effective August 26, 2013; filed in the Office on January 15, 2016 (Supp. 16-2).

**R7-2-301. Minimum Course of Study and Competency Goals for Students in the Common Schools**

- A. Students shall demonstrate competency as defined by the State Board-adopted academic standards, at the grade levels specified, in the following required subject areas. District and charter school instructional programs shall include an ongoing assessment of student progress toward meeting the competency requirements. These shall include the successful completion of the academic standards in at least reading, writing, mathematics, science and social studies, as determined by district and/or statewide assessments.
  1. English language arts;
  2. Mathematics;
  3. Science;
  4. Social Studies; including civics;
  5. The Arts, which may consist of two or more of the following: visual arts, dance, theatre, music or media arts;
  6. Health/Physical Education.
- B. The local governing board or charter school may prescribe course of study and competency requirements for promotion that are in addition to or higher than the course of study and competency requirements the State Board of Education prescribes. Additional subjects may be offered by the local governing board or charter school as options and may include, but are not limited to:
  1. Career and Technical Education,
  2. Computer Science,
  3. Educational Technology,
  4. World and Native Languages.
- C. Prior to the issuance of a standard certificate of promotion from the 8th grade, each student shall demonstrate competency, as defined by the local governing board, of the State Board of Education adopted academic standards for grade 8 in the subject areas listed in subsection (A).
- D. Special education and promotion from the 8th grade.
  1. The charter school or local governing board of each school district shall be responsible for developing a course of study and graduation requirements for all students placed in special education programs in accordance with R7-2-401 et seq.
  2. Students placed in special education classes in grades K-8 are eligible to receive the standard certificate of promotion without meeting State Board of Education competency requirements.
- E. Online and distance education courses may be offered by the local governing board or charter school if the course is provided through an Arizona Online Instruction Program established pursuant to A.R.S. § 15-808.
- F. Alternative Demonstration of Competency. Upon request of the student, the local school district governing board or charter school shall provide the opportunity for a student in grades seven and eight to demonstrate competency in the subject areas listed in subsection (A) in lieu of classroom time.

**Historical Note**

Former Section R7-2-301 repealed, new Section R7-2-301 adopted effective December 4, 1978 (Supp. 78-6). Amended subsections (A) and (B) effective May 4, 1982 (Supp. 82-3). Amended subsection (B) by adding subsection (10) effective July 26, 1982 (Supp. 82-4). Section

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repealed, new Section adopted effective April 12, 1993 (Supp. 93-2). Amended effective May 3, 1993 (Supp. 93-2). Amended by final exempt rulemaking at 22 A.A.R. 143, effective August 26, 2013 (the making of subsection (F)); filed in the Office January 15, 2016, with historical note added for clarification as the Board adopted the same amendment June 23, 2014 (Supp. 16-2). Amended by final exempt rulemaking at 21 A.A.R. 1778, effective June 23, 2014; filed in the Office August 4, 2015 (Supp. 15-3). Amended by final exempt rulemaking at 22 A.A.R. 143, effective August 26, 2013; filed in the Office on January 15, 2016 (Supp. 16-2). Amended by final rulemaking at 24 A.A.R. 691, effective February 26, 2018 (Supp. 18-1).

**R7-2-301.01. Repealed****Historical Note**

R7-2-301(A), (B), and (C) repeated and numbered as R7-2-301.01(A), (B), and (C); R7-2-301(D) and (E) repeated and numbered as R7-2-301.01(D) and (E) and amended; the text of R7-2-301.01 as amended is effective January 1, 1989 (Supp. 86-2). Complete text printed and historical note added (Supp. 89-3). Repealed effective April 12, 1993 (Supp. 93-2).

**R7-2-301.02. Repealed****Historical Note**

Adopted effective March 26, 1990 (Supp. 90-1). Amended effective December 18, 1991; amended effective December 20, 1991 (Supp. 91-4). Repealed effective March 18, 1994 (Supp. 94-1).

**R7-2-302. Minimum Course of Study and Competency Requirements for Graduation from High School**

The Board prescribes the minimum course of study and competency requirements as outlined in subsections (1) through (5) and, beginning with the graduating class of 2017, receipt of a passing score of sixty correct answers out of one hundred questions on a civics test identical to the civics portion of the naturalization test used by the United States Citizenship and Immigration Services as prescribed in A.R.S. § 15-701.01(A)(2).

1. Subject area course requirements. The Board establishes 22 credits as the minimum number of credits necessary for high school graduation. Students shall obtain credits for required subject areas as specified in subsections (1)(a) through (e) based on completion of subject area course requirements or competency requirements. At the discretion of the local school district governing board or charter school, credits may be awarded for completion of elective subjects specified in subsection (1)(f) based on completion of subject area course requirements or competency requirements. The awarding of a credit toward the completion of high school graduation requirements shall be based on successful completion of the subject area requirements prescribed by the State Board and local school district governing board or charter school as follows:
  - a. Four credits of English or English as a Second Language, which shall include but not be limited to the following: reading American and other world literature, reading informational text, writing, research methods, speaking and listening skills, grammar, and vocabulary.
  - b. Three credits in social studies to minimally include the following:
    - i. One credit of American history, including Arizona history;
    - ii. One credit of world history/geography;
    - iii. One-half credit of American government, including civics and Arizona government; and
    - iv. One-half credit in economics.
  - c. Four credits of mathematics to minimally include:
    - i. Three credits containing course content in preparation for proficiency at the high school level on the statewide assessment and aligned to the Arizona Mathematics Standards for Algebra I, Geometry, and Algebra II. These three credits shall be taken beginning with the ninth grade unless a student meets these requirements prior to the ninth grade pursuant to subsection (1)(c)(iii). The requirement for the third credit covering Algebra II, may be met by, but is not limited to the following: a math course comparable to Algebra II course content; computer science, career and technical education and vocational education, economics, science and arts courses as determined by the local school district governing board or charter school.
    - ii. A fourth credit that includes significant mathematics content as determined by the local school district governing board or charter school.
    - iii. Courses successfully completed prior to the ninth grade that meet the high school mathematics credit requirements may be applied toward satisfying those requirements.
    - iv. The mathematics requirements may be modified for students using a Personal Curriculum pursuant to R7-2-302.03.
  - d. Three credits of science in preparation for proficiency at the high school level on the statewide assessment.
  - e. One credit of the Arts or career and technical education and vocational education.
  - f. Seven credits of additional courses prescribed by the local school district governing board or charter school.
  - g. A credit or partial credit may apply toward more than one subject area but shall count only as one credit or partial credit toward satisfying the 22 required credits.
2. Credits earned through correspondence courses to meet graduation requirements shall be taken from an accredited institution as defined in R7-2-601. Credits earned thereby shall be limited to four, and only one credit may be earned in each of the following subject areas:
  - a. English as described in subsection (1)(a) of this Section,
  - b. Social Studies,
  - c. Mathematics, and
  - d. Science.
3. Online and distance education courses may be offered by the local governing board or charter school if the course is provided through an Arizona Online Instruction Program established pursuant to A.R.S. § 15-808.
4. Local school district governing boards or charter schools may grant to career and technical education and vocational education program completers a maximum of 5 1/2 credits to be used toward the Board English, mathemat-

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ics, science, and economics credit requirements for graduation, subject to the following restrictions:

- a. The Board has approved the career and technical education and vocational education program for equivalent credit to be used toward the Board English, mathematics, science, and economics credit requirements for graduation.
  - b. A credit or partial credit may apply toward more than one subject area but shall count only as one credit or partial credit toward satisfying the 22 required credits.
  - c. A student who satisfies any part of the Board English, mathematics, science, and economics requirements through the completion of a career and technical education and vocational education program shall still be required to earn 22 total credits to meet the graduation requirements prescribed in this Section.
5. Competency requirements.
- a. The awarding of a credit toward the completion of high school graduation requirements shall be based on the requirements outlined in A.R.S. § 15-701.01 and the successful completion of State Board-adopted academic standards for subject areas listed in subsections (1)(a) through (1)(e) and the successful completion of the competency requirements for the elective subjects specified in subsection (1)(f). Competency requirements for elective subjects as specified in subsection (1)(f) shall be the academic standards adopted by the State Board. If there are no adopted academic standards for an elective subject, the local school district governing board or charter school shall be responsible for developing and adopting competency requirements for the successful completion of the elective subject. The school district governing board or charter school shall be responsible for developing and adopting the method and manner in which to administer a test that is identical to the civics portion of the naturalization test used by the United States Citizenship and Immigration Services, and a pupil who does not obtain a passing score on the test may retake the test until the pupil obtains a passing score.
  - b. The determination and verification of student accomplishment and performance shall be the responsibility of the subject area teacher.
  - c. Upon request of the student, the local school district governing board or charter school shall provide the opportunity for the student to demonstrate competency in the subject areas listed in subsections (1)(a) through (1)(f) of this Section above in lieu of classroom time. In appropriate courses, a school district governing board or charter school shall include as a mechanism to demonstrate competency a score determined by the State Board as college and career ready on the appropriate assessment adopted by the State Board pursuant to A.R.S. §§ 15-741 or 15-741.01.
6. The local school district governing board or charter school shall be responsible for developing a course of study and graduation requirements for all students placed in special education programs in accordance with A.R.S. Title 15, Chapter 7, Article 4 and A.A.C. R7-2-401 et seq. Students placed in special education classes, grades 9-12, are eligible to receive a high school diploma upon completion of graduation requirements.

**Historical Note**

Former Section R7-2-302 repealed, new Section R7-2-302 adopted effective December 4, 1978 (Supp. 78-6). Amended effective July 8, 1983 (Supp. 83-4). Amended subsections (1) and (5) effective January 1, 1987 (Supp. 84-3). See R7-2-302.01 and R7-2-302.02 for minimum credits for graduating classes of 1987 forward (Supp. 86-5). Repealed effective August 28, 1992; Inadvertently omitted from Supp. 92-3; corrected Supp. 93-4. Amended effective November 17, 1994 (Supp. 94-4). Repealed effective February 20, 1997 (Supp. 97-1). New Section adopted by final rulemaking at 7 A.A.R. 1255, effective February 20, 2001 (Supp. 01-1). Amended by final rulemaking at 8 A.A.R. 3893, effective August 21, 2002 (Supp. 02-3). Amended by final exempt rulemaking at 22 A.A.R. 143, effective August 26, 2013; since the Board did not file the amendments until January 15, 2016, subsection (3)(a) through (b) was already repealed at the time of publishing the Section in Supp. 15-3; therefore, there is no record of the amendments in the Administrative Code; these amendments can be viewed at 21 A.A.R. 1778 (Supp. 16-2). Amended by final exempt rulemaking at 21 A.A.R. 1778, effective June 23, 2014; filed in the Office August 4, 2015 (Supp. 15-3). Amended by final exempt rulemaking at 22 A.A.R. 197, effective October 26, 2015; filed in the Office January 15, 2016 (Supp. 16-3). Amended by final rulemaking at 24 A.A.R. 691, effective February 26, 2018 (Supp. 18-1).

**R7-2-302.01. Repealed****Historical Note**

Section R7-2-302 repeated and amended effective January 1, 1987, filed September 24, 1986 (Supp. 86-5). Amended as an emergency by adding a new subsection (B) effective May 3, 1989, pursuant to A.R.S. § 41-1026, valid for only 90 days (Supp. 89-2). Filing date for January 1, 1987, amendments corrected to September 24, 1986 (Supp. 89-3). Emergency expired. Adopted as a permanent rule effective February 7, 1990 (Supp. 90-1). Repealed effective August 28, 1992; Inadvertently omitted from Supp. 92-3; corrected Supp. 93-4. New Section made by exempt rulemaking at 14 A.A.R. 195, effective December 10, 2007 (Supp. 08-1). Section repealed by final exempt rulemaking at 22 A.A.R. 143, effective August 26, 2013; filed in the Office on January 15, 2016 (Supp. 16-2).

**R7-2-302.02. Repealed****Historical Note**

Adopted effective January 1, 1991, filed September 24, 1986 (Supp. 86-5). Amended effective May 9, 1988 (Supp. 88-2). Amended effective June 12, 1989 (Supp. 89-2). Amended effective March 26, 1990 (Supp. 90-1). Repealed effective March 18, 1994 (Supp. 94-1). New Section made by exempt rulemaking at 14 A.A.R. 195, effective December 10, 2007 (Supp. 08-1). Section repealed by final exempt rulemaking at 22 A.A.R. 143, effective August 26, 2013; filed in the Office on January 15, 2016 (Supp. 16-2).

**R7-2-302.03. Personal Curriculum****A. Definitions.**

1. "Personal Curriculum" means a documented process that may be used to modify the high school graduation requirements for mathematics delineated in R7-2-302.02(1)(c). A student may use a personal curriculum to



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modify the Algebra II requirement delineated in R7-2-302.02(1)(c)(ii) and reduce the credit requirements for mathematics from four to three credits. A student who successfully completes the student's personal curriculum meets the requirements for high school graduation.

2. "Development Team" means a team that develops a personal curriculum for a student and consists of the student, the parent or legal guardian of the student, and a school counselor or principal or their designee. A school principal may add additional members to the development team as the principal deems appropriate.

**B.** A student is eligible for a personal curriculum if the student meets the following criteria:

1. The student has successfully completed the mathematics requirements delineated in R7-2-302.02(1)(c)(i); and
2. Despite the student's successful completion of the mathematics requirements delineated in R7-2-302.02(1)(c)(i), the development team determines that the student demonstrates a need to modify the requirement delineated in R7-2-302.02(1)(c)(ii) for Algebra II or its equivalent course content.

**C.** The requirements for a personal curriculum are as follows:

1. An eligible student may only modify the mathematics requirement delineated in R7-2-302.02(1)(c)(ii) for Algebra II or its equivalent course content;
2. In lieu of successfully completing Algebra II or its equivalent course content, an eligible student shall successfully complete at least one credit in mathematics that shall include significant mathematics content as determined by the local school district governing board or charter school; and
3. An eligible student shall successfully complete a course in mathematics in the student's senior year.

**D.** The procedures for developing and implementing a personal curriculum are as follows:

1. The parent or legal guardian of a student, an emancipated student, or a student with permission from the student's parent or legal guardian may request a personal curriculum in a manner prescribed by the local school district governing board or charter school.
2. Upon receipt of a request for a personal curriculum made pursuant to subsection (D)(1), the local school district or charter school shall verify that the student successfully completed the mathematics requirements delineated in R7-2-302.02(1)(c)(i) and, upon verification, shall convene a development team.
3. The development team shall:
  - a. Verify that the student demonstrates a need to modify the requirement delineated in R7-2-302.02(1)(c)(ii) for Algebra II or its equivalent course content,
  - b. Identify an appropriate alternative mathematics course or courses to modify the requirement for Algebra II or its equivalent course content,
  - c. Develop a written personal curriculum plan that includes the alternative mathematics course or courses identified in subsection (D)(3)(b) and a plan for monitoring student progress toward successfully completing the alternative mathematics course or courses. In developing the personal curriculum plan the development team shall consider how the proposed modifications maintain the integrity of the high school diploma and enable the student to achieve the student's post-secondary education and career goals.

4. The development team may modify the personal curriculum plan based upon the development team's evaluation of the student's progress.

**E.** The Superintendent of Public Instruction shall monitor a school district or charter school if there is reason to believe that the school district or charter school is allowing modifications inconsistent with the requirements delineated in this Section.

**Historical Note**

Adopted effective November 1, 1989 (Supp. 89-4).  
Amended effective December 12, 1990 (Supp. 90-4).  
Repealed effective February 20, 1997 (Supp. 97-1). New  
Section made by exempt rulemaking at 14 A.A.R. 195,  
effective December 10, 2007 (Supp. 08-1).

**R7-2-302.04. Repealed**

**Historical Note**

Adopted effective July 10, 1992 (Supp. 92-3). Amended  
effective May 3, 1993 (Supp. 93-2). Amended effective  
December 17, 1998 (Supp. 98-4). Section repealed by  
final exempt rulemaking at 22 A.A.R. 143, effective  
August 26, 2013; filed in the Office on January 15, 2016  
(Supp. 16-2).

**R7-2-302.05. Arizona Education and Career Action Plan for Students in Grades 9-12**

**A.** Effective for the graduation class of 2013, schools shall complete for every student in grades 9-12 an Arizona Education and Career Action Plan ("ECAP") prior to graduation. Schools shall develop an Education and Career Action Plan in consultation with the student, the student's parent or guardian and the appropriate school personnel as designated by the school principal or chief administrative officer. Schools shall monitor, review and update each Education and Career Action Plan at least annually. Completion of an Education and Career Action Plan shall be verified by appropriate school personnel.

**B.** An Arizona Education and Career Action Plan shall at a minimum allow students to enter, track and update the following information:

1. Academic Goals that include identifying and planning the coursework necessary to achieve the high school graduation requirements and pursue postsecondary education and career options; analyzing assessment results to determine progress and identify needs for intervention and advisement; and documenting academic achievement;
2. Career Goals that include identifying career plans, options, interests and skills; exploring entry level opportunities; and evaluating educational requirements;
3. Postsecondary Education Goals that include identifying progress toward meeting admission requirements, completing application forms and creating financial assistance plans; and
4. Extracurricular Activity Goals that include documenting participation in clubs, organizations, athletics, fine arts, community service, recreational activities, volunteer activities, work-related activities, leadership opportunities, and other activities.

**Historical Note**

New Section made by exempt rulemaking at 12 A.A.R. 876, effective August 22, 2005 (Supp. 06-1). Section R7-2-302.05 renumbered to R7-2-302.06; new Section R7-2-302.05 made by final exempt rulemaking at 22 A.A.R. 111, effective February 25, 2008; filed in the Office January 6, 2016 (Supp. 16-1).

**R7-2-302.06. Repealed**

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**Historical Note**

New Section made by exempt rulemaking at 12 A.A.R. 876, effective August 22, 2005 (Supp. 06-1). Amended by exempt rulemaking at 15 A.A.R. 1570, effective September 25, 2006 (Supp. 09-1). Amended by exempt rulemaking at 16 A.A.R. 2031, effective August 25, 2008 (Supp. 09-2). Amended by exempt rulemaking at 15 A.A.R. 1602, effective August 24, 2009 (Supp. 09-3). Section R7-2-302.06 renumbered to R7-2-302.07; new Section R7-2-302.06 renumbered from Section R7-2-302.05 by final exempt rulemaking at 22 A.A.R. 111, effective February 25, 2008; filed in the Office January 6, 2016 (Supp. 16-1). Section repealed by final exempt rulemaking at 22 A.A.R. 143, effective August 26, 2013; filed in the Office on January 15, 2016 (Supp. 16-2).

**R7-2-302.07. Repealed****Historical Note**

New Section made by exempt rulemaking at 15 A.A.R. 1602, effective August 24, 2009 (Supp. 09-3). Section R7-2-302.07 renumbered to R7-2-302.08; new Section R7-2-302.07 renumbered from Section R7-2-302.06 by final exempt rulemaking at 22 A.A.R. 111, effective February 25, 2008; filed in the Office January 6, 2016 (Supp. 16-1). Section repealed by final exempt rulemaking at 22 A.A.R. 143, effective August 26, 2013; filed in the Office on January 15, 2016 (Supp. 16-2).

**R7-2-302.08 Repealed****Historical Note**

New Section made by exempt rulemaking at 15 A.A.R. 1602, effective August 24, 2009 (Supp. 09-3). Section R7-2-302.08 renumbered to R7-2-302.09; new Section R7-2-302.08 renumbered from Section R7-2-302.07 by final exempt rulemaking at 22 A.A.R. 111, effective February 25, 2008; filed in the Office January 6, 2016 (Supp. 16-1). Section repealed by final exempt rulemaking at 22 A.A.R. 143, effective August 26, 2013; filed in the Office on January 15, 2016 (Supp. 16-2).

**R7-2-302.09 Repealed****Historical Note**

New Section made by exempt rulemaking at 15 A.A.R. 1602, effective August 24, 2009 (Supp. 09-3). R7-2-302.09 renumbered to R7-2-302.10; new Section R7-2-302.09 renumbered from Section R7-2-302.08 by final exempt rulemaking at 22 A.A.R. 111, effective February 25, 2008; filed in the Office January 6, 2016 (Supp. 16-1). Section repealed by final exempt rulemaking at 22 A.A.R. 143, effective August 26, 2013; filed in the Office on January 15, 2016 (Supp. 16-2).

**R7-2-302.10. Repealed****Historical Note**

New Section R7-2-302.10 renumbered from Section R7-2-302.09 by final exempt rulemaking at 22 A.A.R. 111, effective February 25, 2008; filed in the Office January 6, 2016 (Supp. 16-1). Section amended by final exempt rulemaking at 22 A.A.R. 143, effective August 26, 2013; filed in the Office on January 15, 2016 (Supp. 16-2). Repealed by final exempt rulemaking at 22 A.A.R. 197, effective October 26, 2015; filed in the Office January 15, 2016 (Supp. 16-3).

**R7-2-302.11. Minimum Course of Study and Competency Requirements During Public Health Emergency in the 2019-****2020 School Year**

- A. Notwithstanding any other rule, local education agencies shall not refuse to withhold academic credit or a diploma from a student solely because the student missed instructional time due to a school closure issued by the governor.
- B. Local education agencies may issue academic credit and a diploma to a student if the student meets competency requirements pursuant to Article 3. When determining if a student meets competency requirements in a school year during which the governor issues a school closure, local education agencies may consider the educational opportunities provided to the student during the school closure. Educational opportunities, as determined by the local education agency, may include, but are not limited to the following:
  1. Independent study provided online or through printed materials; and
  2. Online instruction.
- C. If a local education agency is unable to consider or unable to provide the educational opportunities pursuant to subsection (B), the local education agency may award academic credit or a diploma if the student was on track to earn the academic credit or diploma prior to the school closure. Evidence that a student was on track to earn academic credit or a diploma, as determined by the local education agency, may include, but is not limited to, passing grades issued by the student's teacher or passing scores on locally or nationally administered assessments. It is the intent of the Board that all schools attempt, to the extent possible, to provide educational opportunities to students during a school closure issued by the governor.
- D. Local education agencies that issue academic credit and a diploma to a student pursuant to subsections (B) and (C) shall issue transcripts and diplomas to students in the same manner as the local education agency would for students that did not miss instructional time due to a school closure caused issued by the governor.
- E. This Section applies only to the 2019-2020 school year and the graduating class of 2020.

**Historical Note**

New Section made by final exempt rulemaking at 26 A.A.R. 966, effective March 31, 2020 (Supp. 19-2).

**R7-2-303. Sex Education**

- A. Instruction in sex education in the public schools of Arizona shall be offered only in conformity with the following requirements.
  1. Common schools: Nature of instruction; approval; format.
    - a. Supplemental/elective nature of instruction. The common schools of Arizona may provide a specific elective lesson or lessons concerning sex education as a supplement to the health course of study.
      - i. This supplement may only be taken by the student at the written request of the student's parent or guardian.
      - ii. Alternative elective lessons from the state-adopted optional subjects shall be provided for students who do not enroll in elective sex education.
      - iii. Elective sex education lessons shall not exceed the equivalent of one class period per day for 1/8 of the school year for grades K-4.
      - iv. Elective sex education lessons shall not exceed the equivalent of one class period per day for 1/4 of the school year for grades 5-8.

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- b. Local governing board approval. All elective sex education lessons to be offered shall first be approved by the local governing board.
    - i. Each local governing board contemplating the offering of elective sex education shall establish an advisory committee with membership representative of district size and the racial and ethnic composition of the community to assist in the development of lessons and advise the local governing board on an ongoing basis.
    - ii. The local governing board shall review the total instructional materials for lessons presented for approval.
    - iii. The local governing board shall publicize and hold at least two public hearings for the purpose of receiving public input at least one week prior to the local governing board meeting at which the elective sex education lessons will be considered for approval.
    - iv. The local governing board shall maintain for viewing by the public the total instructional materials to be used in approved elective sex education lessons within the district.
  - c. Format of instruction.
    - i. Lessons shall be taught to boys and girls separately.
    - ii. Lessons shall be ungraded, require no homework, and any evaluation administered for the purpose of self-analysis shall not be retained or recorded by the school or the teacher in any form.
    - iii. Lessons shall not include tests, psychological inventories, surveys, or examinations containing any questions about the student's or his parents' personal beliefs or practices in sex, family life, morality, values or religion.
2. High schools: Course offering; approval; format.
- a. A course in sex education may be provided in the high schools of Arizona.
  - b. The local governing board shall review the total instructional materials and approve all lessons in the course of study to be offered in sex education.
  - c. Lessons shall not include tests, psychological inventories, surveys, or examinations containing any questions about the student's or his parents' personal beliefs or practices in sex, family life, morality, values or religion.
  - d. Local governing boards shall maintain for viewing by the public the total instructional materials to be used in all sex education courses to be offered in high schools within the district.
3. Content of instruction: Common schools and high schools.
- a. All sex education materials and instruction shall be age appropriate, recognize the needs of exceptional students, meet the needs of the district, recognize local community standards and sensitivities, shall not include the teaching of abnormal, deviate, or unusual sexual acts and practices, and shall include the following:
    - i. Emphasis upon the power of individuals to control their own personal behavior. Pupils shall be encouraged to base their actions on reasoning, self-discipline, sense of responsibility, self-control and ethical considerations such as respect for self and others; and
    - ii. Instruction on how to say "no" to unwanted sexual advances and to resist negative peer pressure. Pupils shall be taught that it is wrong to take advantage of, or to exploit, another person.
  - b. All sex education materials and instruction which discuss sexual intercourse shall:
    - i. Stress that pupils should abstain from sexual intercourse until they are mature adults;
    - ii. Emphasize that abstinence from sexual intercourse is the only method for avoiding pregnancy that is 100% effective;
    - iii. Stress that sexually transmitted diseases have severe consequences and constitute a serious and widespread public health problem;
    - iv. Include a discussion of the possible emotional and psychological consequences of preadolescent and adolescent sexual intercourse and the consequences of preadolescent and adolescent pregnancy;
    - v. Advise pupils of Arizona law pertaining to the financial responsibilities of parenting, and legal liabilities related to sexual intercourse with a minor.
- B.** Certification of compliance. All districts offering a local governing board-approved sex education course or lesson shall certify, under the notarized signature of both the president of the local governing board and the chief administrator of the school district, compliance with this rule except as specified in subsection (C). Acknowledgment of receipt of the compliance certification from the State Board of Education is required as a prerequisite to the initiation of instruction. Certification of compliance shall be in a format and with such particulars as shall be specified by the Department of Education.
- C.** All districts offering State Board approved sex education lessons or courses prior to the effective date of this rule shall comply with this rule on or before June 30, 1990.
- Historical Note**
- Former Section R7-2-303 repealed, new Section R7-2-303 adopted effective December 4, 1978 (Supp. 78-6).  
 Former Section R7-2-303 repealed, new Section R7-2-303 adopted effective June 12, 1989 (Supp. 89-2).  
 Amended by final exempt rulemaking at 25 A.A.R. 1551, effective May 20, 2019 (Supp. 19-2).
- R7-2-304. Extended school year**
- The governing board of a common high school considering the adoption of an extended school year shall:
- 1. Prepare a comparative cost analysis of the extended school year program versus the cost of new facilities and sites.
  - 2. Hold at least one public hearing, publicized a week in advance, to present the alternatives, including the results of the comparative cost analysis.
  - 3. Determine faculty, community, and parental support prior to making a final determination.
- Historical Note**
- Former Section R7-2-304 repealed, new Section R7-2-304 adopted effective December 4, 1978 (Supp. 78-6).
- R7-2-305. Declaration of Independence**
- The governing board of each common school district shall adopt policies that:
- 1. Require pupils to recite the following passage from the Declaration of Independence for pupils in grades 4 through 6 at the commencement of the first class of the

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day in the schools: "We hold these truths to be self-evident, that all men are created equal, that they are endowed by their creator with certain unalienable rights, that among these are life, liberty, and the pursuit of happiness. That to secure these rights, governments are instituted among men, deriving their just powers from the consent of the governed."; and

2. Enable the pupil or the parent or legal guardian of the pupil to object to reciting the passage of the Declaration of Independence, and that specify that a pupil shall not be required to participate if the pupil or the pupil's parent or guardian objects.

**Historical Note**

Repealed effective December 4, 1978 (Supp. 78-6).

Adopted effective February 15, 1979 (Supp. 79-1).

Repealed effective February 20, 1997 (Supp. 97-1). New

Section made by final rulemaking at 7 A.A.R. 5363, effective November 7, 2001 (Supp. 01-4).

**R7-2-306. English Language Learner Programs**

- A.** Definitions. All terms defined in A.R.S. § 15-751 are applicable, with the following additions:

1. "Statewide assessment" means the test prescribed by A.R.S. § 15-741 or an assessment approved by the Board pursuant to A.R.S. § 15-741.02 to administer to students instead of the statewide assessment.
2. "Arizona Academic Standards" means the standards adopted by the State Board of Education pursuant to A.R.S. §§ 15-203, 15-701, and 15-701.01.
3. "Board" means the State Board of Education.
4. "Compensatory instruction" means instruction given in addition to regular classroom instruction, such as individual or small group instruction, extended day classes, summer school or intersession school.
5. "Department" means the Department of Education.
6. "EL" means English learner.
7. "FEP" means fluent English language proficient, a student who has met the requirements for exit from an English language learner program.
8. "Federal EL grant monies" means federal grants or funds awarded to an LEA to educate ELs or to improve the LEA's capacity to educate ELs, including but not limited to grants awarded under Title III of the Every Student Succeeds Act of 2015.
9. "IEP" means individualized education program, a written statement specifying special education services to be provided to a child with a disability.
10. "LEA" means local education agency, the school district or charter school that provides educational services.
11. "PHLOTE" means primary or home language other than English.
12. "Reassessment for reclassification" means the process of determining whether an English language learner may be reclassified as fluent English proficient (FEP).
13. "Superintendent" means the State Superintendent of Public Instruction.
14. "WICP" means written individualized compensatory plan that documents the scope and type of services provided to an EL to overcome the identified language and academic deficiencies.

- B.** Identification of students to be assessed.

1. The primary or home language of all students shall be identified by the students' parent or legal guardian on the home language survey. These documents shall inform parents that the responses to these questions will deter-

mine whether their student will be assessed for English language proficiency.

2. A student shall be considered as a PHLOTE student if the home language survey indicates that one or more of the following are true:
  - a. The primary language used in the home is a language other than English, regardless of the language spoken by the student.
  - b. The language most often spoken by the student is a language other than English.
  - c. The student's first acquired language is a language other than English.
3. The English language proficiency of all PHLOTE students shall be assessed as provided in subsection (C).

- C.** English language proficiency assessment.

1. PHLOTE students in kindergarten shall be administered an English language proficiency test. Students in grades one through twelve shall be administered an English language proficiency test. Students who score below the designated score for fluent English language proficiency, adopted by the Department and based on the test publishers' designated scores, shall be classified as ELs.
2. English language proficiency assessments shall be conducted by individuals who are proficient in English and trained in language proficiency testing to administer and, when applicable, score the tests.
3. The LEA shall assess the English language proficiency of all new PHLOTE students as prescribed above within 60 days of the beginning of the school year or within 30 school days of a student's enrollment in school, whichever is later, unless the LEA receives funds under Title III of the Every Student Succeeds Act of 2015 or another federal grant that requires assessment and parental notification within 30 calendar days from the start of the school year or within two calendar weeks of a student enrolling at a school.

- D.** Screening and assessment of students in gifted education. ELs who meet the qualifications for placement in a gifted educational program shall receive programmatic services designed to develop their specific areas of potential and academic ability and may be concurrently enrolled in gifted programs and English language learner programs.

- E.** English language learner programs.

1. All ELs shall be provided daily instruction in English language development appropriate to their level of English language proficiency and consistent with A.R.S. §§ 15-751, 15-752, and, as applicable, 15-753. The English language instruction shall include listening and speaking skills, reading and writing skills, and cognitive and academic development in English.
2. ELs shall be provided daily instruction in subject areas required under the minimum course of study adopted by the Board pursuant to R7-2-301 and R7-2-302 that is understandable and appropriate to the level of academic achievement of the EL and is in conformity with accepted strategies for teaching ELs. This subsection does not require an LEA to provide daily instruction in every subject area required pursuant to R7-2-301 and R7-2-302 if those subject areas are not provided daily to English proficient students.
3. The curriculum of all English language learner programs shall incorporate the Academic Standards adopted by the Board and shall be comparable in amount, scope and quality to that provided to English language proficient students.

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4. ELs who are not progressing toward achieving proficiency of the Arizona Academic Standards adopted by the Board, as evidenced by the failure to improve scores on the statewide assessment, shall be provided compensatory instruction to assist them in achieving those Arizona Academic Standards. A WICP describing the compensatory instruction provided shall be kept in the student's academic file.
  5. On request of a parent or legal guardian of an EL the principal of the EL's school shall require a meeting with the principal or principal's designee, the parent or legal guardian and the classroom teacher to review the student's progress in achieving proficiency in the English language or in making progress toward the Arizona Academic Standards adopted by the Board, to identify any problems, to determine appropriate solutions and to identify the person or persons responsible for implementing the changes and determining their effectiveness.
- F. Reassessment for reclassification.**
1. The purpose of reassessment is to determine if an EL has developed the English language skills necessary to succeed in the English language curricula.
  2. An EL in grades one through twelve may be reassessed for reclassification during test windows established by the Department if the mid-year test requirements are met, but shall be reassessed for reclassification at least once per year. ELs that score at or above the designated score for fluent English language proficiency, adopted by the Department and based on the test publishers' designated scores, shall be reclassified as FEP.
  3. LEAs shall notify the parents or legal guardians in writing that their child has been reclassified as FEP when the student meets the criteria for such reclassification.
- G. Evaluation of FEP students after exit from EL programs.**
1. The LEA shall monitor exited students based on the criteria provided in this Section during each of the two years after being reclassified as FEP to determine whether these students are performing satisfactorily in achieving the Arizona Academic Standards adopted by the Board. Such students will be monitored in reading, writing and mathematics skills and mastery of academic content areas, including science and social studies. The criteria shall be grade-appropriate and uniform throughout the LEA, and upon request, is subject to Board review. Students who are not making satisfactory progress shall, with parent consent, be provided compensatory instruction or shall be re-enrolled in an EL program. A WICP describing the compensatory instruction provided shall be maintained in the students' EL files.
  2. The LEA shall use statewide assessment scores to determine progress toward achieving the Arizona Academic Standards in monitoring FEP students after exit from an EL program unless no score is available. Performing satisfactorily will be measured by whether a student meets or exceeds the state standards in reading, writing, and mathematics as measured by the statewide assessment.
  3. If a statewide assessment score is not available because the test is not administered in the students' grade or to assess progress in academic subjects not assessed by the statewide assessment, the LEA shall use one or more of the following criteria in its evaluation to determine progress toward achieving the Arizona Academic Standards in monitoring FEP students after exit from an EL program:
    - a. LEA-developed criterion-referenced tests of academic achievement that demonstrate alignment to the Arizona Academic Standards; or
    - b. Standardized tests measuring academic achievement that demonstrate alignment to the Arizona Academic Standards; or
    - c. Nationally norm-referenced test scores; or
    - d. Teacher recommendations based on classroom assessments that demonstrate alignment to the Arizona Academic Standards.
- H. Monitoring of EL programs.**
1. Each year the Department shall monitor at least 32 LEAs, as follows:
    - a. At least 12 of the 50 LEAs with the highest EL enrollment;
    - b. At least 10 LEAs with ELs that are not included in the 50 described above;
    - c. At least 10 LEAs that have reported that they have 25 or fewer EL students in their schools; and
    - d. Other LEAs upon receipt of a documented written complaint from any Arizona resident, the U.S. Department of Education, or the U.S. Office for Civil Rights, alleging that the LEA is not complying with state or federal law regarding ELs.
  2. All of the 50 LEAs in subsection (H)(1)(a) shall be monitored by the Department at least once every four years.
  3. The monitoring shall be on-site monitoring and shall include classroom observations, curriculum reviews, faculty interviews, student records reviews, and review of EL programs. The Department may use personnel from other schools to assist in the monitoring.
  4. The Department shall issue a report on the results of its monitoring within 45 days after completing the monitoring. If the Department determines that an LEA is not complying with state or federal laws applicable to EL students, the LEA shall prepare and submit to the Department, within 60 days of the Department's determination, a corrective action plan that sets forth steps that the LEA will take to correct the deficiencies noted in the report.
  5. The Department shall review and return such corrective action plan to the LEA within 30 days, noting any required changes. No later than 30 days after receiving its corrective action plan back from the Department, the LEA shall begin implementing the measures set forth in the plan, including any revisions required by the Department.
  6. The Department shall conduct a follow-up evaluation of the LEA within one year after returning the corrective action plan to the LEA.
  7. If the Department finds continued non-compliance during the follow-up evaluation, the LEA shall be referred to the Board for a determination of non-compliance. If the Board determines the LEA to be out of compliance with state or federal laws applicable to EL students, it may take one or more of the following actions:
    - a. Temporarily withhold cash payments of federal EL grant monies;
    - b. Disallow (that is deny both use of funds and matching credit for) all or part of the cost of the activity or action not in compliance;
    - c. Wholly or partly suspend or terminate the current award of federal EL grant monies;
    - d. Withhold further awards of federal EL grant monies for the program.
  8. The Department shall monitor all LEAs that the Board has determined to be non-compliant and which have had federal EL grant monies withheld or terminated to ensure that such LEAs do not reduce the amount of funds spent on their EL programs as the result of its loss of funds.

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**Historical Note**

Repealed effective December 4, 1978 (Supp. 78-6). New Section R7-2-306 adopted effective July 10, 1979 (Supp. 79-4). Amended effective August 20, 1981 (Supp. 81-4). Former Section R7-2-306 repealed, new Section R7-2-306 adopted effective November 14, 1984 (Supp. 84-6). Amended by final rulemaking at 10 A.A.R. 353, effective March 8, 2004 (Supp. 04-1). Amended by final exempt rulemaking at 26 A.A.R. 66, effective December 13, 2019 (Supp. 19-4).

**R7-2-307. High School Equivalency Diplomas**

- A.** For the purposes of this rule, the following definitions shall apply:
1. "DANTES" means the Defense Activity for Non-Traditional Education Support.
  2. "Department" means the Adult Education Services Division of the Arizona Department of Education.
  3. "Equivalency Test" means a High School Equivalency Test approved by the State Board of Education.
  4. "High School Equivalency Testing Center" means a testing center established by the Department for the purpose of administering High School Equivalency tests and providing High School Equivalency testing services pursuant to the requirements established by a State Board approved testing provider and state jurisdictional rules.
  5. "USAFI" means the United States Armed Forces Institute.
- B.** Eligibility requirements. Any individual who is 16 years of age or older and who has officially been withdrawn from school may take a High School Equivalency Test.
1. Individuals shall be required to provide the High School Equivalency Testing Center with positive identification and proof of age, and
  2. Individuals who are at least 16 years of age and under 18 years of age shall also be required to provide:
    - a. A signed and notarized statement of consent from a parent or legal guardian, and
    - b. A letter from the last school attended verifying that the individual has officially withdrawn from the school.
- C.** Issuance of a diploma. The Department shall issue a high school equivalency diploma to any individual who has not received a high school diploma or high school equivalency certificate or diploma if the individual:
1. Meets the eligibility requirements specified in subsection (B) and has received passing scores on a High School Equivalency Test; or
  2. Is a member of the U.S. Armed Forces and has received passing scores on a High School Equivalency Test through USAFI or DANTES provided that the individual's last high school enrollment was in an Arizona high school. Individuals who have taken a High School Equivalency Test through USAFI or DANTES shall send their military permanent record and application card to DANTES with a request that the official High School Equivalency Test scores and application card be forwarded to the Department; or
  3. Has received passing scores on a High School Equivalency Test taken at an approved testing provider's site, provided that the Department receives an official transcript directly from the approved testing provider.
- D.** The Department shall keep a record of test scores for each individual who has taken a High School Equivalency Test.
- E.** The Arizona Department of Education may collect fees for the issuance of High School Equivalency Diplomas and Tran-

scripts. Fees established pursuant to this Section shall not exceed \$20.

1. The State Board of Education will deposit, pursuant to A.R.S. §§ 35-146 and 35-147, fees collected under this Section in the High School Equivalency Testing Revenue Account within the Arizona Department of Education budget, to be used to offset costs of providing these services.
2. If the state fee for General High School Equivalency Diplomas and/or Transcripts presents a financial hardship for the examinee, the examinee may request a fee waiver.
3. A fee waiver shall be granted if all of the following apply:
  - a. Applicant presents documented proof of Arizona residency.
  - b. Applicant submits a completed Fee Waiver Request Form, available from the State High School Equivalency Testing Office or from any official High School Equivalency Testing Center.
  - c. Applicant demonstrates sufficient need for a fee waiver. This may include, but is not limited to the following:
    - i. Proof of eligibility for public assistance and/or federally subsidized housing,
    - ii. Residence in a foster home,
    - iii. Enrollment in a program for the economically disadvantaged such as Upward Bound, or
    - iv. Participation in a free or reduced lunch program.

**Historical Note**

Adopted effective August 20, 1981 (Supp. 81-4). Amended subsections (A), (C), and (G) effective October 2, 1984 (Supp. 84-5). Amended effective December 22, 1997 (Supp. 97-4). Amended effective December 31, 1998 (Supp. 98-4). Amended by exempt rulemaking at 18 A.A.R. 1023, effective October 24, 2011 (Supp. 12-2). Amended by final exempt rulemaking at 21 A.A.R. 1781, effective September 23, 2013 (Supp. 15-3).

**R7-2-308. Adult Education**

- A.** For the purposes of this rule the following definitions apply:
1. "Adult Basic Education" (ABE) means instruction in reading, writing and math equivalent to grades one through eight, speaking and citizenship skills.
  2. "Adult Secondary Education" (ASE) means instruction in reading, writing, math, science and social studies equivalent to the completion of high school.
  3. "Eligible applicants" may include local educational agencies, community based organizations, volunteer literacy organizations, institutions of higher education, public or private nonprofit organizations, institutions of higher education, public or private nonprofit agencies, libraries, public housing authorities, and consortiums of any of the aforementioned entities.
  4. "English Language Acquisition for Adults" (ELAA) means a program of instruction designed to help individuals of limited English proficiency achieve competency in the English language, including reading, writing, listening and speaking.
  5. "Literacy" means an individual's ability to read, write and speak in English, compute and solve problems at levels of proficiency necessary to function on the job, in the family and in society.
  6. "Project" means the approved and funded application which is administered by the eligible applicant.
- B.** Application for funding
1. Only eligible applicants may apply for funding.

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2. Contracts shall be awarded through a competitive funding process.
  3. Applications shall include budgets and be submitted according to the standard procurement and grants management policies of the Department of Education for the awarding of competitive grants.
- C. Board priorities and criteria for application approval**
1. Priority shall be given to projects funded during the previous fiscal year which:
    - a. Adhered to all applicable state and federal rules and regulations.
    - b. Operated in an efficient and effective manner demonstrating high levels of student educational gains as measured by standardized assessments and student retention as compared with the state average for these projects.
    - c. Completed and submitted all required state and federal reports.
    - d. Utilized volunteers where possible.
  2. Equal opportunity for project application approval will be given to eligible applicants who demonstrate previous comparable experience and performance in another adult literacy program.
  3. Criteria for approval shall include a determination by the project review committee that the application meets state and federal rules and regulations and the policies and procedures contained in the Arizona State Plan for Adult Education.
- D. Use of funds and student reporting**
1. Federal and state funds shall not be co-mingled.
  2. Projects shall not assess students a tuition charge for instruction or fees for books, instructional supplies, or materials used in the program.
  3. Student attendance hours reported to the Adult Education Division shall not be used in securing financing from any other source. Classes taught by volunteers are not to be reported unless they are administered and supervised by the local project.
- E. An adult education certificate issued by the Board shall be required to teach in the Adult Education Program.**
- F. Students enrolled in adult education classes must be at least 16 years of age and officially withdrawn from school.**
- G. Course of study**
1. Adult Basic Education (A.B.E.) students shall be functioning academically below the eighth grade level. The sequential course of study shall:
    - a. Develop and improve communication and computational skills of students.
    - b. Raise the general educational level of students.
    - c. Improve the student's ability to benefit from occupational training.
    - d. Increase opportunities for more productive and profitable employment.
    - e. Assist students to be better able to meet their adult responsibilities as parents, citizens and as co-workers.
  2. Adult Secondary Education (A.S.E.) students shall be functioning below the 12th grade level. The course of study shall:
    - a. Give the students a foundation in the areas of English, social studies, literature, science and math.
    - b. Enable students, through the development of critical thinking, to utilize new learning experiences in recognizing, evaluating and solving problems of daily life.
    - c. Attempt to motivate students to continue their education through more advanced study and to become more proficient in observing and adopting new skills in a changing society.
    - d. Equip students with the knowledge prerequisite for satisfactory achievement on a High School Equivalency Test approved by the State Board of Education.
  3. English Language Acquisition for Adults (ELAA) and citizenship students shall be resident aliens. The course of study shall:
    - a. Develop an increasing ability to speak, understand, read, and write English.
    - b. Encourage the student to become a participating citizen and give insight into the values of such participation.
    - c. Help the student prepare for the Naturalization Test for U.S. Citizenship by developing a background in American history and government.
    - d. Create a desire for continued learning and self-realization.
- H. Reports**
1. Each project shall maintain bookkeeping records and must be able to substantiate expenditures.
  2. A financial report shall be filed quarterly for each project with the Adult Education Division within 30 days after the close of the quarter.
  3. Projects shall be completed by June 30. A fiscal completion report which has been reconciled with the County School Superintendent's Office, or if another agency, that agency's comparable administrative office, shall be filed with the Adult Education Division within 60 days after the project ending date.
  4. Participation in the project reporting system designed to collect student and staff attendance, demographic information and student performance data is required. These reports shall be filed with the Adult Education Division monthly.
  5. An annual written report on the year's activities, including internal written monitoring reports, shall be submitted to the Adult Education Division, no later than August 15.
- I. If changes in the approved program or budget are desired, an amendment shall be submitted to the Adult Education Division for review and approval prior to expending any funds for the proposed changes.**

**Historical Note**

Adopted effective December 14, 1984 (Supp. 84-6).  
 Amended by exempt rulemaking at 15 A.A.R. 1292, effective June 26, 2006 (Supp. 09-1). Amended by final exempt rulemaking at 21 A.A.R. 1781, effective September 23, 2013 (Supp. 15-3).

**R7-2-309. Completion of grade 10**

Completion of grade 10 is accomplished when a student has earned 10 credits which shall include:

1. Two credits of English.
2. One credit of mathematics.
3. One credit of science.
4. Six credits of additional courses prescribed by the local Governing Board.

**Historical Note**

Adopted effective March 13, 1986 (Supp. 86-2).

**R7-2-310. Pupil achievement testing**

- A.** The nationally standardized norm-referenced achievement tests adopted by the State Board shall be given annually during

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a week in September or October. By June 1 of each year the Board shall designate the week during the fall for testing for the next school year and all school districts shall administer the test during the week designated.

- B.** The superintendent or head of district shall be responsible for:
1. Providing school district enrollment data to the Department of Education annually for purposes of test material distribution.
  2. Verifying the count of test materials received and distributing the test materials to each public school in the district.
  3. Securing the test materials prior to distribution to pupils or persons administering the tests at the time of testing, as well as after the time of testing. Test materials shall be kept in locked storage.
  4. Advising all district employees that the test materials are not to be reproduced in any manner.
  5. Familiarizing each person who will administer the test with the test publishers' directions for administering the tests, the timing of the tests and the testing schedule. This is to be accomplished through meetings which shall not be held prior to one week before the first day of testing. At the conclusion of each such meeting, all test materials are to be collected and returned to locked storage.
  6. Distributing actual test materials to persons administering the tests on the day of testing.
  7. Training persons administering the tests on how to properly complete the identification information on the test booklet/answer sheet and how to code the information required on the variables being collected pursuant to A.R.S. § 15-741, et seq.
  8. Properly packaging all tests/answer sheets which are to be scored by the scoring contractor. Packaging shall comply with instructions furnished by the scoring contractor or Department of Education.
  9. Forwarding all tests/answer sheets to be scored to the scoring contractor per instructions. Tests/answer sheets for the entire district should be forwarded in one shipment.
  10. Retaining all unused and reusable test materials, reporting them in the school's inventory and storing them in a safe and secure manner.
  11. Immediately reporting to the Department of Education any losses of test materials or other irregularities.
  12. The superintendent or head of district may designate a testing coordinator to act on his behalf.
- C.** Persons designated by the superintendent or head of district to administer the test shall:
1. Keep all test materials in locked storage.
  2. Not reproduce any test materials in any manner.
  3. Not disclose any actual test items to pupils prior to testing.
  4. Not provide answers of any test items to any pupils.
  5. Administer only practice tests which are provided by the test publishers. Previous editions of the test series being used in the statewide testing program may not be used as practice tests.
  6. Strictly observe all timed subtests. The test publishers' suggested time limits for untimed subtests shall be followed as closely as possible in order to maintain uniformity in test administration.
  7. Follow directions for administering the test explicitly. No test item may be repeated unless otherwise indicated in the directions.
  8. Not change a pupil's answer.

9. Return all test materials to the superintendent or head of district immediately upon completion of testing.

- D.** All violations of this rule shall be referred by the superintendent or head of district to the State Superintendent of Public Instruction, for appropriate action.
- E.** For purposes of determining if a student may be exempt from the norm-referenced achievement testing requirement pursuant to A.R.S. § 15-744(B), the local governing board shall:
1. Verify that all students to be exempted have been assessed for language proficiency as required by R7-2-306 in the areas of listening, speaking, reading and writing in English and the primary language and have been determined to be limited English proficient.
  2. Verify that all limited-English-proficient students considered for exemption are enrolled in one of the following programs as required by A.R.S. § 15-754:
    - a. K-6 Transitional Bilingual Program;
    - b. 7-12 Structured Bilingual Program;
    - c. K-12 Bilingual Bicultural Program;
    - d. English as a Second Language Program; or
    - e. Individualized Education Program (this program is only acceptable if there are fewer than 10 limited-English-proficient students in a kindergarten program or a grade in a school).
  3. Submit to the Arizona Department of Education, no later than September 30 of each year, a governing board resolution for the exemption of eligible students. This resolution shall contain the number, grade level, year of exemption status and primary language of all students to be exempted and an assurance signed by the governing board president and notarized that the requirements of subsections (E)(1) and (E)(2) have been met.
  4. Submit to the Arizona Department of Education, no later than December 1 of each year, a final report describing the total number of actual students to be exempted.
- F.** Limited English students exempted from the norm-referenced achievement testing program shall be assessed annually with an alternative to the norm-referenced achievement test. If the exempted student is in grades 3, 8, or 12, the student shall be administered the assessments prescribed in subsection (F)(2)(c). Alternatives shall be as follows:
1. In the first year a limited-English-proficient student is enrolled within the district, the district may:
    - a. Administer the language proficiency testing conducted pursuant to R7-2-306; or
    - b. Administer the assessments prescribed in subsection (F)(2)(a) or (b) as the alternative assessment in the areas of reading and writing. In the area of mathematics, districts shall administer the district measurement that has been adopted to assess the essential skills in English or in the primary language to such students.
  2. In the years following the first year of enrollment in the district, the alternative assessment shall be:
    - a. The tests that have been adopted by the district in accordance with A.R.S. § 15-741 to assess the essential skills in reading, writing and mathematics in English; or
    - b. The tests that have been adopted by the district in accordance with A.R.S. § 15-741 to assess the essential skills in the student's primary language in reading, writing and mathematics. In determining which primary language assessment to administer, the governing board shall consider the extent to which the exempted student has received recent schooling in the primary language;



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- c. Beginning in the 1991-92 school year, the Arizona Student Assessment Program Essential Skills Tests in English or Spanish shall be administered to exempted students who are enrolled in grades 3, 8, or 12.
- 3. Alternative assessment instruments specified in subsection (F)(2)(a) or (b) shall be used at the instructional levels for which they were designed.
- 4. Alternative assessment administered as specified in subsection (F)(2)(a) or (b) shall be conducted at any time prior to April 30 of the school year.
- 5. The results of alternative assessments administered pursuant to subsections (F)(2)(a) and (b) of this subsection shall be submitted to the Department of Education prior to May 30 of the school year.
- G. The school district shall maintain cumulative files regarding exemptions.
- H. Beginning in the 1991-1992 school year, the District Assessment Plan filed pursuant to A.R.S. § 15-741(C)(3) shall include plans for the alternative assessment of limited-English-proficient students.

**Historical Note**

Adopted effective March 13, 1986 (Supp. 86-2).  
Amended subsections (A) and (B) effective February 25, 1987 (Supp. 87-1). Amended effective October 22, 1991; amended effective December 20, 1991 (Supp. 91-4).

**R7-2-311. Pupil testing variable information**

Persons designated by the superintendent or head of district to administer the State Board approved nationally standardized norm-referenced achievement tests shall assure that the following information is properly completed on the answer document for each pupil participating in the testing program:

- 1. Sex
- 2. Primary language
- 3. Racial/ethnic background.
- 4. Limited English proficient pupils participating in required programs by type pursuant to A.R.S. § 15-754, where applicable.

**Historical Note**

Adopted effective June 25, 1986 (Supp. 86-3).

**R7-2-312. Honorary High School Diploma**

- A. An honorary high school diploma shall be provided to an individual who has never obtained a high school diploma and who meets each of the following requirements:
  - 1. Is at least 65 years of age;
  - 2. Currently resides in Arizona;
  - 3. Provides documented evidence from the Arizona Department of Veterans' Services that the individual enlisted in the armed forces of the United States before completing high school in a public or private school; and
  - 4. Was honorably discharged from service with the armed forces of the United States.
- B. All high schools shall provide for the presentation of an honorary high school diploma to an individual eligible pursuant to subsection (A). The individual shall not be required to reside within the school boundaries.

**Historical Note**

Adopted effective December 15, 1989 (Supp. 89-4).  
Repealed effective February 20, 1997 (Supp. 97-1). New Section made by final rulemaking at 9 A.A.R. 1125, effective May 10, 2003 (Supp. 03-1).

**R7-2-313. Academic contests fund**

The State Board of Education establishes an academic contests fund consisting of monies appropriated by the legislature or received as gifts or grants for deposit in the academic contests fund pursuant to A.R.S. § 15-1241.

- 1. The Superintendent of Public Instruction shall, at least annually, compile a list of national contests to be presented to the State Board of Education for approval. Contest requirements are:
  - a. Shall be sponsored by a recognized national organization.
  - b. Shall be academic in nature, motivate pupils to be creative and demonstrate excellence.
  - c. Shall be open to all pupils, regardless of race, creed, sex or national origin. Contests may separate pupils by age or grade level.
- 2. School districts shall submit an application for academic contest funds to the Superintendent of Public Instruction for student and chaperone expenses. Requirements are:
  - a. No other sponsoring agency is assuming the total costs.
  - b. The participation of the students shall be the result of successfully competing at the local or state level, or both, of that contest.
  - c. The governing board of the school district in which the students attend shall approve the participation and travel of the students.
  - d. The fiscal agent applying for academic contest funds shall be an authorized district representative and responsible for the disbursement of travel funds.
  - e. A school district receiving academic contest funds shall submit a completion report and return any unused portion within 90 days after completion of travel to the Department of Education.
- 3. Application review and approval; funding limitations.
  - a. The State Board of Education shall annually set expenditure limitations for expenses of students and chaperones. These limitations shall be based on the number of applicants, monies available and current state travel regulations.
  - b. The Superintendent of Public Instruction shall review applications for academic contest funds and shall approve applications based upon the criteria set forth in this rule and the availability of funds.

**Historical Note**

Adopted effective December 15, 1989 (Supp. 89-4).

**R7-2-314. Definitions**

The following definitions apply to Sections R7-2-315 and R7-2-315.01:

- 1. "Board examination system" means a complete instructional system that includes all of the following components:
  - a. A coherent group of courses that collectively constitutes a core curriculum at the high school level,
  - b. A comprehensive syllabus for each course,
  - c. Appropriate instructional and teaching materials for each course,
  - d. High quality examinations that are closely aligned with the course syllabus,
  - e. Professional scoring of examinations, and
  - f. Teacher education that is designed to train teachers to properly teach those courses.
- 2. "Grand Canyon Diploma" means a high school diploma that is offered to any student who demonstrates readiness for college level mathematics and English according to standards prescribed by an interstate compact on board

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examination systems, who has passing grades on an additional set of required approved board examinations in core academic courses as determined by the State Board of Education.

3. "Readiness for college level mathematics and English" means that a student has the mathematics and English skills and knowledge needed to succeed in college level courses that count toward a degree or certificate without taking remedial or developmental coursework.

#### Historical Note

Adopted effective August 14, 1991 (Supp. 91-4).  
 Repealed effective February 20, 1997 (Supp. 97-1). New  
 Section made by exempt rulemaking at 18 A.A.R. 1025,  
 effective January 24, 2011 (Supp. 12-2).

#### R7-2-315. Board Examination Systems; Offerings; Procedures

- A. The State Board of Education shall select board examination systems that may be used by traditional public schools and charter schools in accordance with the requirements of this Section. Board examination systems selected by the State Board of Education shall:
  1. Be approved by an interstate compact on board examination systems,
  2. Be periodically modified to reflect core standards selected by an interstate compact on board examination systems,
  3. Be aligned to State Board of Education approved academic standards,
  4. Have common passing scores that are prescribed by an interstate compact on board examination systems that are set to the level of literacy required to succeed in college-level courses offered by community colleges in this state that count toward a degree or certificate without taking remedial or developmental coursework.
- B. The State Board of Education shall contract with a private organization to act as primary administrator of approved board examination systems. The private organization shall:
  1. Identify, select and contract with a national organization that is devoted to issues concerning education and the economy and that is selected by the State Board of Education to provide technical services to develop and maintain an interstate system of approved board examination systems.
  2. Provide data and other information to a national organization that is devoted to issues concerning education and the economy and that is selected by the State Board of Education to provide technical services the national organization deems necessary to set appropriate performance standards for students in this state. The Department of Education shall provide data and other information to the private organization, as necessary.
  3. Conduct technical studies required by the State Board of Education to compare the scores on approved board examinations by the students in this state to scores on the Arizona Instrument to Measure Standards Test and other measures deemed necessary to ensure the efficacy of the approved board examinations. The private organization may contract with other entities that are selected by the State Board of Education for the purpose of conducting technical studies.
  4. In cooperation with the Superintendent of Public Instruction and the State Board of Education, solicit monies from all lawful private and public sources, including federal monies, to offset the costs of instruction provided to students pursuant to this Section.

5. Exercise general supervision over the implementation of the approved board examination systems in this state.
6. Prepare an annual report for the State Board of Education, which shall forward it to the legislature and the governor, on the progress made toward the goals established in A.R.S. Title 15, Chapter 7, Article 6. Participating schools and the Department of Education shall provide data to the private organization as needed in order to complete the annual report.
7. Identify, select and represent this state on the national governing body of an interstate compact on board examination systems, as approved by the State Board of Education.
8. Select this state's representatives in an interstate compact on board examination systems in accordance with the policies prescribed by that interstate compact.
9. Develop the Grand Canyon Diploma to be approved and adopted by the State Board of Education.

- C. The Department of Education shall develop a system, subject to State Board of Education approval, to track the academic progress of pupils who participate in board examination systems.
- D. School districts or charter schools wishing to implement an approved board examination in one or more schools shall:
  1. Send written notice to the private organization described in this Section indicating that school district's or charter school's interest in implementing an approved board examination system,
  2. Submit an implementation plan to the private organization described in this Section that includes at least the following elements:
    - a. The specific approved board examination system the school district wishes to implement;
    - b. A proposed timeline for the implementation of an approved board examination system;
    - c. A description of the funding model that will be employed to ensure the sustainability of the approved board examination system offering;
    - d. A communication plan for students and parents that provides an overview of the selected approved board examination system, potential course offerings, a description of student support systems, and contact information for students and parents to obtain more detailed information regarding board examination systems and the Grand Canyon Diploma option, as defined in R7-2-315.01.
- E. Upon receipt of an implementation plan described in this Section the private organization shall work cooperatively with the applicable school district or charter school to ensure that the plan is feasible and to modify any elements of the plan deemed necessary for successful implementation of the approved board examination system.

#### Historical Note

Adopted effective November 17, 1994 (Supp. 94-4).  
 Repealed effective February 20, 1997 (Supp. 97-1). New  
 Section made by exempt rulemaking at 18 A.A.R. 1025,  
 effective January 24, 2011 (Supp. 12-2).

#### R7-2-315.01. Grand Canyon Diploma

- A. School districts and charter schools in this state may choose to offer a Grand Canyon Diploma beginning in the 2012 – 2013 school year. A high school student who is enrolled in a school district or charter school that offers a Grand Canyon Diploma may choose to pursue a Grand Canyon Diploma.
- B. A student may be awarded a Grand Canyon Diploma at the end of grade 10 or during or at the end of grade 11 or 12 pro-

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vided that the student has passed both the mathematics and English assessments for the applicable approved board examination system, and the student has successfully completed the following subject area requirements within board examination system curriculum:

1. Two credits of English;
  2. Two credits of mathematics;
  3. Two credits of science, including lab-based science, engineering or information technologies;
  4. One credit of American History;
  5. One credit of World History;
  6. One credit of fine arts or career and technical education and vocational education; and
  7. One-half credit of economics.
- C. A student that satisfies all the criteria for issuance of a Grand Canyon Diploma is exempt from the minimum course of study requirements delineated in R7-2-302.02.
- D. Students who earn a Grand Canyon Diploma shall have multiple pathways available to them and may:
1. Enroll the following semester in a community college under the jurisdiction of a community college in this state. Students who take community college courses on high school campuses pursuant to this subsection shall be eligible to participate in extracurricular activities, including interscholastic sports, through the end of grade 12.
  2. Remain in high school and enroll in additional advanced preparation board examination programs that are designed to prepare students for admission to high quality postsecondary institutions that offer baccalaureate degree programs. These board examination programs shall be selected from a list provided by an interstate compact for board examination systems and approved by the State Board of Education. Students who elect to remain in high school pursuant to this subsection shall be eligible to participate in extracurricular activities, including interscholastic sports, through the end of grade 12.
  3. Enroll in a full-time career and technical education program offered on a community college campus, a high school campus or a joint technical education district campus, or any combination of these campuses. Students who elect to remain in high school pursuant to this subsection shall be eligible to participate in extracurricular activities, including interscholastic sports, through the end of grade 12.
  4. Return to a traditional academic program without completing the next level of board examination systems curriculum through the end of grade 12. Students who elect to remain in high school pursuant to this subsection shall be eligible to participate in extracurricular activities, including interscholastic sports, through the end of grade 12.
- E. Students who pursue but do not earn a Grand Canyon Diploma at the end of grade 10 or 11 shall receive a customized program of assistance during the next school year that addresses the areas in which the student demonstrated deficiencies in the approved board examinations. These students may retake the board examinations at the next available examination administration. Students may choose to return to a traditional academic program without completing the board examination system curriculum.
- F. A student who remains in a board examination system curriculum through grade 12 and does not pass the board examination may graduate with a standard diploma provided that the student meets the following requirements:
1. The student has passed the Arizona Instrument to Measure Standards assessments in mathematics and English

or received a sufficient score as determined by the State Board of Education on the ACT, SAT, or an approved board examination in mathematics and English.

2. The student has earned at least 22 credits and has passed a State Board of Education approved sequence of courses within the board examination system curriculum. For the purpose of this requirement the private organization and the Department of Education shall recommend for State Board of Education approval a sequence of courses for each approved board examination system. The sequence of courses for each board examination system shall ensure that students receive instruction in all State Board of Education approved academic standards encompassed in R7-2-302.02(1)(a) through (e).
- G. A student who is enrolled in a school district or charter school that does not offer a board examination system curriculum may earn a Grand Canyon Diploma by:
1. Obtaining a passing score on the assessments of an approved board examination system in each of the subject areas delineated in R7-2-315.01(B)(1) through (6), and
  2. Completing a high school course in economics.

**Historical Note**

New Section made by exempt rulemaking at 18 A.A.R. 1025, effective January 24, 2011 (Supp. 12-2).

**Appendix A. Repealed****Historical Note**

Adopted effective November 17, 1994 (Supp. 94-4).  
Repealed effective February 20, 1997 (Supp. 97-1).

**R7-2-316. Charter Schools Stimulus Fund**

- A. "Start-up costs" mean those costs associated with developing or implementing the following essential components of a charter school:
1. The hiring of teachers and other essential staff members;
  2. The hiring of a chief administrative officer and other costs associated with instituting the administrative structure of the school;
  3. Curriculum development and implementation;
  4. The leasing of physical facilities or equipment and costs associated with establishment of utility services and accounts;
  5. Operational expenses incurred prior to the date on which the charter school begins operations;
  6. The development and implementation of an accounting system which complies with the uniform system of financial records requirements;
  7. Obtaining insurance, including prepayment of premiums which will effectuate insurance coverage during the first year of operation;
  8. Costs associated with licensing and compliance with other health, safety and civil rights requirements.
- B. "Costs associated with renovating or remodeling existing buildings and structures" means those costs associated with the following essential components:
1. Modifications affecting the structural integrity of the building, including those changes needed to meet building code and zoning standards.
  2. Modifications needed to meet non-structural building code requirements, such as those related to plumbing, electrical wiring and fire safety.
  3. Modifications needed to meet state health standards, such as those related to rest rooms and food preparation and service.
  4. Adjusting the size of rooms to accommodate the number of students to be served.

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5. Construction-related finish work, such as exterior and interior replastering and painting, carpeting, flooring, baseboards and door hanging.
  6. Roofing and air conditioning/heating installation or repair required prior to operation of the school.
  7. Access requirements for persons with disabilities.
- C.** The State Board of Education shall, subject to legislative appropriation, provide an initial grant or an additional grant from the charter schools stimulus fund to applicants who have a charter or application that has been approved by a sponsor pursuant to A.R.S. § 15-183 and who meet the requirements of A.R.S. § 15-188 and this Section. The grant may be in any amount up to \$100,000 per charter school applicant or charter school.
- D.** The application for an initial grant shall include:
1. A copy of the applicant's charter;
  2. The identity of the sponsor which approved the charter;
  3. The total amount of funding requested;
  4. An itemization of the specific start-up costs and costs associated with renovating or remodeling existing building and structures for which the funds will be used. Itemization shall include the amount of funds requested for each essential component and a detailed explanation of the basis for calculating the amount requested;
  5. The number of students to be served at the school;
  6. The dimensions of the facility in which the school is to be operated;
  7. A description of the extent to which the facility must be remodeled or renovated in order to meet applicable health and safety standards, unless this information is included in the applicant's charter.
- E.** The application for an additional grant shall be in a format approved by the State Board of Education and shall include:
1. The date and amount of the initial grant award.
  2. A copy of any amendments or other modifications to the charter or application which formed the basis for the initial grant.
  3. The identity of the current sponsor of the charter school.
  4. An itemized accounting of the expenditures made with the initial grant monies.
  5. The total amount of additional funding requested.
  6. An itemization of the specific start-up costs associated with renovating or remodeling existing buildings and structures for which the additional funds will be used. Itemization shall include the amount of funds requested for each essential component and a detailed explanation of the basis for calculating the amount requested.
- F.** In its review of an application for a stimulus fund grant, the State Board of Education may receive information concerning the application from the Department of Education, an advisory committee, and any other source. The State Board may award a grant in an amount different from that requested by the applicant. No grant shall be awarded pursuant to this Section unless the State Board determines that:
1. Every amount requested in the applicant's itemization of costs is for the essential component with which the amount is associated; and
  2. Based on all of the information before the State Board concerning the application, there is a rational basis for the award of funds.
- G.** No applicant or charter school shall be eligible for more than one initial grant and one additional grant, regardless of the amount awarded.
- H.** An applicant who receives an initial grant and fails to begin operating a charter school within the 18 months following the date of the award shall reimburse the Department of Education for the amount of the initial grant plus interest calculated at a rate of 10% per year. Such reimbursement is immediately due and payable at the end of the initial 18-month period.
- I.** An applicant who receives an additional grant and fails to begin operating a charter school within the 18 months following the date of the award shall reimburse the Department of Education for the amount of the initial grant plus interest calculated at a rate of 10% per year. Such reimbursement is immediately due and payable at the end of the applicable 18-month period and is in addition to any amounts required by subsection (H).
- J.** An applicant for a grant pursuant to this rule shall be notified of the date at which the State Board of Education shall consider the application no less than 10 days in advance thereof. Written notification of the Board's decision concerning an application for a grant shall be mailed to the applicant within 10 days following such decision.

**Historical Note**

Adopted effective April 20, 1995 (Supp. 95-2).

**R7-2-317. State Seal of Biliteracy Program**

- A.** Definitions. For purposes of this rule, "foreign language" means any language other than English.
- B.** School districts and charter schools in this state may choose to participate in the State Seal of Biliteracy Program (Program) which recognizes students who have attained a high level of proficiency in one or more foreign languages, in addition to English. School districts and charter schools participating in the Program may award the State Seal of Biliteracy to any high school student who graduates from a school operated by the school district or charter school and who meets the requirements of subsection (B)(1) or (2), and subsection (B)(3).
1. **Assessment Method.** To demonstrate language proficiency through the assessment method, the student must attain the required score on a language assessment as adopted by the State Board of Education, upon recommendation by the Arizona Department of Education, for purposes of demonstrating language proficiency for the Program in the four domains of speaking, writing, listening, and reading.
  2. **Alternative evidence model.** A school district or charter school may choose to award the State Seal of Biliteracy through an alternative evidence method.
    - a. An alternative evidence method may be used in any of the following circumstances:
      - i. No standardized assessment exists for the targeted foreign language;
      - ii. Evaluating the language proficiency of a student with disabilities for whom the standardized assessment is inappropriate as determined by the student's Individualized Education Program team or a student on a 504 plan as determined by the student's 504 plan committee; or
      - iii. The standardized assessment for the targeted foreign language does not assess one or more of the four domains of speaking, writing, listening and reading.
    - b. Any alternative evidence method used shall consist of a student portfolio that contains evidence of experience in the targeted foreign language, as well as work samples, test results and other accomplishments that demonstrate proficiency, as established in the guidelines developed by the Arizona Department of Education, in the targeted foreign language in the four domains of speaking, writing, listening and

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- reading. Student portfolios shall comply with guidelines adopted by the Department.
- c. A school district or charter school that uses an alternative evidence model must notify the Arizona Department of Education.
3. To be eligible to be awarded the State Seal of Biliteracy, each student shall also demonstrate proficiency in English by meeting the following requirements:
    - a. The student must successfully complete all English Language Arts requirements for graduation, pursuant to A.A.C. R2-7-302, with an overall grade point average in those classes of 2.0 or higher on a 4.0 scale, or the equivalent; and
    - b. The student receives a passing score in English Language Arts on the state assessment.
    - c. If the student has a primary home language other than English, the student shall obtain a score of proficient based on the English language proficiency standards pursuant to A.R.S. § 15-756.
- C. By October 1 of each year, the Arizona Department of Education shall make an electronic facsimile of the State Seal of Biliteracy available to each school district or charter school participating in the Program. Each participating school district or charter school shall identify each student who has met the requirements of the Program, affix the State Seal of Biliteracy to the student's diploma upon graduation, and shall note the receipt of the State Seal of Biliteracy on the transcript of the student.
- D. The Arizona Department of Education shall post on its website by July 1 of each year, the list of acceptable language assessments and the score to be achieved on each, as approved by the Board, which qualifies the student as proficient in a foreign language. The Arizona Department of Education shall ensure that all approved assessments are aligned to the Arizona world and native languages standards adopted by the Board.
- E. Each school district and charter school that chooses to participate in the Program shall meet the following requirements:
  1. Notify the Arizona Department of Education of its intent to participate in the Program at least 30 days prior to issuing the seal by filling out the form provided on the Arizona Department of Education's website.
  2. Designate at least one individual to serve as coordinator of the Program and provide that individual's name and contact information to the Arizona Department of Education.
  3. Using a format prescribed by the Arizona Department of Education, submit a report no later than 90 days after the end of the school year with the total number of students awarded the State Seal of Biliteracy, the number of seals for each targeted foreign language and the method used to determine proficiency in the foreign language.
  4. Make available to parents and students information regarding the Program and the name and contact information for the coordinator of the Program.
- F. The Arizona Department of Education shall establish guidelines and procedures to assist school districts and charter schools in the administration of the Program.
- Historical Note**
- New Section made by final exempt rulemaking at 22 A.A.R. 3367, effective October 24, 2016 (Supp. 16-4).
- R7-2-318. K-3 Reading Program**
- A. In this Section, unless the context otherwise requires:
  1. "Intensive reading instruction" is a proactive instructional approach used to reduce the likelihood of future reading problems by addressing severe and persistent difficulties with learning to read through the use of evidence-based instruction in smaller-group settings, increased instructional time, and increased intensity that is aligned to individual student needs or deficiencies and is driven by ongoing student performance data from a valid assessment tool.
  2. "Interventions" are instructional supports provided to students with the purpose of preventing and remediating reading difficulties. These supports are organized in tiers which provide increasing instructional intensity and support with each level.
  3. "Motivational assessments" are measures of motivation or attitudes toward reading and produce information to monitor student progress.
  4. "Prevention" is instructional support provided to students before students have experienced failure in learning to read.
  5. "Remediation" is instructional support provided to students after a student has experienced significant and persistent difficulties in learning to read.
  6. "Universal screeners" are very brief measures based on established standardized benchmarks or performance targets developed through extensive research designed to improve accuracy of identifying students who will likely need additional support for meeting grade level reading standards.
- B. Prior to the release of monies generated by the K-3 reading support level weight, a school district or charter school assigned a letter grade of C, D or F, or that has more than ten percent of its pupils in grade three who do not demonstrate sufficient reading skills as established by the Board, shall submit to the Department on or before October 1, a comprehensive local education agency K-3 reading program plan, using the format prescribed by the Department. Each school district or charter school assigned a letter grade of A or B shall submit its plan to the Department on or before October 1 in odd numbered years only beginning in 2016-2017.
- C. Pursuant to A.R.S. §§ 15-211, 15-701 and 15-704, the K-3 reading program plan submission shall contain the following components for pupils in half-day and full-day kindergarten programs and grades one through three:
  1. School literacy contacts, literacy team members and master reading schedules;
  2. A list of the staff who reviewed and approved the individual school K-3 reading program plans;
  3. Program expenditures for the prior school year and a budget for the current school year regarding the monies used only on instructional purposes intended to improve reading proficiency from the K-3 support level weight and the K-3 reading support level weight;
  4. An analysis of the effectiveness of the local education agency's K-3 reading program for the previous school year and plans for improvement for the current school year;
  5. Core reading programs which teach the essential components of reading instruction including explicit and systematic phonics pursuant to A.R.S. § 15-704(H)(1), with a description of the frequency and duration of the instruction;
  6. Date of last K-3 reading curriculum review for standards alignment;
  7. Tier II and Tier III intensive reading intervention programs, including frequency and duration;
  8. A sample template of a parental notification letter;
  9. Evidence-based intervention and remedial services provided to students; and

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10. Evidence of ongoing teacher training based on evidence-based reading research.
- D. The local education agency shall submit universal screening data on October 1, winter benchmark data on February 1 and end of year assessment data on June 1 for pupils in kindergarten programs and grades one through three.
- E. Each school district or charter school governing body shall submit data for the prior school year on the total number of pupils that were subject to retention, the total number that were promoted, the total number actually retained and the interventions administered pursuant to A.R.S. § 15-701 to the Department no later than October 1 and prior to the release of monies generated by the K-3 reading support level weight.

**Historical Note**

New Section made by final exempt rulemaking at 23 A.A.R. 1637, effective May 22, 2017 (Supp. 17-2).

**R7-2-319. State Seal of Personal Finance Proficiency**

- A. School districts and charter schools may participate in the State Seal of Personal Finance Proficiency Program (Program), which recognizes students who have attained a high level of proficiency in personal finance. School districts and charter schools participating in the Program may award the State Seal of Personal Finance Proficiency to any high school student who graduates from a school operated by the school district or charter school and who meets the requirements of the Program outlined in subsections (A)(1) and (A)(2) of this subsection. To be eligible to be awarded the State Seal of Personal Finance Proficiency, each student shall do each of the following:
  1. Complete all Social Studies requirements for graduation with GPA of 3.0 or higher on a 4.0 scale, or the equivalent; and
  2. Complete all of the following activities:
    - a. Passage of an assessment. The student shall attain the required score on one personal finance assessment as adopted by the State Board of Education, defined by the Arizona Department of Education, for purposes of demonstrating personal finance proficiency;
    - b. Completion of an approved Personal Finance Program. The student shall complete one of the personal finance programs as adopted by the State Board of Education, defined by the Arizona Department of Education, for purposes of demonstrating personal finance proficiency;
    - c. Participation in a curricular or extracurricular program. The student shall complete one personal finance curricular or extracurricular program as adopted by the State Board of Education, defined by the Arizona Department of Education, for purposes of demonstrating personal finance proficiency; and
    - d. Demonstrated college and/or career readiness plan. The student shall complete one college and career readiness plan as adopted by the State Board of Education, defined by the Arizona Department of Education, for purposes of demonstrating personal finance proficiency.
- B. By October 1 of each year, the Arizona Department of Education shall make an electronic facsimile of the State Seal of Personal Finance Proficiency available to each school district or charter school participating in the Program. Each participating school district or charter school shall identify each student who has met the requirements of the Program, affix the State Seal of Personal Finance Proficiency to the student's diploma

upon graduation, and shall note the receipt of the State Seal of Personal Finance Proficiency on the transcript of the student.

- C. The Arizona Department of Education shall post on its website by July 1 of each year:
  1. The list of acceptable personal finance assessments and the score to be achieved on each, as approved by the Board, which meet the requirements of R7-2-319(A)(2)(a);
  2. The list of acceptable personal finance programs, as approved by the Board, which meet the requirements of R7-2-319(A)(2)(b);
  3. The list of acceptable personal finance curricular or extra-curricular programs, as approved by the Board, which meet the requirements of R7-2-319(A)(2)(c); and
  4. The list of acceptable college and/or career readiness plans, as approved by the Board, which meet the requirements of R7-2-319(A)(2)(d).
- D. Each school district and charter school that participates in the Program shall meet the following requirements:
  1. Notify the Arizona Department of Education of its intent to participate in the Program at least 30 days prior to issuing the seal by filling out the form provided on the Arizona Department of Education's website;
  2. Designate at least one individual to serve as coordinator of the Program and provide that individual's name and contact information to the Arizona Department of Education;
  3. Using a format prescribed by the Arizona Department of Education, submit a report no later than 90 days after the end of the school year with the total number of students awarded the State Seal of Personal Finance Proficiency; and
  4. Make available to parents and students information regarding the Program and the name and contact information for the coordinator of the Program.
- E. The Arizona Department of Education shall establish guidelines and procedures to assist school districts and charter schools in the administration of the Program.

**Historical Note**

New Section made by final exempt rulemaking at 25 A.A.R. 962, effective March 25, 2019 (Supp. 19-1).

**R7-2-320. State Seal of Civics Literacy**

- A. School districts and charter schools may participate in the State Seal of Civics Literacy Program (Program), which recognizes students who have attained a high level of proficiency in Civics. School districts and charter schools participating in the Program may award the State Seal of Civics Literacy to any high school student who graduates from a school operated by the school district or charter school and who meets the requirements of the Program outlined in subsections (A)(1), (2) and (3) of this subsection. To be eligible, each student shall do all of the following:
  1. Complete all Social Studies requirements for graduation with GPA of 3.0 or higher on a 4.0 scale, or the equivalent;
  2. Pass the Civics test prescribed in R7-2-302; and
  3. Complete all of the following activities:
    - a. Civic Learning Programs. The student shall complete the required number of civic learning programs for purposes of demonstrating civic literacy.
    - i. Students graduating in school year 2019-2020 shall complete at least two approved civic learning programs.

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- ii. Students graduating in school year 2020-2021 and thereafter shall complete at least three approved civic learning programs.
  - b. Civic Engagement Activities. The student shall complete the required number of civic engagement activities as for purposes of demonstrating civic literacy.
    - i. Students graduating in school year 2019-2020 shall complete at least one approved civic engagement activity.
    - ii. Students graduating in school year 2020-2021 and thereafter shall complete at least two approved civic engagement activities.
  - c. Service Learning and/or Community Service for a public agency or charitable organization that serves the public good. The student shall complete the required number of hours engaged in Service Learning and/or Community Service for a public agency or charitable organization that serves the public good for purposes of demonstrating civic literacy proficiency.
    - i. Students graduating in school year 2019-2020 shall complete at least 30 hours engaged in Service Learning and/or Community Service for a public agency or charitable organization that serves the public good.
    - ii. Students graduating in school year 2020-2021 shall complete at least 45 hours engaged in Service Learning and/or Community Service for a public agency or charitable organization that serves the public good.
    - iii. Students graduating in school year 2021-2022 shall complete at least 60 hours engaged in Service Learning and/or Community Service for a public agency or charitable organization that serves the public good.
    - iv. Students graduating in school year 2022-2023 and thereafter shall complete at least 75 hours engaged in Service Learning and/or Community Service for a public agency or charitable organization that serves the public good.
  - d. Written Reflection. The student shall complete a writing assignment as adopted by the State Board of Education for purposes of demonstrating civic literacy proficiency.
- B. By October 1 of each year, the Arizona Department of Education shall make an electronic facsimile of the State Seal of Civics Literacy available to each school district or charter school participating in the Program. Each participating school district or charter school shall identify each student who has met the requirements of the Program, affix the State Seal of Civics Literacy to the student's diploma upon graduation, and shall note the receipt of the State Seal of Civics Literacy on the transcript of the student.
- C. The Arizona Department of Education shall post on its website by July 1 of each year:
  - 1. The list of acceptable civic learning programs, as approved by the Board, which meet the requirements of R7-2-320(A)(3)(a);
  - 2. The list of acceptable civic engagement activities, as approved by the Board, which meet the requirements of R7-2-320(A)(3)(b);
  - 3. The defined number of hours of service learning and/or community service for a public agency or charitable organization that serves the public good, as approved by the Board, which meet the requirements of R7-2-320(A)(3)(c); and
  - 4. The list of written assignments, as approved by the Board, which meet the requirements of R7-2-320(A)(3)(d).
- D. Each school district and charter school that chooses to participate in the Program shall meet the following requirements:
  - 1. Notify the Arizona Department of Education of its intent to participate in the Program at least 30 days prior to issuing the seal by filling out the form provided on the Arizona Department of Education's website;
  - 2. Designate at least one individual to serve as coordinator of the Program and provide that individual's name and contact information to the Arizona Department of Education;
  - 3. Using a format prescribed by the Arizona Department of Education, submit a report no later than 90 days after the end of the school year with the total number of students awarded the State Seal of Civics Literacy; and
  - 4. Make available to parents and students information regarding the Program and the name and contact information for the coordinator of the Program.
- E. The Arizona Department of Education shall establish guidelines and procedures to assist school districts and charter schools in the administration of the Program.

**Historical Note**

New Section made by final exempt rulemaking at 25  
A.A.R. 962, effective March 25, 2019 (Supp. 19-1).

**R7-2-321. State Seal of Arts Proficiency**

- A. School districts and charter schools in this state may choose to participate in the State Seal of Arts Proficiency Program, which recognizes students who have attained a high level of proficiency in the Arts. School districts and charter schools participating in the Program may award the State Seal of Arts Proficiency to any high school student who graduates from a school operated by the school district or charter school and who meets the requirements of the Program outlined in subsections (A)(1) and (2). To be eligible, a student shall do both of the following:
  - 1. Complete all qualifying Arts and Career and Technical Education (CTE) courses with GPA of 3.0 or better on a 4.0 scale, or the equivalent.
  - 2. Complete the required activities from each of the following three categories:
    - a. Minimum Credit Requirements. The student shall complete one of the following credit pathways of Arts and CTE classes as follows:
      - i. A minimum of 4 credits in one artistic discipline; or
      - ii. 3 credits in one artistic discipline, and 1 qualifying creative industries CTE credit or separate artistic discipline; or
      - iii. 2 credits in one artistic discipline, and 2 credits in a qualifying creative industries CTE credits or separate artistic discipline.
    - b. Arts related extracurricular activities. The student shall complete the required number of hours engaged in arts related extracurricular activity for purposes of demonstrating arts proficiency as follows:
      - i. Students graduating in school year 2019-2020 must complete at least 30 hours engaged in arts related extracurricular activities as identified by the school district or charter school.

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- ii. Students graduating in school year 2020-2021 must complete at least 45 hours engaged in arts related extracurricular activities as identified by the school district or charter school.
  - iii. Students graduating in school year 2021-2022 must complete at least 60 hours engaged in arts related extracurricular activities as identified by the school district or charter school.
  - iv. Students graduating in school year 2022-2023 and beyond must complete at least 80 hours engaged in arts related extracurricular activities as identified by the school district or charter school.
- c. Student Capstone Project. The student shall complete a Capstone Project, as defined by the Arizona Department of Education, for purposes of demonstrating arts proficiency.
- B. By October 1 of each year, the Arizona Department of Education shall make the State Seal of Arts Proficiency available to each school district or charter school participating in the Program. Each participating school district or charter school shall identify each student who has met the requirements of the Program, affix the State Seal of Arts Proficiency to the student's diploma upon graduation, and shall note the receipt of the State Seal of Arts Proficiency on the transcript of the student.
- C. The Arizona Department of Education shall post on its website by July 1 of each year:
  - 1. A list of arts and CTE classes which meet the requirements of R7-2-321(A)(2)(a);
  - 2. A list of extracurricular arts activities which meet the requirements of R7-2-321(A)(2)(b);
  - 3. A list of student capstone examples which meet the requirements of R7-2-321(A)(2)(c).
- D. Each school district and charter school that chooses to participate in the Program shall meet the following requirements:
  - 1. Notify the Arizona Department of Education of its intent to participate in the Program by September 15 by filling out the form provided on the Arizona Department of Education's website.
  - 2. Designate at least one individual to serve as coordinator of the Program and provide that individual's name and contact information to the Arizona Department of Education.
  - 3. Using a format prescribed by the Arizona Department of Education, submit a list of qualifying students who have met graduation and Arts Seal pathway requirements to the Arizona Department of Education by April 15 of each year.
  - 4. Make information available to parents and students regarding the Program and the name and contact information for the coordinator of the Program.
- E. The Arizona Department of Education shall establish guidelines and procedures to assist school districts and charter schools in the administration of the Program.

**Historical Note**

New Section made by final exempt rulemaking at 25 A.A.R. 3399, effective October 28, 2019 (Supp. 19-4).

**ARTICLE 4. SPECIAL EDUCATION**

**Authority:** Laws 2017, Ch. 337

**R7-2-401. Special Education Standards for Public Agencies Providing Educational Services**

- A. For the purposes of this Article, the Individuals with Disabilities Education Improvement Act (IDEA), 20 U.S.C. 1400 et seq. and its implementing regulations, 34 CFR 300.1 et seq.,

are incorporated herein by reference. Copies of the incorporated material can be obtained from the U.S. Government Printing Office, <https://bookstore.gpo.gov/catalog/law-regulations> or the Arizona Department of Education, Exceptional Student Services, 1535 West Jefferson Street, Phoenix, Arizona 85007.

- B. Definitions. All terms defined in the IDEA, its implementing regulations and A.R.S. § 15-761 are applicable, with the following additions:
  - 1. "Accommodations" means the provisions made to allow a student to access the general education curriculum and demonstrate learning. Accommodations do not substantially change the instructional level, content or performance criteria, but are made in order to provide a student equal access to learning and equal opportunity to demonstrate what is known. Accommodations shall not alter the content of the curriculum or a test, or provide inappropriate assistance to the student within the context of the test.
  - 2. "Administrator" means the chief administrative official or designee authorized to act on behalf of a public education agency.
  - 3. "Boundaries of responsibility" means for:
    - a. A school district, the geographical area within its legally designated boundaries.
    - b. A charter school, the population of students enrolled in the charter school.
    - c. A public education agency other than a school district or charter school, the population of students receiving educational services from a public education agency.
  - 4. "Child with a disability," has the same meaning prescribed in A.R.S. § 15-761.
  - 5. "Department" means the Arizona Department of Education.
  - 6. "Exceptional Student Services" means the Exceptional Student Services Division of the Arizona Department of Education.
  - 7. "Evaluator" means a person trained and knowledgeable in a field relevant to the child's disability who administers specific and individualized assessment for the purpose of special education evaluation and placement.
  - 8. "Full and individual evaluation" means procedures used in accordance with the IDEA to determine whether a child has a disability and the nature and extent of the special education and related services that the child needs. This evaluation includes:
    - a. A review of existing information about the child;
    - b. A decision regarding the need for additional information;
    - c. If necessary, the collection of additional information; and
    - d. A review of all information about the child and a determination of eligibility for special education services and needs of the child.
  - 9. "Independent educational evaluation" means an evaluation conducted by an evaluator who is not employed by the public education agency responsible for the education of the child in question.
  - 10. "Informed written consent" means a person has been fully informed of all information relevant to the activity for which consent is sought, in the person's native language or through another mode of communication; the person understands and agrees in writing to the carrying out of the activity for which consent is sought; and the person understands that the granting of consent is voluntary and may be revoked at any time.



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11. "Interpreter" means a person trained to translate orally or in sign language in matters pertaining to special education identification, evaluation, placement, the provision of free appropriate public education (FAPE), or assurance of procedural safeguards for parents and students who converse in a language other than spoken English. Each student's IEP team determines the level of interpreter skill necessary for the provision of FAPE.
  12. "Multidisciplinary Evaluation Team" has the same meaning prescribed in A.R.S. § 15-761.
  13. "Modifications" means substantial changes in what a student is expected to learn and to demonstrate. Changes may be made in the instructional level, the content or the performance criteria. Such changes are made to provide a student with meaningful and productive learning experiences, environments, and assessments based on individual needs and abilities.
  14. "Private school" means any nonpublic educational institution where academic instruction is provided, including nonsectarian and parochial schools, that are not under the jurisdiction of the state or a public education agency.
  15. "Private special education school" means a nonpublic educational institution where instruction is provided primarily to students with disabilities. The school may also serve students without disabilities.
  16. "Public education agency" or "PEA" means a school district, charter school, accommodation school, state supported institution, or other political subdivision of the state that is responsible for providing education to children with disabilities.
  17. "Qualified professionals" means individuals who have met state approved or recognized degree, certification, licensure, registration or other requirements that apply in the areas in which the individuals are providing services such as screening, identification, evaluation, general education, special education or related services, including supplemental aids and services.
  18. "Specially designed instruction" has the same meaning prescribed in A.R.S. § 15-761.
  19. "Special education teacher" means a teacher holding a special education certificate from the Arizona Department of Education.
  20. "Suspension" has the same meaning prescribed in A.R.S. § 15-840.
- C. Public Awareness.**
1. Each public education agency shall inform the general public and all parents, within the public education agency's boundaries of responsibility, of the availability of special education services for students aged 3 through 21 years and how to access those services. This includes information regarding early intervention services for children aged birth through 2 years.
  2. School districts are responsible for public awareness in private schools located within their boundaries of responsibility.
- D. Child Identification and Referral.**
1. Each public education agency shall establish, implement, and make available, either in writing or electronically, to its school-based personnel and all parents, within the public education agency boundaries of responsibility, written procedures for the identification and referral of all children with disabilities, aged birth through 21, including children with disabilities attending private schools and home schools, regardless of the severity of their disability.
  2. Each public education agency shall require appropriate school-based personnel to review the written procedures related to child identification and referral on an annual basis. The public education agency shall maintain documentation of school-based personnel review.
  3. Procedures for child identification and referral shall meet the requirements of the IDEA and regulations, A.R.S. Title 15, Chapter 7, Article 4 and these rules.
  4. The public education agency responsible for child identification activities is the school district in which the parents reside unless:
    - a. The student is enrolled in a charter school or public education agency that is not a school district. In that event, the charter school or public education agency is responsible for child identification activities;
    - b. The student is enrolled in a non-profit private school. In that event, the school district within whose boundaries the private school is located is responsible for child identification activities.
  5. Identification (screening for possible disabilities) shall be completed within 45 calendar days after:
    - a. Entry of each preschool or kindergarten student and any student enrolling without appropriate records of screening, evaluation, and progress in school; or
    - b. Notification to the public education agency by parents of concerns regarding developmental or educational progress by their child aged 3 years through 21 years.
  6. Screening procedures shall include vision and hearing status and consideration of the following areas: cognitive or academic, communication, motor, social or behavioral, and adaptive development. Screening does not include detailed individualized comprehensive evaluation procedures.
  7. For a student transferring into a school; the public education agency shall review enrollment data and educational performance in the prior school. If there is a history of special education for a student not currently eligible for special education, or poor progress, the name of the student shall be submitted to the administrator for consideration of the need for a referral for a full and individual evaluation or other services.
  8. If a concern about a student is identified through screening procedures or through review of records, the public education agency shall notify the parents of the student of the concern within 10 school days and inform them of the public education agency procedures to follow-up on the student's needs.
  9. Each public education agency shall maintain documentation of the identification procedures utilized, the dates of entry into school or notification by parents made pursuant to subsection (D)(5), and the dates of screening. The results shall be maintained in the student's permanent records in a location designated by the administrator. In the case of a student not enrolled, the results shall be maintained in a location designated by the administrator.
  10. If the identification process indicates a possible disability, the name of the student shall be submitted to the administrator for consideration of the need for a referral for a full and individual evaluation or other services. A parent or a student may request an evaluation of the student. For parentally-placed private school students the school district within whose boundaries the non-profit private school is located is responsible for such evaluation.
  11. If, after consultation with the parent, the responsible public education agency determines that a full and individual

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evaluation is not warranted, the public education agency shall provide prior written notice and procedural safeguards notice to the parent in a timely manner.

**E. Evaluation/re-evaluation.**

1. Each public education agency shall establish, implement, and make available to school-based personnel and parents within its boundaries of responsibility written procedures for the initial full and individual evaluation of students suspected of having a disability, and for the re-evaluation of students previously identified as being eligible for special education.
2. Procedures for the initial full and individual evaluation of children suspected of having a disability and for the re-evaluation of students with disabilities shall meet the requirements of IDEA and its regulations, state statutes and State Board of Education rules.
3. The initial evaluation of a child being considered for special education, or the re-evaluation per a parental request of a student already receiving special education services, shall be conducted within 60 calendar days from the public education agency's receipt of the parent's informed written consent and shall conclude with the date of the Multidisciplinary Evaluation Team (MET) determination of eligibility.
4. If the parent requests the evaluation the PEA must, within a reasonable amount of time not to exceed 15 school days from the date it receives a parent's written request for an evaluation, either begin the evaluation by reviewing existing data, or provide prior written notice refusing to conduct the requested evaluation. The 60-day evaluation period shall commence upon the PEA's receipt of the parent's informed written consent.
5. The 60-day evaluation period may be extended for an additional 30 days, provided it is in the best interest of the child, and the parent and PEA agree in writing to such an extension. Neither the 60-day evaluation period nor any extension shall cause a re-evaluation to exceed the timelines for a re-evaluation within three years of the previous evaluation.
6. The public education agency may accept current information about the student from another state, public agency, public education agency, or through an independent educational evaluation. In such instances, the Multidisciplinary Evaluation Team shall be responsible for reviewing and approving or supplementing an evaluation to meet the requirements identified in subsections (E)(1) through (7).
7. For the following disabilities, the full and individual initial evaluation shall include:
  - a. Emotional disability: verification of a disorder by a qualified professional.
  - b. Hearing impairment:
    - i. An audiological evaluation by a qualified professional, and
    - ii. An evaluation of communication/language proficiency.
  - c. Other health impairment: verification of a health impairment by a qualified professional.
  - d. Specific learning disability: a determination of whether the child exhibits a pattern of strengths and weaknesses in performance, achievement, or both, relative to age, state-approved grade-level standards, or intellectual development that meets the public education agency criteria through one of the following methods:

- i. A discrepancy between achievement and ability;
  - ii. The child's response to scientific, research-based interventions; or
  - iii. Other alternative research-based procedures.
- e. Orthopedic impairment: verification of the physical disability by a qualified professional.
- f. Speech/language impairment: an evaluation by a qualified professional.
- g. For students whose speech impairments appear to be limited to articulation, voice, or fluency problems, the written evaluation may be limited to:
  - i. An audiometric screening within the past calendar year,
  - ii. A review of academic history and classroom functioning,
  - iii. An assessment of the speech problem by a speech therapist, or
  - iv. An assessment of the student's functional communication skills.
- h. Traumatic brain injury: verification of the injury by a qualified professional.
- i. Visual impairment: verification of a visual impairment by a qualified professional.
8. The Department shall develop a list, subject to review and approval of the State Board of Education, of qualified professionals eligible to conduct the appropriate evaluations prescribed in subsection (E)(7).
9. The Multidisciplinary Evaluation Team shall determine, in accordance with the IDEA and regulations, whether the requirements of subsections (E)(7)(a) through (i) are required for a student's re-evaluation.

**F. Parental Consent.**

1. A public education agency shall obtain informed written consent from the parent of the child with a disability before the initial provision of special education and related services to the child.
2. If the parent of a child fails to respond to a request for, or refuses to consent to, the initial provision of special education and related services, the public education agency may not use mediation or due process procedures in order to obtain agreement or a ruling that the services may be provided to the child.
3. If the parent of the child refuses to consent to the initial provision of special education and related services, or the parent fails to respond to a request to provide consent for the initial provision of special education and related services, the public education agency:
  - a. Will not be considered to be in violation of the requirement to make available FAPE to the child because of the failure to provide the child with the special education and related services for which the parent refuses to or fails to provide consent, and
  - b. Is not required to convene an IEP Team meeting or develop an IEP in accordance with these rules.
4. If, at any time subsequent to the initial provision of special education and related services, the parent of a child revokes consent in writing for the continued provision of special education and related services, the public education agency:
  - a. May not continue to provide special education and related services to the child, but shall provide prior written notice before ceasing the provision of special education and related services;

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- b. May not use the mediation procedures or the due process procedures in order to obtain agreement or a ruling that the services may be provided to the child;
  - c. Will not be considered to be in violation of the requirement to make FAPE available to the child because of the failure to provide the child with further special education and related services; and
  - d. Is not required to convene an IEP Team meeting or develop an IEP for the child for further provision of special education and related services.
- 5. If a parent revokes consent in writing for their child's receipt of special education services after the child is initially provided special education and related services, the public agency is not required to amend the child's education records to remove any references to the child's receipt of special education and related services because of the revocation of consent.
- G. Individualized Education Program (IEP).**
  - 1. Each public education agency shall establish, implement, and make available to its school-based personnel and parents written procedures for the development, implementation, review, and revision of IEPs.
  - 2. Procedures for IEPs shall meet the requirements of the IDEA and its regulations, state statutes and State Board of Education rules.
  - 3. Procedures shall include the incorporation of Arizona academic standards as adopted by the State Board of Education into the development of each IEP and address grade-level expectations and grade-level content instruction.
  - 4. Each IEP of a student with a disability shall be developed in accordance with IDEA and its regulations, state statutes and State Board of Education rules. If appropriate to meet the needs of a student and to ensure access to the general curriculum, an IEP team may include specially designed instruction in the IEP that may be delivered in a variety of educational settings by a general education teacher or other certificated personnel provided that certificated special education personnel are involved in the planning, progress monitoring and when appropriate, the delivery of the specially designed instruction.
  - 5. Each student with a disability who has an IEP shall participate in the state assessment system. Students with disabilities can test with or without accommodations or modifications as indicated in the student's IEP. Students who are determined to have a significant cognitive disability based on the established eligibility criteria will be assessed with the state's alternate assessment as determined by the IEP team.
  - 6. A meeting of the IEP team shall be conducted to review and revise each student's IEP at least annually, or more frequently if the student's progress substantially deviates from what was anticipated. The public education agency shall provide written notice of the meeting to the parents of the student to ensure that parents have the opportunity to participate in the meeting. After the annual review, the public education agency and parent may agree not to convene an IEP team meeting for the purposes of making changes, and instead may develop a written document to amend or modify the student's current IEP.
  - 7. A parent or public education agency may request in writing a review of the IEP, and shall identify the basis for requesting review. Such review shall take place within 45 school days of the receipt of the request at a mutually agreed upon date and time.
- H. Least Restrictive Environment.**
  - 1. Each public education agency shall establish, implement, and make available to its school-based personnel and parents, written procedures to ensure the delivery of special education services in the least restrictive environment as identified by IDEA and its regulations, state statutes and State Board of Education rules.
  - 2. A continuum of services and supports for students with disabilities shall be available through each public education agency.
- I. Procedural Safeguards.**
  - 1. Each public education agency shall establish, implement, and make available to school-based personnel and parents of students with disabilities written procedures to ensure children with disabilities and their parents are afforded the procedural safeguards required by federal statute and regulation and state statute. These procedures shall include dissemination to parents information about the public education agency's and state's dispute resolution options.
  - 2. In accordance with the requirements of IDEA, prior written notice shall be provided to the parents of a child within a reasonable time after the PEA proposes to initiate or change, or refuses to initiate or change, the identification, evaluation, educational placement or the provision of FAPE to the child, but before the decision is implemented.
- J. Confidentiality.**
  - 1. Each public education agency shall establish, implement, and make available to its personnel and parents written policies and procedures to ensure the confidentiality of records and information in accordance with the IDEA and its regulations, the Family Educational Rights and Privacy Act (FERPA) and its regulations, and state statutes.
  - 2. Parents shall be fully informed about the requirements of the IDEA and regulations, including an annual notice of the policies and procedures that the PEA shall follow regarding storage, disclosure to a third party, retention, and destruction of personally identifiable information.
  - 3. The rights of parents regarding education records are transferred to the student at age 18, unless the student has been adjudicated incapacitated, or the student has executed a delegation of rights to make educational decisions pursuant to A.R.S. § 15-773.
  - 4. Upon receiving a written request, each public education agency shall forward special education records to any other public education agency in which a student has enrolled or is seeking to enroll. Records shall be forwarded within the time-frame specified in A.R.S. § 15-828(F). The public education agency shall also forward records to any other person or agency for which the parents have given signed consent.
- K. Preschool Programs.** Each public education agency responsible for serving preschool children with disabilities shall establish, implement, and make available to its personnel and parents, written procedures for:
  - 1. The operation of the preschool program, in accordance with federal statute and regulation, and state statute, that provides a continuum of placements to students;
  - 2. The smooth and effective transition from the Arizona Early Intervention Program to a public school preschool program in accordance with the agreement between the Department of Economic Security and the Department; and
  - 3. The provision of a minimum of 360 minutes per week of instruction in a program that meets at least 216 hours over the minimum number of days.

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- L.** Children in Private Schools. Each education agency shall establish, implement, and make available to its personnel and parents written procedures regarding the access to special education services to students enrolled in private schools by their parents as identified by the IDEA and its regulations, state statutes and State Board of Education rules.
- M.** Department Responsible for General Supervision and Obligations Related to and Methods of Ensuring Services.
1. The Department is responsible for the general supervision of services to children with disabilities aged 3 through 21 served through a public education agency.
  2. The Department shall ensure through fund allocation, monitoring, dispute resolution, and technical assistance that all eligible students receive FAPE in conformance with the IDEA and its regulations, A.R.S. Title 15, Chapter 7, Article 4, and these rules.
  3. In exercising its general supervision responsibilities, the Department shall ensure that when it identifies noncompliance with the requirements of the IDEA Part B, the noncompliance is corrected as soon as possible, and in no case later than one year after the Department's written notification to the PEA of its identification of the noncompliance.
- N.** Procedural Requirements Relating to Public Education Agency Eligibility.
1. Each public education agency shall establish eligibility for funding with the Department in accordance with the IDEA and its regulations, state statutes and with schedules and methods prescribed by the Department.
  2. In the event the Department determines that a public education agency does not meet eligibility for funding requirements, the public education agency has a right to a hearing before such funding is withheld.
  3. The Department may suspend payments during any time period when a public education agency has not corrected deficiencies in eligibility for federal funds as a result of fiscal requirements of monitoring, auditing, complaint and due process findings.
  4. Each public education agency shall, on an annual basis, determine the number of children within each disability category who have been identified, located, evaluated, and/or receiving special education services. This includes children residing within the boundaries of responsibility of the public education agency who have been placed by their parents in private schools or who are home schooled.
- O.** Public Participation.
1. Each public education agency shall establish, implement, and make available to personnel and parents written procedures to ensure that, prior to the adoption of any policies and procedures needed to comply with federal and state statutes and regulations, there are:
    - a. Public hearings;
    - b. Notice of the hearings; and
    - c. An opportunity for comment available to the general public, including individuals with disabilities and parents of children with disabilities.
  2. This requirement does not pertain to day-to-day operating procedures.
- P.** Suspension and Expulsion.
1. Each public education agency shall establish, implement, and make available to personnel and parents written procedures for the suspension and expulsion of students with disabilities.
  2. Each public education agency shall require all school-based staff involved in the disciplinary process to review

the policies and procedures related to suspension and expulsion on an annual basis. The public education agency shall maintain documentation of staff review.

3. Procedures for such suspensions and expulsions shall meet the requirements of the IDEA and its regulations, and state statutes.

**Historical Note**

Amended effective December 11, 1974. Amended effective July 14, 1975 (Supp. 75-1). Amended effective July 1, 1977 (Supp. 77-4). Amended effective April 26, 1978 (Supp. 78-2). Former Section R7-2-401 repealed, new Section R7-2-401 adopted effective December 4, 1978 (Supp. 78-6). Amended by adding subsection (H) as an emergency effective July 20, 1984, pursuant to A.R.S. § 41-1003, valid for only 90 days (Supp. 84-4). Emergency expired. Amended (D)(11), (E)(5)(b) and added (H) effective December 14, 1984 (Supp. 84-6). Amended as an emergency effective June 18, 1985, pursuant to A.R.S. § 41-1003, valid for only 90 days (Supp. 85-3). Emergency expired. Amended subsection (D) by adding subsection (12) effective March 13, 1986 (Supp. 86-2). Amended subsection (G) effective July 8, 1986 (Supp. 86-4). Amended subsections (D) and (H) and added subsection (I) effective June 22, 1987 (Supp. 87-2). Amended effective August 2, 1988 (Supp. 88-3). Amended effective December 6, 1995 (Supp. 95-4). Amended by final rulemaking at 7 A.A.R. 1541, effective March 19, 2001 (Supp. 01-1). Amended to correct a manifest typographical error in subsection (D)(1) (Supp. 01-3). Subsections (D)(9), (E)(4), and (E)(6) amended under A.R.S. § 41-1011 to correct subsection cross-references (Supp. 02-2). Amended by final rulemaking at 9 A.A.R. 4633, effective December 8, 2003 (Supp. 03-4). Amended by exempt rulemaking at 15 A.A.R. 1838, effective August 29, 2006 (Supp. 09-1). Amended by exempt rulemaking at 15 A.A.R. 1849, effective May 19, 2008 (Supp. 09-2). Amended by exempt rulemaking at 16 A.A.R. 201, effective December 7, 2009 (Supp. 10-1). Amended by final exempt rulemaking at 24 A.A.R. 140, effective October 23, 2017; filed in the Office on January 2, 2018 (Supp. 18-1).

**R7-2-402. Standards for Approval of Special Education Programs in Private Schools**

- A.** Definitions. All terms defined in the regulations for the Individuals with Disabilities Education Improvement Act (IDEA) Amendments, A.R.S. § 15-761, and State Board of Education rule R7-2-401 are applicable.
- B.** No student may be placed by a public education agency in a private school special education school program unless the facility has been approved as meeting the standards as outlined in this rule, and the public education agency is unable to provide satisfactory education and services through its own facilities and personnel.
- C.** In order for a private special education school to be approved by the Department for the purpose of contracting with a public education agency, the private facility shall:
1. Provide special education instructional programs for students with disabilities that are at least comparable to those provided by the public schools of Arizona and meet the requirements of IDEA.
  2. Provide the following documentation:
    - a. Policies and procedures based on IDEA and state statutes;
    - b. Curriculum that is aligned with the Arizona Academic Standards;

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- c. A completed application;
- d. Copies of all teacher and related service personnel certifications and licenses; and
- e. If applicable, a copy of North Central Accreditation.
- 3. Provide certificated special education teachers in each classroom to implement the IEPs of those students assigned to that classroom.
- 4. Provide related services to meet the needs of the students as indicated on their IEPs.
- 5. Provide administration personnel such as head teacher, principal, or other administrator certificated in an administrative area or experienced and certificated in the appropriate area of special education.
- 6. Provide an education that meets the standards that apply to education provided by the public education agency.
- 7. Maintain student records in accordance with the statutory requirements.
- 8. Accept all responsibilities concerning instructional programs to the disabled student and parent or guardian that are required of the public schools of Arizona. Ultimate responsibility for any student under contract in a private special education school rests with the public education agency contracting for the students' education.
- 9. Administer all required statewide assessments to those students placed in the private facility by a PEA or through the educational voucher system.
- 10. Maintain adequate liability insurance.
- 11. Maintain an accounting system and budget which includes the costs of operation, maintenance, transportation, and capital outlay, and which is open to review upon request.
- 12. Maintain an attendance reporting system that provides public education agencies and the Department with required information.
- 13. Provide notification to contracting public education agencies and the Department of any changes in staff or deletion of programs within 10 school days of the change or deletion.
- 14. Provide notification to the contracting PEA of any intent to discontinue, suspend, or terminate services to a student for longer than 10 days. Services to the student must be continued by the private school until an IEP meeting with the PEA is convened to determine an appropriate alternative placement. The PEA must be given up to 10 school days to arrange for the transition of the student after the IEP determination.
- 15. Permit onsite evaluation of the program by the Department or its designees, and the representatives of the public education agencies.
- 16. Request approval to contract with public education agencies from the Department in accordance with the prescribed procedures.

**Historical Note**

Former Section R7-2-402 repealed, new Section R7-2-402 adopted effective December 4, 1978 (Supp. 78-6). Amended by final rulemaking at 7 A.A.R. 1541, effective March 19, 2001 (Supp. 01-1). Amended by final rulemaking at 9 A.A.R. 4633, effective December 8, 2003 (Supp. 03-4). Amended by exempt rulemaking at 15 A.A.R. 1849, effective May 19, 2008 (Supp. 09-2).

**R7-2-403. Repealed****Historical Note**

Adopted effective December 4, 1978 (Supp. 78-6). Amended as an emergency effective September 26, 1979, pursuant to A.R.S. § 41-1003, valid for only 90 days

(Supp. 79-5). Former emergency adoption now adopted effective December 4, 1979 (Supp. 79-6). Section repealed by final rulemaking at 9 A.A.R. 4633, effective December 8, 2003 (Supp. 03-4).

**R7-2-404. Special Education Voucher Program Policies and Procedures**

- A. Institutional vouchers. Students residing and attending special education programs at the Arizona Schools for the Deaf and the Blind (ASDB) or the Arizona State Hospital (ASH) or students attending special education day programs provided by ASDB may be eligible for special education institutional voucher funding.
  - 1. Eligibility criteria.
    - a. Student shall be between the ages of 3 and 22 years.
    - b. Student shall have a recognized disability as documented by a current educational evaluation. Evaluations shall be completed by the institution or the student's home school district (HSD), as determined by a multidisciplinary evaluation team (MET).
    - c. Student shall have a current individualized education program (IEP) identifying the placement as the most appropriate and least restrictive educational environment.
  - 2. Institutional voucher application/approval.
    - a. Applications for special education institutional vouchers shall be completed by the institution and submitted to the Exceptional Student Services Division of the Department of Education. The institution shall provide all student information requested on the institutional voucher application.
    - b. Institutions shall sign a Statement of Assurance guaranteeing their maintenance of and ability to produce all supporting documentation for each application.
    - c. Institutional voucher applications shall be reviewed and approved or disapproved by the voucher unit manager. Applications that are disapproved may be corrected and resubmitted. Institutional voucher payments will not be made for student attendance prior to voucher approval date.
    - d. Voucher identification numbers shall be assigned for each new student approval, and shall be used by the institution to complete claims for payment and the special education census form.
    - e. Institutional vouchers are approved for the current year only; therefore the application process shall be repeated each school year for each student.
    - f. Institutions shall report any changes in student status, including withdrawals, transfers, current evaluation dates and changes in disability categories to the Exceptional Student Services Division of the Department of Education. Changes shall be submitted within ten days of the occurrence.
  - 3. Institutional voucher claim for payment.
    - a. The special education institutional voucher claim for payment form shall be completed by the institution at the end of each calendar month. The claim shall be submitted in accordance with procedures established by the School Finance Division of the Department of Education.
    - b. Claims for payment shall be submitted to the School Finance Division of the Department of Education.
  - 4. Special education census.
 All institutional voucher students shall be reported on the special education census in accordance with procedures

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established by the School Finance Division of the Department of Education.

5. Review of placement.

- a. It is the responsibility of the HSD to review student progress at least once a semester.
- b. The IEP may be completed by the institution but is ultimately the responsibility of the student's HSD to ensure that it is reviewed and revised annually.
- c. It is the responsibility of the HSD to ensure that re-evaluations are conducted on a tri-annual basis or more frequently as needed.

**B. Residential vouchers: Students placed in private residential treatment facilities (PRF) may be eligible for residential voucher funding for the educational portion of the placement.**

1. Eligibility Criteria.

- a. Students shall be enrolled in and eligible for educational services from a Public Education Agency (PEA).
- b. Placement shall be made by one of the State Placing Agencies. They are the Department of Economic Security (DES), the Department of Health Services (DHS), the Administrative Office of the Courts (AOC), or the Department of Juvenile Corrections (ADJC).
- c. Residential facilities shall be licensed by the Department of Health Services or Department of Economic Security and approved by the Department of Education for the specific educational needs of each student placed there.
- d. The following conditions invalidate eligibility.
  - i. Placement by any agency other than those noted in subsection (B)(1)(b).
  - ii. Placement in facilities not appropriately licensed by DHS or DES or approved by the Department of Education.
  - iii. Student attendance at a PEA while residing in a residential facility.
- e. Eligible students are divided into three categories.
  - i. Non-special education (NSE): Students not eligible for special education services who are placed by a State Placing Agency for their care, safety, or treatment.
  - ii. Care special education (CSE): Students eligible for special education services who are placed by a State Placing Agency for their care, safety, or treatment.
  - iii. Residential special education (RSE): Students requiring residential placement to benefit from educational programming who are placed by an IEP team.

2. Voucher application/approval process. The process differs depending on category.

- a. NSE and CSE options:
  - i. When a placement decision is reached, the State Placing Agency (SPA) shall complete a SPA Application for Voucher Funding, and forward a copy to the student's Home School District (HSD) for appropriate signatures within five days of placement.
  - ii. Upon placement, copies of the completed voucher shall be provided to the PRF and the Exceptional Student Services of the Department of Education (ESS).
  - iii. Upon receipt and review of the application and verification of facility approval, the SPA application will be approved for the initial 60 days

of placement. An approval memo is sent to the PRF and the HSD. The Exceptional Student Services shall assign a student identification number to each approved voucher student. This number shall be used by the private facility when completing the special education census form and the claim for payment form.

- iv. The HSD shall submit the HSD Application for Education Voucher Funding packet and submit it to the Exceptional Student Services of the Department of Education. Appropriate documentation of eligibility for special education and provision of services, if applicable, shall be included.

- v. The HSD voucher application packet shall be reviewed and approved or disapproved by the voucher unit manager. Applications that are disapproved may be corrected and resubmitted. Approvals are granted from the date of receipt through the end of the school year. An approval memo is sent to the PRF and the HSD.

- vi. If the HSD cannot complete the requirements for the HSD application packet within the initial 60-day approval period, they shall submit an Application For Extension Of Education Voucher Funding.

b. RSE option.

The HSD shall follow statutory requirements and procedures agreed upon by the ADE, DHS, and DES when considering placement in a PRF for educational reasons. If a need for such a placement is determined, the HSD shall complete and submit the HSD Application for Education Voucher Funding packet to the ESS. Documentation of the necessity for PRF placement, measurable exit criteria, and a reintegration plan shall be required.

3. Changes in placement/Discharge.

- a. If a student is discharged or is absent without leave for more than ten days from the PRF, the facility shall notify the State Placing Agency, Home School District and the Exceptional Student Services Division of the Department of Education in writing within five days.
- b. Students returning to a facility after a discharge or students transferred from one facility to another require a new SPA voucher application.
- c. Students placed under the RSE option shall not be discharged without the consent of the IEP team.

4. Voucher claim for payment.

- a. A special education voucher claim for payment shall be submitted in accordance with procedures established by the School Finance Division of the Department of Education.
- b. Claim for payment shall be submitted to the School Finance Division of the Department of Education.

5. Special education census.

A special education census form shall be completed for all voucher students in accordance with procedures established by the School Finance Division of the Department of Education.

6. Review and continuation of placement.

- a. The Home School District (HSD) shall regularly monitor the progress of students, ensure the annual review and revision of IEPs, and complete three-year re-evaluations as applicable.

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- b. Voucher approval is for one school year only. Students remaining in an PRF from the end of one school year to the beginning of the next year require new voucher applications. Prior to the beginning of the new school year, the PRF shall submit an Application for Continuing Voucher funding, signed by both the SPA and the HSD. For a student who is eligible for special education services, a current IEP shall accompany the continuing application if the IEP has been reviewed or revised after the original voucher was approved.

**Historical Note**

Adopted effective December 4, 1978 (Supp. 78-6).  
Amended by final rulemaking at 9 A.A.R. 4633, effective  
December 8, 2003 (Supp. 03-4).

*Editor's Note: The following Section was erroneously published in Supp. 04-2 with amendments that were not approved by the Attorney General's Office. It is republished with the text in effect before Supp. 04-2. The correct notice was published at 10 A.A.R. 3274 (Supp. 04-3).*

**R7-2-405. Special Education Dispute Resolution; Due Process**

- A. Definitions. The following definitions are applicable to this rule:
  1. "Due process hearing" means a fair and impartial administrative hearing conducted by the State Education Agency by an impartial hearing officer through the Arizona Office of Administrative Hearings in accordance with the Individuals with Disabilities Education Act (20 U.S.C. 1400 et seq.) and its implementing regulations (34 CFR 300).
  2. "Impartial hearing officer" or "hearing officer" means an Administrative Law Judge ("ALJ") of the Arizona Office of Administrative Hearings ("OAH") and who is knowledgeable in the laws governing special education and administrative hearings.
  3. "Public agency" ("PEA") has the same definition as provided in R7-2-401.
  4. "State Education Agency" ("SEA") means the Department of Education, Exceptional Student Services Section.
- B. The due process procedures specified in this rule apply to all public agencies dealing with the identification, evaluation, special education placement of, and the provision of a free appropriate public education ("FAPE") for children with disabilities.
- C. The SEA shall establish procedures concerning:
  1. Impartial due process hearings, and
  2. Confidentiality and access to student records.
- D. An impartial hearing officer shall be:
  1. Unbiased – not prejudiced for or against any party in the hearing;
  2. Disinterested – not having any personal or professional interest that would conflict with objectivity in the hearing;
  3. Independent – may not be an officer, employee, or agent of a public agency involved in the education or care of the child or the SEA. A person who otherwise qualifies to conduct a hearing is not an employee of the public agency or the SEA solely because the person is paid by the public agency to serve as a hearing officer;
  4. Trained by the SEA as to the state and federal laws pertaining to the identification, evaluation, placement of, and the provision of FAPE for children with disabilities.
- E. Hearing officer qualifications and training.

1. All hearing officers shall participate in all required training conducted by the SEA as to the state and federal laws pertaining to the identification, evaluation, educational placement, and the provision of FAPE for children with disabilities.
2. A hearing officer shall meet the requirements set forth by OAH regarding ALJs. A hearing officer shall not have represented a parent in a special education matter during the preceding 12 months, and shall not have represented a school district in any matter during the preceding 12 months.
- F. Selection of hearing officers.
  1. The SEA shall prepare and maintain a list of individuals who meet the qualifications specified in subsection (E) to serve as hearing officers. This list shall also include the qualifications of each hearing officer.
  2. A hearing officer shall be assigned in accordance with the procedures of the Office of Administrative Hearings.
- G. Request for due process hearing.
  1. The due process complaint must allege a violation that occurred not more than two years before the date the parent or public education agency knew or should have known about the alleged action that forms the basis of the due process complaint.
  2. A parent shall submit a written request for a due process hearing to the public education agency and the SEA. The SEA shall provide a model form that a parent may use in requesting a due process hearing. Upon receipt of a written request, there shall be no change in the educational placement of the child except under the applicable provisions of IDEA, unless the PEA and parents agree. If a parent requests a due process hearing, the public education agency shall advise the parents of any free or low-cost legal services available, and provide a copy of the procedural safeguards notice. All correspondence to the parent shall be provided in English and the primary language of the home. If the written request involves an application for initial admission, the child, with the consent of the parent, shall be placed in the public school until the completion of all proceedings.
  3. If the public education agency requests a due process hearing, such request may be made on a model form, as noted in subsection (G)(2), and a copy shall be provided to the parent and the SEA. Upon receipt of a written request, there shall be no change in the educational placement of the child except under the applicable provisions of IDEA, unless the PEA and the parents agree. In conjunction with its request for due process hearing, the public education agency shall advise the parents of any free or low-cost legal services available and provide a copy of the procedural safeguards notice. All correspondence to the parent, including the due process request, shall be provided in English and the primary language of the home. If the written request involves an application for initial admission, the child, with the consent of the parent, shall be placed in the public school until the completion of all proceedings.
- H. An impartial due process hearing shall be conducted in accordance with the following procedures:
  1. The hearing officer shall hold a pre-hearing conference, either telephonically or at a location that is reasonably convenient to the parents and the child involved, to determine if the complaint is a legitimate due process complaint, to ensure that all matters are clearly defined, to establish the proceedings that will be used for the hear-

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- ing, to determine who will represent and/or advise each party, and to set the time and dates for the hearing.
2. The hearing officer shall conduct the hearing at a location that is reasonably convenient to the parents and the child involved.
  3. The hearing officer shall preside at the hearing and shall conduct the proceedings in a fair and impartial manner, and shall ensure that all parties involved have an opportunity to:
    - a. Present their evidence and confront, cross-examine, and compel the attendance of witnesses;
    - b. Object to the introduction of any evidence at the hearing that has not been disclosed to all parties at least five business days before the hearing;
    - c. Produce outside expert witnesses;
    - d. Be accompanied and advised by counsel and by individuals with special knowledge or training with respect to the problems of children with disabilities.
  4. The parent involved in the hearing shall be given the right to:
    - a. Have the child who is the subject of the hearing present,
    - b. Have the hearing conducted in public,
    - c. Have an interpreter provided by the public agency.
  5. The hearing officer shall review all relevant facts concerning the identification, evaluation, the educational placement, and the provision of FAPE. This shall include any Independent Education Evaluation secured by the parent.
    - a. The hearing officer shall determine whether the public agency has met all requirements of federal and state law, rules, and regulations.
    - b. The hearing officer shall render findings of fact and a decision, which shall be binding on all parties unless appealed pursuant to this rule.
  6. The hearing officer's findings of fact and decision shall be in writing and shall be provided to the parent, the public education agency, the SEA, and their respective representatives. The parent may choose to receive an electronic verbatim record of the hearing and electronic findings of fact and decision relative to the hearing in addition to the written findings of fact and decision. The hearing officer's findings of fact and decision shall be delivered by certified mail or by hand within 45 calendar days after notification to the hearing officer that the parties have been unable to resolve the matter in accordance with 20 U.S.C. 1415(f)(1)(B). A hearing officer may grant specific extensions of time beyond the 45 calendar days for good cause shown at the request of either party.
  7. The findings of fact and decision of the hearing officer shall be final at the administrative level. The notification of the findings of fact and decision shall contain notice to the parties that they have a right to judicial review.
  8. Any party to the proceeding has the right to appeal a final administrative decision to a court of competent jurisdiction within 35 calendar days after receipt of the decision.
  9. The SEA, after deleting any personally identifiable information, shall make such written findings of fact and decision available to the public.
- I. Expedited hearing.**
1. An expedited hearing regarding disciplinary matters may be requested in accordance with federal law as set forth in 20 U.S.C. 1415(k).
  2. Hearing officers for an expedited hearing shall be assigned by the Office of Administrative Hearings.
  3. The expedited hearing shall be conducted within 20 school days of the date the hearing is requested and shall result in a determination within 10 school days after the hearing.

**Historical Note**

Adopted effective December 4, 1978 (Supp. 78-6). Amended subsection (V) effective May 1, 1987 (Supp. 87-2). Amended effective July 20, 1990 (Supp. 90-3). Emergency amendment adopted effective November 21, 1990, pursuant to A.R.S. § 41-1026, valid for only 90 days (Supp. 90-4). Emergency expired. Emergency amendment readopted effective March 21, 1991, pursuant to A.R.S. § 41-1026, valid for only 90 days (Supp. 91-1). Amended effective May 2, 1991 (Supp. 91-2). Amended effective November 17, 1994 (Supp. 94-4). Amended effective December 6, 1995 (Supp. 95-4). Amended by final rulemaking at 5 A.A.R. 3211, effective August 24, 1999 (Supp. 99-4). Amended by final rulemaking at 10 A.A.R. 2399, effective July 23, 2004 (Supp. 04-2). Supp. 04-2 Historical Note entry is in error. R7-2-405 was erroneously included in Supp. 04-2 with amendments that were not approved by the Attorney General's Office. It is republished with the text in effect before Supp. 04-2. The correct notice was published at 10 A.A.R. 3274 (Supp. 04-3). Amended by exempt rulemaking at 15 A.A.R. 1732, effective January 26, 2006 (Supp. 09-1). Amended by exempt rulemaking at 15 A.A.R. 1849, effective May 19, 2008 (Supp. 09-2). Amended by exempt rulemaking at 16 A.A.R. 201, effective December 7, 2009 (Supp. 10-1).

**R7-2-405.01. Special Education Dispute Resolution; State Administrative Complaints**

- A.** Notwithstanding any other provision of law, a state administrative complaint filed with the Department regarding any alleged violations of Part B of the federal Individuals with Disabilities Education Act (IDEA) (20 U.S.C. 1400 et seq.) or its implementing regulations (34 CFR 300) shall be investigated in accordance with the Code of Federal Regulations Title 34.
1. The party filing the complaint shall forward a copy of the state administrative complaint to the public education agency serving the child at the same time the party files the complaint with the Department.
  2. A written decision shall be issued to the complainant and the public education agency that is the subject of the state administrative complaint in accordance with the 60-day time limit specified in the Code of Federal Regulations Title 34.
- B.** The Department shall accept and investigate state administrative complaints that allege a violation that occurred not more than one year prior to the date that the complaint is received by the Department.
- C.** The state administrative complaint shall include all of the following:
1. A statement that a public education agency has violated a requirement of Part B of the IDEA or its implementing regulations.
  2. The facts on which the statement is based.
  3. The signature and contact information for the complainant.
  4. If alleging violations with respect to a specific child, all of the following:
    - a. The name and address of the child.
    - b. The name of the school the child is attending.
    - c. In the case of a homeless child or youth (within the meaning of Section 725(2) of the McKinney-Vento



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Homeless Assistance Act (20 U.S.C. 11434a(2)), available contact information for the child, and the name of the school the child is attending.

- d. A description of the nature of the problem of the child, including facts relating to the problem.
- e. A proposed resolution of the problem to the extent known and available to the party at the time the complaint is filed.
5. The Department shall develop a model form to assist parents and public agencies in filing a state administrative complaint under this Section.

**Historical Note**

New Section made by exempt rulemaking at 16 A.A.R. 201, effective December 7, 2009 (Supp. 10-1).

**R7-2-405.02. Special Education Dispute Resolution; Mediation**

In accordance with the Individuals with Disabilities Education Act, the Department shall provide parents of students with disabilities and public education agencies the opportunity to resolve disputes involving any matter under IDEA, including matters arising prior to the filing of a request for due process, through a mediation process.

1. The mediation process shall:
  - a. Be voluntary on the part of both parties,
  - b. Not be used to deny or delay a parent's right to a due process hearing or any other rights afforded under Part B of the IDEA,
  - c. Be conducted by a qualified and impartial mediator who is trained in effective mediation techniques.
2. The Department shall maintain a list of individuals who are qualified mediators and knowledgeable in laws and regulations relating to the provision of special education and related services.
3. The Department shall select mediators on a random or rotational basis.
4. The Department shall bear the cost of the mediation process.
5. Each session in the mediation process shall be scheduled in a timely manner and shall be held in a location that is convenient to both the parent and the public education agency.
6. If the parties resolve a dispute through the mediation process, the parties shall execute a legally binding agreement that:
  - a. States that all discussions that occurred during the mediation process will remain confidential and may not be used as evidence in any subsequent due process hearings or civil proceedings,
  - b. Is signed by both the parent and a representative of the public education agency who has the authority to bind the agency, and
  - c. Is enforceable in any state court of competent jurisdiction or in a district court of the United States.
7. Whether or not the dispute is resolved through mediation, discussions that occur during the mediation process shall be confidential and may not be used as evidence in any subsequent due process hearings or civil proceedings of any federal court or state court.
8. Impartiality of the Mediator. An individual who serves as a mediator:
  - a. May not be an employee of the Department or of the public education agency that is involved in the education or care of the student.
  - b. Shall not have a personal or professional interest that conflicts with the person's objectivity.
  - c. Is not an employee of the Department or of a public education agency solely because the mediator is paid

by the Department of Education to serve as a mediator.

**Historical Note**

New Section made by exempt rulemaking at 16 A.A.R. 201, effective December 7, 2009 (Supp. 10-1).

**R7-2-406. Gifted Education Programs and Services**

- A. Governing boards shall adopt policies for the education of gifted students which shall include:
  1. Procedures for identification and placement of students to be placed in gifted programs.
    - a. Students shall be served who score at or above the 97th percentile on national norms in any one of three areas - verbal, nonverbal, or quantitative reasoning - on any test from the State Board-approved list. Students who score below the 97th percentile also may be served.
    - b. Local educational agencies (LEAs) shall accept, as valid for placement, scores at or above the 97th percentile on any State Board-approved test submitted by other LEAs or by qualified professionals.
    - c. LEAs shall place transfer students as soon as they have verified eligibility.
  2. Curriculum, differentiated instruction, and supplemental services for gifted students.
    - a. Expanded academic course offerings may include, for example, one or more of the following: acceleration, enrichment, flexible pacing, interdisciplinary curriculum, and seminars.
    - b. Differentiated instruction, which emphasizes the development of higher order thinking, may include critical thinking, creative thinking, and problem solving skills.
    - c. Supplemental services, which may be offered to meet the individual needs of each gifted student, may include, for example, guidance and counseling, mentorships, independent study, correspondence courses, and concurrent enrollment.
  3. Parent involvement.
    - a. Each LEA shall provide the following information to all parents or legal guardians:
      - i. Definition of a gifted child;
      - ii. Services mandated for gifted students by the state of Arizona;
      - iii. Services available from the LEA;
      - iv. Written criteria of the LEA for referral, screening, selection and placement.
    - b. Each LEA shall develop policies and procedures which ensure that parents or legal guardians are:
      - i. Given the opportunity to have their children tested;
      - ii. Given advance notice of the week that their children are to be tested;
      - iii. Given the opportunity to withhold permission for testing;
    - c. Each LEA shall:
      - i. Make testing available for students K-12 on a periodic basis but not less than three times per year;
      - ii. Inform parents or legal guardians of the results of the district-administered test within 30 school days of determining the test results;
      - iii. Upon request, explain test results to parents or legal guardians.
  4. The scope and sequence shall be a written program description which demonstrates articulation across all

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grades and schools to ensure opportunities for continuous progress and shall include:

- a. Statement of purpose;
- b. General population description;
- c. Identification process and placement criteria including provisions for special populations;
- d. Goals and objectives;
- e. Curriculum, differentiated instruction, and supplemental services;
- f. Program models;
- g. Time allocations for services;
- h. Procedures and criteria for evaluation of student and program outcomes.

- B. The Arizona Department of Education shall develop and make available model policies for the development, implementation, and evaluation of services for gifted students.

**Historical Note**

Adopted effective December 12, 1990 (Supp. 90-4)

**R7-2-407. Special Education Standards and Assistance for Providing Educational Services and Materials for Visually Impaired Students**

- A. All requirements in this Section are in addition to the general special education standards in R7-2-401 for public education agencies providing special education.
- B. For the purposes of this rule, the following definitions apply:
1. "Accessible Electronic File" means, until the effective date of a nationally adopted file format, a digital file in a mutually agreed upon electronic file format that has been prepared using a markup language that maintains the structural integrity of the information and can be processed by Braille conversion software. Upon the effective date of a nationally adopted file format, such as the Instructional Materials Accessibility Standard (IMAS), "Accessible Electronic File" shall mean an electronic file conforming to the specifications of the nationally adopted file format, including future technical revisions and versions of this nationally adopted file format.
  2. "Individualized Braille literacy assessment" means the Learning Media Assessment or other standardized or individualized assessments that pertain to the child's reading medium.
  3. "Non-printed instructional materials" means non-printed textbooks and related core materials, including those that require the availability of electronic equipment in order to be used as a learning resource, that are written and published primarily for use in elementary school and secondary school instruction and are required by a state educational agency or a local educational agency for use by pupils in the classroom. These materials shall be available to the extent technologically available, and may include software programs, CD-ROMs and internet-based materials.
  4. "Printed instructional materials" means textbooks and related printed core materials, that are written and published primarily for use in elementary school and secondary school instruction and are required by a state educational agency or a local educational agency for use by pupils in the classroom. This may include workbooks, practice tests, and tests.
  5. "Publisher" means an individual, firm, partnership or corporation that publishes or manufactures printed instructional materials for students attending public schools in Arizona, including an on-line service, a software developer, or a distributor of an electronic textbook.

6. "Specialized format" means Braille, audio or digital text which is exclusively for use by blind or other persons with disabilities.

7. "Structural integrity" means the structure of all parts of the printed instructional material will be kept intact to the extent feasible and as mutually agreed upon by the publisher and the local educational agency. This may include appropriate representation of graphic illustrations.

- C. Upon determination of a student having a visual impairment as assessed by a full and initial evaluation defined in R7-2-401(E)(6)(i), a visually impaired student who is determined to be blind as defined by A.R.S. § 15-214(B) shall receive an individualized Braille literacy assessment.

- D. Individualized Education Programs (IEP) for blind students. In addition to the requirements for establishing and implementing an IEP consistent with R7-2-401(F) for a student determined to have a disability, each IEP for a student determined to be "blind" as assessed by R7-2-401(E)(6)(i) and defined by A.R.S. § 15-214(B), shall presume that proficiency in Braille is essential in achieving academic success unless otherwise determined by the IEP team established consistent with the regulations for the most recent reauthorization of the Individuals with Disabilities Education Act (IDEA) and in the manner provided by the most recent reauthorization of the IDEA Act for developing an IEP. An IEP developed under this Section for a student determined to be blind shall include all required provisions of A.R.S. § 15-214(A)(3), including the following:

1. The results of the individualized Braille literacy assessment.
2. The date on which Braille instruction will begin, the methods to be used and the frequency and duration of the Braille instruction.
3. The level of competency expected to be achieved within specified time-frames and the objective measures to be used for evaluation.
4. The Braille materials and equipment necessary to achieve the stated expected competency gains, including ordering instructional materials to achieve the IEP-stated goals.
5. The rationale for not providing Braille instruction if Braille is not determined to be an appropriate medium by the IEP team and is not included in the IEP.

- E. The Arizona Department of Education shall designate a central repository for publishers to, upon request, provide accessible electronic files for instructional materials used by public schools in Arizona as defined in subsection (B)(1). The central repository shall be responsible for maintaining a complete list of available accessible electronic files for instructional materials and instructional materials in specialized formats, processing requests from PEAs for instructional materials in specialized formats and providing access to these materials in specialized formats to schools throughout Arizona that are providing services to blind or other students with disabilities.

1. Upon receipt of a written request certifying to the requirements set forth in subsections (E)(1)(a) through (c) publishers shall deliver to the repository, at no additional cost and consistent with the time-frame for providing materials for students without disabilities, accessible electronic files for printed instructional materials and non-printed instructional materials. Certification shall include all of the following:

- a. The PEA purchased a copy of the printed instructional material or non-printed instructional material for use by a student who is blind or has a visual impairment in a course that the student is attending or registered to attend;

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- b. The student who will utilize the instructional materials in a specialized format has an IEP stating that such materials and/or equipment are necessary for the student to achieve stated expected competency gains; and
  - c. The instructional materials are for use by the student in connection with a course in which he or she is enrolled, as verified by the person overseeing the education of students who are blind or visually impaired.
2. A PEA may access the materials maintained by the central repository, upon written request, for instructional use with a student with a visual impairment, as identified by R7-2-401(E)(6)(i), who requires the use of instructional materials in a specialized format pursuant to the student's IEP.
  3. Nothing in this Section shall be construed to prohibit the central repository from assisting a student with a disability by using the electronic format version of instructional material provided pursuant to this Section solely to transcribe or arrange for the transcription of the printed instructional material into Braille or large print. In the event a Braille transcription is made, the central repository has the right to share the Braille copy of the printed instructional material with other eligible students with disabilities. The PEA will be required to return the specialized format version of the instructional material to the central repository when the student no longer needs the instructional material. The central repository may share the copies of the specialized format of the instructional material with other PEAs who have met the requirements of subsections (B) and (D) of this Section to provide services to students who require such services pursuant to R7-2-401(F)(5).

**Historical Note**

New Section made by final rulemaking at 10 A.A.R. 2399, effective July 23, 2004 (Supp. 04-2).

**R7-2-408. Extended School Year Programs for Children with Disabilities**

- A. "Extended school year" (ESY) shall be as defined in A.R.S. § 15-881.
- B. Eligibility. Eligibility shall be determined by the Individualized Education Program (IEP) Team. Criteria for determining eligibility in an extended school year program shall be as defined in A.R.S. § 15-881.
- C. For a student with a disability currently enrolled in special education, eligibility for ESY services shall be determined no later than 45 calendar days prior to the last day of the school year.
- D. The availability of an extended school year program is required for all students for whom the IEP team has determined that it is necessary in order to ensure a free appropriate public education. Student participation in an ESY program is not compulsory. ESY services are not required for all students with a disability.
- E. Factors that are inappropriate for consideration. Eligibility for participation shall not be based on need or desire for any of the following:
  1. A day care or respite care service for students with a disability;
  2. A program to maximize the academic potential of a student with a disability; and
  3. A summer recreation program for students with a disability.

**Historical Note**

New Section adopted by final rulemaking at 5 A.A.R. 3211, effective August 24, 1999 (Supp. 99-4). Amended by final rulemaking at 9 A.A.R. 4633, effective December 8, 2003 (Supp. 03-4).

**ARTICLE 5. CAREER AND VOCATIONAL EDUCATION****R7-2-501. Repealed****Historical Note**

Not in original publication, correction, Section R7-2-501. Adopted effective July 2, 1974. Amended effective November 8, 1974. Amended effective August 11, 1975 (Supp. 75-1). Former Section R7-2-501 repealed, new Section R7-2-501 adopted effective December 4, 1978 (Supp. 78-6). Repealed effective February 20, 1997 (Supp. 97-1).

**R7-2-502. Vocational education provisions and standards**

All eligible recipients receiving federal or state monies or services in support of vocational and technical education programs, courses, or classes shall comply with the applicable provisions and standards of the following plans, which are filed with the Secretary of State, which plans are incorporated herein by reference.

1. 1986-1988 Arizona State Plan for Vocational Education for Federal Funding as required by A.R.S. § 15-784; and
2. Arizona State Plan for Vocational Education for State Funding approved April 22, 1985, as required by A.R.S. § 15-787(C).

**Historical Note**

Adopted (FY 76) effective July 14, 1975 (Supp. 75-1). Adopted (FY 77) effective June 25, 1976 (Supp. 76-3). Former Section R7-2-502 repealed, new Section R7-2-502 adopted effective December 4, 1978 (Supp. 78-6). Former Section R7-2-502 repealed, new Section R7-2-502 adopted effective March 13, 1986 (Supp. 86-2).

**R7-2-503. Repealed****Historical Note**

Repealed effective December 4, 1978 (Supp. 78-6).

**R7-2-504. Repealed****Historical Note**

Repealed effective December 4, 1978 (Supp. 78-6).

**R7-2-505. Repealed****Historical Note**

Repealed effective December 4, 1978 (Supp. 78-6).

**R7-2-506. Repealed****Historical Note**

Repealed effective December 4, 1978 (Supp. 78-6).

**R7-2-507. Repealed****Historical Note**

Repealed effective December 4, 1978 (Supp. 78-6).

**R7-2-508. Repealed****Historical Note**

Repealed effective December 4, 1978 (Supp. 78-6).

**R7-2-509. Repealed****Historical Note**

Repealed effective December 4, 1978 (Supp. 78-6).

**R7-2-510. Repealed**

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**Historical Note**

Repealed effective December 4, 1978 (Supp. 78-6).

**R7-2-511. Repealed****Historical Note**

Repealed effective December 4, 1978 (Supp. 78-6).

**R7-2-512. Repealed****Historical Note**

Repealed effective December 4, 1978 (Supp. 78-6).

**R7-2-513. Repealed****Historical Note**

Repealed effective December 4, 1978 (Supp. 78-6).

**R7-2-514. Repealed****Historical Note**

Repealed effective December 4, 1978 (Supp. 78-6).

**R7-2-515. Repealed****Historical Note**

Repealed effective December 4, 1978 (Supp. 78-6).

**R7-2-516. Repealed****Historical Note**

Repealed effective December 4, 1978 (Supp. 78-6).

**R7-2-517. Repealed****Historical Note**

Repealed effective December 4, 1978 (Supp. 78-6).

**R7-2-518. Repealed****Historical Note**

Repealed effective December 4, 1978 (Supp. 78-6).

**R7-2-519. Repealed****Historical Note**

Repealed effective December 4, 1978 (Supp. 78-6).

**R7-2-520. Repealed****Historical Note**

Repealed effective December 4, 1978 (Supp. 78-6).

**ARTICLE 6. CERTIFICATION****R7-2-601. Definitions**

In this Article, the following definitions apply unless the context otherwise requires:

1. "Accredited institution" means one which is listed as accredited in the current Higher Education Directory. An institution based outside the United States shall be considered accredited if an approved foreign document evaluation firm approved by the Department declares it to be comparable to an accredited American institution.
2. "Board" means the State Board of Education.
3. "CTE" means Career and Technical Education.
4. "Department" means the Arizona Department of Education.
5. "Practicum" means a period of structured observation and practice of the skills being learned, supervised by an individual trained in that area. The commonly used terms "student teaching," "internship," "residency," or "observation course" are included in this definition.
6. "Professional development" means training to increase skills related to the occupation of education.

7. "Teaching experience" means full-time employment which included full responsibility for the planning and delivery of instruction and evaluation of student learning. Substitute teaching is not considered full-time teaching experience.

**Historical Note**

Former Section R7-2-601 repealed, new Section R7-2-601 adopted effective December 4, 1978 (Supp. 78-6). Amended subsection (C) effective May 31, 1983 (Supp. 83-3). Amended subsection (I) effective September 12, 1989 (Supp. 89-3). Amended effective August 14, 1991 (Supp. 91-3). Amended effective July 30, 1992 (Supp. 92-3). Section repealed, new Section adopted effective March 10, 1994 (Supp. 94-1). Amended effective July 25, 1994 (Supp. 94-3). Amended effective September 20, 1996 (Supp. 96-3). Amended effective March 6, 1997 (Supp. 97-1). Typographical error corrected in subsection (A) (Supp. 97-3). Section repealed; new Section adopted effective December 3, 1998 (Supp. 98-4). Amended by exempt rulemaking at 16 A.A.R. 1249, effective May 24, 2010 (Supp. 10-4).

**R7-2-602. Professional Teaching Standards**

- A. The standards presented in this Section shall be the basis for approved teacher preparation programs, described in R7-2-604, and the Arizona Teacher Proficiency Assessment, described in R7-2-606.
- B. Standard 1. Learner Development: The teacher understands how learners grow and develop, recognizing that patterns of learning and development vary individually within and across the cognitive, linguistic, social, emotional, and physical areas, and designs and implements developmentally appropriate and challenging learning experiences. The teacher:
  1. Regularly assesses individual and group performance in order to design and modify instruction to meet learners' needs in each area of development (cognitive, linguistic, social, emotional, and physical) and scaffolds the next level of development.
  2. Creates developmentally appropriate instruction that takes into account individual learners' strengths, interests, and needs and that enables each learner to advance and accelerate his/her learning.
  3. Collaborates with families, communities, colleagues, and other professionals to promote learner growth and development.
  4. Understands how learning occurs – how learners construct knowledge, acquire skills, and develop disciplined thinking processes – and knows how to use instructional strategies that promote student learning.
  5. Understands that each learner's cognitive, linguistic, social, emotional, and physical development influences learning and knows how to make instructional decisions that build on learners' strengths and needs.
  6. Identifies readiness for learning, and understands how development in any one area may affect performance in others.
  7. Understands the role of language and culture in learning and, consistent with Arizona law, knows how to modify instruction to make language comprehensible and instruction relevant, accessible, and challenging.
  8. Respects learners' differing strengths and needs and is committed to using this information to further each learner's development.
  9. Is committed to using learners' strengths as a basis for growth, and their misconceptions as opportunities for learning.

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10. Takes responsibility for promoting learners' growth and development.
- C. Standard 2. Learning Differences: The teacher uses understanding of individual differences and diverse cultures and communities to ensure inclusive learning environments that enable each learner to meet high standards. The teacher:
  1. Designs, adapts, and delivers instruction to address each student's diverse learning strengths and needs and creates opportunities for students to demonstrate their learning in different ways.
  2. Makes appropriate and timely provisions (e.g., pacing for individual rates of growth, task demands, communication, assessment, and response modes) for individual students with particular learning differences or needs.
  3. Designs instruction to build on learners' prior knowledge and experiences, allowing learners to accelerate as they demonstrate their understandings.
  4. Brings multiple perspectives to the discussion of content, including attention to learners' personal, family, and community experiences and cultural norms.
  5. Incorporates tools of language development into planning and instruction, including strategies for making content accessible to English language learners and for evaluating and supporting their development of English proficiency.
  6. Accesses resources, supports, and specialized assistance and services to meet particular learning differences or needs.
  7. Understands and identifies differences in approaches to learning and performance and knows how to design instruction that uses each learner's strengths to promote growth.
  8. Understands students with exceptional needs, including those associated with disabilities and giftedness, and knows how to use strategies and resources to address these needs.
  9. Knows about second language acquisition processes and knows how to incorporate instructional strategies and resources to support language acquisition.
  10. Understands that learners bring assets for learning based on their individual experiences, abilities, talents, prior learning, and peer and social group interactions, as well as language, culture, family, and community values.
  11. Knows how to access information about the values of diverse cultures and communities and how to incorporate learners' experiences, cultures, and community resources into instruction.
  12. Believes that all learners can achieve at high levels and persists in helping each learner reach his/her full potential.
  13. Respects learners as individuals with differing personal and family backgrounds and various skills, abilities, perspectives, talents, and interests.
  14. Makes learners feel valued and helps them learn to value each other.
  15. Values diverse languages and dialects and seeks to integrate them into his/her instructional practice to engage students in learning.
- D. Standard 3. Learning Environments: The teacher works with others to create environments that support individual and collaborative learning, and that encourage positive social interaction, active engagement in learning, and self motivation. The teacher:
  1. Collaborates with learners, families, and colleagues to build a safe, positive learning climate of openness, mutual respect, support, and inquiry.
  2. Develops learning experiences that engage learners in collaborative and self-directed learning and that extend learner interaction with ideas and people locally and globally.
  3. Collaborates with learners and colleagues to develop shared values and expectations for respectful interactions, rigorous academic discussions, and individual and group responsibility for quality work.
  4. Manages the learning environment to actively and equitably engage learners by organizing, allocating, and coordinating the resources of time, space, and learners' attention.
  5. Uses a variety of methods to engage learners in evaluating the learning environment and collaborates with learners to make appropriate adjustments.
  6. Communicates verbally and nonverbally in ways that demonstrate respect for and responsiveness to the cultural backgrounds and differing perspectives learners bring to the learning environment.
  7. Promotes responsible learner use of interactive technologies to extend the possibilities for learning locally and globally.
  8. Intentionally builds learner capacity to collaborate in face-to-face and virtual environments through applying effective interpersonal communication skills.
  9. Understands the relationship between motivation and engagement and knows how to design learning experiences using strategies that build learner self-direction and ownership of learning.
  10. Knows how to help learners work productively and cooperatively with each other to achieve learning goals.
  11. Knows how to collaborate with learners to establish and monitor elements of a safe and productive learning environment including norms, expectations, routines, and organizational structures.
  12. Understands how learner diversity can affect communication and knows how to communicate effectively in differing environments.
  13. Knows how to use technologies and how to guide learners to apply them in appropriate, safe, and effective ways.
  14. Is committed to working with learners, colleagues, families, and communities to establish positive and supportive learning environments.
  15. Values the role of learners in promoting each other's learning and recognizes the importance of peer relationships in establishing a climate of learning.
  16. Is committed to supporting learners as they participate in decision making, engage in exploration and invention, work collaboratively and independently, and engage in purposeful learning.
  17. Seeks to foster respectful communication among all members of the learning community.
  18. Is a thoughtful and responsive listener and observer.
- E. Standard 4. Content Knowledge: The teacher understands the central concepts, tools of inquiry, and structures of the discipline(s) he or she teaches and creates learning experiences that make these aspects of the discipline accessible and meaningful for learners to assure mastery of the content. The teacher:
  1. Effectively uses multiple representations and explanations that capture key ideas in the discipline, guide learners through learning progressions, and promote each learner's achievement of content standards.
  2. Engages students in learning experiences in the discipline(s) that encourage learners to understand, question, and analyze ideas from diverse perspectives so that they master the content.

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3. Engages learners in applying methods of inquiry and standards of evidence used in the discipline.
  4. Stimulates learner reflection on prior content knowledge, links new concepts to familiar concepts, and makes connections to learners' experiences.
  5. Recognizes learner misconceptions in a discipline that interfere with learning, and creates experiences to build accurate conceptual understanding.
  6. Evaluates and modifies instructional resources and curriculum materials for their comprehensiveness, accuracy for representing particular concepts in the discipline, and appropriateness for his or her learners.
  7. Uses supplementary resources and technologies effectively to ensure accessibility and relevance for all learners.
  8. Creates opportunities for students to learn, practice, and master academic language in their content.
  9. Accesses school and/or district-based resources to evaluate the learner's content knowledge in his or her primary language.
  10. Understands major concepts, assumptions, debates, processes of inquiry, and ways of knowing that are central to the discipline(s) he or she teaches.
  11. Understands common misconceptions in learning the discipline and how to guide learners to accurate conceptual understanding.
  12. Knows and uses the academic language of the discipline and knows how to make it accessible to learners.
  13. Knows how to integrate culturally relevant content to build on learners' background knowledge.
  14. Has a deep knowledge of student content standards and learning progressions in the discipline(s) he or she teaches.
  15. Realizes that content knowledge is not a fixed body of facts but is complex, culturally situated, and ever evolving. The teacher keeps abreast of new ideas and understandings in the field, and ensures instruction is consistent with Arizona's adopted academic standards.
  16. Appreciates multiple perspectives within the discipline and facilitates learners' critical analysis of these perspectives.
  17. Recognizes the potential of bias in his or her representation of the discipline and seeks to appropriately address problems of bias.
  18. Commits to work toward each learner's mastery of disciplinary content and skills.
- F. Standard 5. Application of Content:** The teacher understands how to connect concepts and use differing perspectives to engage learners in critical thinking, creativity, and collaborative problem solving related to authentic local and global issues. The teacher:
1. Develops and implements projects that guide learners in analyzing the complexities of an issue or question using perspectives from varied disciplines and cross-disciplinary skills (e.g., a water quality study that draws upon biology and chemistry to look at factual information and social studies to examine policy implications).
  2. Engages learners in applying content knowledge to real world problems through the lens of interdisciplinary themes (e.g., financial literacy, environmental literacy).
  3. Facilitates learners' use of current tools and resources to maximize content learning in varied contexts.
  4. Engages learners in questioning and challenging assumptions and approaches in order to foster innovation and problem solving in local and global contexts.
5. Develops learners' communication skills in disciplinary and interdisciplinary contexts by creating meaningful opportunities to employ a variety of forms of communication that address varied audiences and purposes.
  6. Engages learners in generating and evaluating new ideas and novel approaches, seeking inventive solutions to problems, and developing original work.
  7. Facilitates learners' ability to develop diverse social and cultural perspectives that expand their understanding of local and global issues and create novel approaches to solving problems.
  8. Develops and implements supports for learner literacy development across content areas.
  9. Understands the ways of knowing in his/her discipline, how it relates to other disciplinary approaches to inquiry, and the strengths and limitations of each approach in addressing problems, issues, and concerns.
  10. Understands how current interdisciplinary themes (e.g., civic literacy, health literacy, global awareness) connect to the core subjects and knows how to weave those themes into meaningful learning experiences.
  11. Understands the demands of accessing and managing information as well as how to evaluate issues of ethics and quality related to information and its use.
  12. Understands how to use digital and interactive technologies for efficiently and effectively achieving specific learning goals.
  13. Understands critical thinking processes and knows how to help learners develop high level questioning skills to promote their independent learning.
  14. Understands communication modes and skills as vehicles for learning (e.g., information gathering and processing) across disciplines as well as vehicles for expressing learning.
  15. Understands creative thinking processes and how to engage learners in producing original work.
  16. Knows where and how to access resources to build global awareness and understanding, and how to integrate them into the curriculum.
  17. Is constantly exploring how to use disciplinary knowledge as a lens to address local and global issues.
  18. Values knowledge outside his/her own content area and how such knowledge enhances student learning.
  19. Values flexible learning environments that encourage learner exploration, discovery, and expression across content areas.
- G. Standard 6. Assessment:** The teacher understands and uses multiple methods of assessment to engage learners in their own growth, to monitor learner progress, and to guide the teacher's and learner's decision making. The teacher:
1. Balances the use of formative and summative assessment as appropriate to support, verify, and document learning.
  2. Designs assessments that match learning objectives with assessment methods and minimizes sources of bias that can distort assessment results.
  3. Works independently and collaboratively to examine test and other performance data to understand each learner's progress and to guide planning.
  4. Engages learners in understanding and identifying quality work and provides them with effective descriptive feedback to guide their progress toward that work.
  5. Engages learners in multiple ways of demonstrating knowledge and skill as part of the assessment process.
  6. Models and structures processes that guide learners in examining their own thinking and learning as well as the performance of others.

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7. Effectively uses multiple and appropriate types of assessment data to identify each student's learning needs and to develop differentiated learning experiences.
  8. Prepares all learners for the demands of particular assessment formats and makes appropriate accommodations in assessments or testing conditions, especially for learners with disabilities and language learning needs.
  9. Continually seeks appropriate ways to employ technology to support assessment practice both to engage learners more fully and to assess and address learner needs.
  10. Understands the differences between formative and summative applications of assessment and knows how and when to use each.
  11. Understands the range of types and multiple purposes of assessment and how to design, adapt, or select appropriate assessments to address specific learning goals and individual differences, and to minimize sources of bias.
  12. Knows how to analyze assessment data to understand patterns and gaps in learning, to guide planning and instruction, and to provide meaningful feedback to all learners.
  13. Knows when and how to engage learners in analyzing their own assessment results and in helping to set goals for their own learning.
  14. Understands the positive impact of effective descriptive feedback for learners and knows a variety of strategies for communicating this feedback.
  15. Knows when and how to evaluate and report learner progress against standards.
  16. Understands how to prepare learners for assessments and how to make accommodations in assessments and testing conditions, especially for learners with disabilities and language learning needs.
  17. Is committed to engaging learners actively in assessment processes and to developing each learner's capacity to review and communicate about their own progress and learning.
  18. Takes responsibility for aligning instruction and assessment with learning goals.
  19. Is committed to providing timely and effective descriptive feedback to learners on their progress.
  20. Is committed to using multiple types of assessment processes to support, verify, and document learning.
  21. Is committed to making accommodations in assessments and testing conditions, especially for learners with disabilities and language learning needs.
  22. Is committed to the ethical use of various assessments and assessment data to identify learner strengths and needs to promote learner growth.
- H. Standard 7. Planning for Instruction:** The teacher plans instruction that supports every student in meeting rigorous learning goals by drawing upon knowledge of content areas, curriculum, cross-disciplinary skills, and pedagogy, as well as knowledge of learners and the community context. The teacher:
1. Individually and collaboratively selects and creates learning experiences that are appropriate for curriculum goals and content standards, and are relevant to learners.
  2. Plans how to achieve each student's learning goals, choosing appropriate strategies and accommodations, resources, and materials to differentiate instruction for individuals and groups of learners.
  3. Develops appropriate sequencing of learning experiences and provides multiple ways to demonstrate knowledge and skill.
  4. Plans for instruction based on formative and summative assessment data, prior learner knowledge, and learner interest.
  5. Plans collaboratively with professionals who have specialized expertise (e.g., special educators, related service providers, language learning specialists, librarians, media specialists) to design and jointly deliver as appropriate learning experiences to meet unique learning needs.
  6. Evaluates plans in relation to short- and long-range goals and systematically adjusts plans to meet each student's learning needs and enhance learning.
  7. Understands content and content standards and how these are organized in the curriculum.
  8. Understands how integrating cross-disciplinary skills in instruction engages learners purposefully in applying content knowledge.
  9. Understands learning theory, human development, cultural diversity, and individual differences and how these impact ongoing planning.
  10. Understands the strengths and needs of individual learners and how to plan instruction that is responsive to these strengths and needs.
  11. Knows a range of evidence-based instructional strategies, resources, and technological tools and how to use them effectively to plan instruction that meets diverse learning needs.
  12. Knows when and how to adjust plans based on assessment information and learner responses.
  13. Knows when and how to access resources and collaborate with others to support student learning (e.g., special educators, related service providers, language learner specialists, librarians, media specialists, community organizations).
  14. Respects learners' diverse strengths and needs and is committed to using this information to plan effective instruction.
  15. Values planning as a collegial activity that takes into consideration the input of learners, colleagues, families, and the larger community.
  16. Takes professional responsibility to use short- and long-term planning as a means of assuring student learning.
  17. Believes that plans must always be open to adjustment and revision based on learner needs and changing circumstances.
- I. Standard 8. Instructional Strategies:** The teacher understands and uses a variety of instructional strategies to encourage learners to develop deep understanding of content areas and their connections, and to build skills to apply knowledge in meaningful ways. The teacher:
1. Uses appropriate strategies and resources to adapt instruction to the needs of individuals and groups of learners.
  2. Continuously monitors student learning, engages learners in assessing their progress, and adjusts instruction in response to student learning needs.
  3. Collaborates with learners to design and implement relevant learning experiences, identify their strengths, and access family and community resources to develop their areas of interest.
  4. Varies his/her role in the instructional process (e.g., instructor, facilitator, coach, audience) in relation to the content and purposes of instruction and the needs of learners.
  5. Provides multiple models and representations of concepts and skills with opportunities for learners to demonstrate their knowledge through a variety of products and performances.
  6. Engages all learners in developing higher order questioning skills and metacognitive processes.

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7. Engages learners in using a range of learning skills and technology tools to access, interpret, evaluate, and apply information.
  8. Uses a variety of instructional strategies to support and expand learners' communication through speaking, listening, reading, writing, and other modes.
  9. Asks questions to stimulate discussion that serves different purposes (e.g., probing for learner understanding, helping learners articulate their ideas and thinking processes, stimulating curiosity, and helping learners to question).
  10. Understands the cognitive processes associated with various kinds of learning (e.g., critical and creative thinking, problem framing and problem solving, invention, memorization and recall) and how these processes can be stimulated.
  11. Knows how to apply a range of developmentally, culturally, and linguistically appropriate instructional strategies to achieve learning goals.
  12. Knows when and how to use appropriate strategies to differentiate instruction and engage all learners in complex thinking and meaningful tasks.
  13. Understands how multiple forms of communication (oral, written, nonverbal, digital, visual) convey ideas, foster self expression, and build relationships.
  14. Knows how to use a wide variety of resources, including human and technological, to engage students in learning.
  15. Understands how content and skill development can be supported by media and technology and knows how to evaluate these resources for quality, accuracy, and effectiveness.
  16. Is committed to deepening awareness and understanding the strengths and needs of diverse learners when planning and adjusting instruction.
  17. Values the variety of ways people communicate and encourages learners to develop and use multiple forms of communication.
  18. Is committed to exploring how the use of new and emerging technologies can support and promote student learning.
  19. Values flexibility and reciprocity in the teaching process as necessary for adapting instruction to learner responses, ideas, and needs.
- J. Standard 9. Professional Learning and Ethical Practice:** The teacher engages in ongoing professional learning and uses evidence to continually evaluate his/her practice, particularly the effects of his/her choices and actions on others (learners, families, other professionals, and the community), and adapts practice to meet the needs of each learner. The teacher:
1. Engages in ongoing learning opportunities to develop knowledge and skills in order to provide all learners with engaging curriculum and learning experiences based on local and state standards.
  2. Engages in meaningful and appropriate professional learning experiences aligned with his/her own needs and the needs of the learners, school, and system.
  3. Independently and in collaboration with colleagues, uses a variety of data (e.g., systematic observation, information about learners, research) to evaluate the outcomes of teaching and learning and to adapt planning and practice.
  4. Actively seeks professional, community, and technological resources, within and outside the school, as supports for analysis, reflection, and problem-solving.
  5. Reflects on his/her personal biases and accesses resources to deepen his/her own understanding of cultural, ethnic, gender, and learning differences to build stronger relationships and create more relevant learning experiences.
- K. Standard 10. Leadership and Collaboration:** The teacher seeks appropriate leadership roles and opportunities to take responsibility for student learning, to collaborate with learners, families, colleagues, other school professionals, and community members to ensure learner growth, and to advance the profession. The teacher:
1. Takes an active role on the instructional team, giving and receiving feedback on practice, examining learner work, analyzing data from multiple sources, and sharing responsibility for decision making and accountability for each student's learning.
  2. Works with other school professionals to plan and jointly facilitate learning on how to meet diverse needs of learners.
  3. Engages collaboratively in the schoolwide effort to build a shared vision and supportive culture, identify common goals, and monitor and evaluate progress toward those goals.
  4. Works collaboratively with learners and their families to establish mutual expectations and ongoing communication to support learner development and achievement.
  5. Working with school colleagues, builds ongoing connections with community resources to enhance student learning and well being.



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6. Engages in professional learning, contributes to the knowledge and skill of others, and works collaboratively to advance professional practice.
7. Uses technological tools and a variety of communication strategies to build local and global learning communities that engage learners, families, and colleagues.
8. Uses and generates meaningful research on education issues and policies.
9. Seeks appropriate opportunities to model effective practice for colleagues, to lead professional learning activities, and to serve in other leadership roles.
10. Strives to meet the needs of learners and to strengthen the learning environment.
11. Takes on leadership roles at the school, district, state, and/or national levels.
12. Understands schools as organizations within a historical, cultural, political, and social context and knows how to work with others across the system to support learners.
13. Understands that alignment of family, school, and community spheres of influence enhances student learning and that discontinuity in these spheres of influence interferes with learning.
14. Knows how to work with other adults and has developed skills in collaborative interaction appropriate for both face-to-face and virtual contexts.
15. Knows how to contribute to a common culture that supports high expectations for student learning.
16. Actively shares responsibility for shaping and supporting the mission of his/her school as one of advocacy for learners and accountability for their success.
17. Respects families' beliefs, norms, and expectations and seeks to work collaboratively with learners and families in setting and meeting challenging goals.
18. Takes initiative to grow and develop with colleagues through interactions that enhance practice and support student learning.
19. Takes responsibility for contributing to and advancing the profession.
20. Embraces the challenge of continuous improvement and change.

**Historical Note**

Former Section R7-2-602 repealed, new Section R7-2-602 adopted effective December 4, 1978 (Supp. 78-6).

Amended by adding a new subsection (B) effective August 29, 1988 (Supp. 88-3). Amended effective December 15, 1989 (Supp. 89-4). Amended effective July 10, 1992 (Supp. 92-3). Amended effective March 6, 1997 (Supp. 97-1). Section repealed; new Section adopted effective December 3, 1998 (Supp. 98-4). Amended by exempt rulemaking at 18 A.A.R. 1029, effective December 5, 2011 (Supp. 12-2).

**R7-2-603. Professional Administrative Standards**

- A. The standards presented in this Section shall be the basis for approved administrative preparation programs, described in R7-2-604. The Arizona Administrator Proficiency Assessment shall assess proficiency in the standards as a requirement for certification of supervisors, principals, and superintendents, as set forth in R7-2-616.
- B. Standard 1: Effective educational leaders develop, advocate, and enact a shared mission, vision, and core values of high-quality education and academic success and well-being of each student. Effective leaders:
  1. Develop an educational mission for the school to promote the academic success and well-being of each student.

2. In collaboration with members of the school and the community and using relevant data, develop and promote a vision for the school on the successful learning and development of each child and on instructional and organizational practices that promote such success.
  3. Articulate, advocate, and cultivate core values that define the school's culture and stress the imperative of child-centered education; high expectations and student support; equity, inclusiveness, and social justice; openness, caring, and trust; and continuous improvement.
  4. Strategically develop, implement, and evaluate actions to achieve the vision for the school.
  5. Review the school's mission and vision and adjust them to changing expectations and opportunities for the school, and changing needs and situations of students.
  6. Develop shared understanding of and commitment to mission, vision, and core values within the school and the community.
  7. Model and pursue the school's mission, vision, and core values in all aspects of leadership.
- C. Standard 2: Effective educational leaders act ethically and according to professional norms to promote each student's academic success and well-being. Effective leaders:
1. Act ethically and professionally in personal conduct, relationships with others, decision-making, stewardship of the school's resources, and all aspects of school leadership.
  2. Act according to and promote the professional norms of integrity, fairness, transparency, trust, collaboration, perseverance, learning, and continuous improvement.
  3. Place children at the center of education and accept responsibility for each student's academic success and well-being.
  4. Safeguard and promote the values of democracy, individual freedom and responsibility, equity, social justice, community, and diversity.
  5. Lead with interpersonal and communication skill, social-emotional insight, and understanding of all students' and staff members' backgrounds and cultures.
  6. Provide moral direction for the school and promote ethical and professional behavior among faculty and staff.
- D. Standard 3: Effective educational leaders strive for equity of educational opportunity and culturally responsive practices to promote each student's academic success and well-being. Effective leaders:
1. Ensure that each student is treated fairly, respectfully, and with an understanding of each student's culture and context.
  2. Recognize, respect, and employ each student's strengths, diversity, and culture as assets for teaching and learning.
  3. Ensure that each student has equitable access to effective teachers, learning opportunities, academic and social support, and other resources necessary for success.
  4. Develop student policies and address student misconduct in a positive, fair, and unbiased manner.
  5. Confront and alter institutional biases of student marginalization, deficit-based schooling, and low expectations associated with race, class, culture and language, gender and sexual orientation, and disability or special status.
  6. Promote the preparation of students to live productively in and contribute to the diverse cultural contexts of a global society.
  7. Act with cultural competence and responsiveness in their interactions, decision making, and practice.
  8. Address matters of equity and cultural responsiveness in all aspects of leadership.

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- E.** Standard 4: Effective educational leaders develop and support intellectually rigorous and coherent systems of curriculum, instruction, and assessment to promote each student's academic success and well-being. Effective leaders:
1. Implement coherent systems of curriculum, instruction, and assessment that promote the mission, vision, and core values of the school, embody high expectations for student learning, align with academic standards, and are culturally responsive.
  2. Align and focus systems of curriculum, instruction, and assessment within and across grade levels to promote student academic success, love of learning, the identities and habits of learners, and healthy sense of self.
  3. Promote instructional practice that is consistent with knowledge of child learning and development, effective pedagogy, and the needs of each student.
  4. Ensure instructional practice that is intellectually challenging, authentic to student experiences, recognizes student strengths, and is differentiated and personalized.
  5. Promote the effective use of technology in the service of teaching and learning.
  6. Employ valid assessments that are consistent with knowledge of child learning and development and technical standards of measurement.
  7. Use assessment data appropriately and within technical limitations to monitor student progress and improve instruction.
- F.** Standard 5: Effective educational leaders cultivate an inclusive, caring, and supportive school community that promotes the academic success and well-being of each student. Effective leaders:
1. Build and maintain a safe, caring, and healthy school environment that meets that the academic, social, emotional, and physical needs of each student.
  2. Create and sustain a school environment in which each student is known, accepted and valued, trusted and respected, cared for, and encouraged to be an active and responsible member of the school community.
  3. Provide coherent systems of academic and social supports, services, extracurricular activities, and accommodations to meet the range of learning needs of each student.
  4. Promote adult-student, student-peer, and school-community relationships that value and support academic learning and positive social and emotional development.
  5. Cultivate and reinforce student engagement in school and positive student conduct.
  6. Infuse the school's learning environment with the cultures and languages of the school's community.
- G.** Standard 6: Effective educational leaders develop the professional capacity and practice of school personnel to promote each student's academic success and well-being. Effective leaders:
1. Recruit, hire, support, develop, and retain effective and caring teachers and other professional staff and form them into an educationally effective faculty.
  2. Plan for and manage staff turnover and succession, providing opportunities for effective induction and mentoring of new personnel.
  3. Develop teachers' and staff members' professional knowledge, skills, and practice through differentiated opportunities for learning and growth, guided by understanding of professional and adult learning and development.
  4. Foster continuous improvement of individual and collective instructional capacity to achieve outcomes envisioned for each student.
  5. Deliver actionable feedback about instruction and other professional practice through valid, research-anchored systems of supervision and evaluation to support the development of teachers' and staff members' knowledge, skills, and practice.
  6. Empower and motivate teachers and staff to the highest levels of professional practice and to continuous learning and improvement.
  7. Develop the capacity, opportunities, and support for teacher leadership and leadership from other members of the school community.
  8. Promote the personal and professional health, well-being, and work-life balance of faculty and staff.
  9. Tend to their own learning and effectiveness through reflection, study, and improvement, maintaining a healthy work-life balance.
- H.** Standard 7: Effective educational leaders foster a professional community of teachers and other professional staff to promote each student's academic success and well-being. Effective leaders:
1. Develop workplace conditions for teachers and other professional staff that promote effective professional development, practice, and student learning.
  2. Empower and entrust teachers and staff with collective responsibility for meeting the academic, social, emotional, and physical needs of each student, pursuant to the mission, vision, and core values of the school.
  3. Establish and sustain a professional culture of engagement and commitment to shared vision, goals, and objectives pertaining to the education of the whole child; high expectations for professional work; ethical and equitable practice; trust and open communication; collaboration, collective efficacy, and continuous individual and organizational learning and improvement.
  4. Promote mutual accountability among teachers and other professional staff for each student's success and the effectiveness of the school as a whole.
  5. Develop and support open, productive, caring, and trusting working relationships among leaders, faculty, and staff to promote professional capacity and the improvement of practice.
  6. Design and implement job-embedded and other opportunities for professional learning collaboratively with faculty and staff.
  7. Provide opportunities for collaborative examination of practice, collegial feedback, and collective learning.
  8. Encourage faculty-initiated improvement of programs and practices.
- I.** Standard 8: Effective educational leaders engage families and the community in meaningful, reciprocal, and mutually beneficial ways to promote each student's academic success and well-being. Effective leaders:
1. Are approachable, accessible, and welcoming to families and members of the community.
  2. Create and sustain positive, collaborative, and productive relationships with families and the community for the benefit of students.
  3. Engage in regular and open two-way communication with families and the community about the school, students, needs, problems, and accomplishments.
  4. Maintain a presence in the community to understand its strengths and needs, develop productive relationships, and engage its resources for the school.

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5. Create means for the school community to partner with families to support student learning in and out of school.
  6. Understand, value, and employ the community's cultural, social, intellectual, and political resources to promote student learning and school improvement.
  7. Develop and provide the school as a resource for families and the community.
  8. Advocate for the school and district, and for the importance of education and student needs and priorities to families and the community.
  9. Advocate publicly for the needs and priorities of students, families, and the community.
  10. Build and sustain productive partnerships with public and private sectors to promote school improvement and student learning.
- J. Standard 9: Effective educational leaders manage school operations and resources to promote each student's academic success and well-being. Effective leaders:**
1. Institute, manage, and monitor operations and administrative systems that promote the mission and vision of the school.
  2. Strategically manage staff resources, assigning and scheduling teachers and staff to roles and responsibilities that optimize their professional capacity to address each student's learning needs.
  3. Seek, acquire, and manage fiscal, physical, and other resources to support curriculum, instruction, and assessment; student learning community; professional capacity and community; and family and community engagement.
  4. Are responsible, ethical, and accountable stewards of the school's monetary and non-monetary resources, engaging in effective budgeting and accounting practices.
  5. Protect teachers' and other staff members' work and learning from disruption.
  6. Employ technology to improve the quality and efficiency of operations and management.
  7. Develop and maintain data and communication systems to deliver actionable information for classroom and school improvement.
  8. Know, comply with, and help the school community understand local, state, and federal laws, rights, policies, and regulations so as to promote student success.
  9. Develop and manage relationships with feeder and connecting schools for enrollment management and curricular and instructional articulation.
  10. Develop and manage productive relationships with the central office and school board.
  11. Develop and administer systems for fair and equitable management of conflict among students, faculty and staff, leaders, families, and community.
  12. Manage governance processes and internal and external politics toward achieving the school's mission and vision.
- K. Standard 10: Effective educational leaders act as agents of continuous improvement to promote each student's academic success and well-being. Effective leaders:**
1. Seek to make school more effective for each student, teachers and staff, families, and the community.
  2. Use methods of continuous improvement to achieve the vision, fulfill the mission, and promote the core values of the school.
  3. Prepare the school and the community for improvement, promoting readiness, an imperative for improvement, instilling mutual commitment and accountability, and developing the knowledge, skills, and motivation to succeed in improvement.
  4. Engage others in an ongoing process of evidence-based inquiry, learning, strategic goal setting, planning, implementation, and evaluation for continuous school and classroom improvement.
  5. Employ situationally-appropriate strategies for improvement, including transformational and incremental, adaptive approaches and attention to different phases of implementation.
  6. Assess and develop the capacity of staff to assess the value and applicability of emerging educational trends and the findings of research for the school and its improvement.
  7. Develop technically appropriate systems of data collection, management, analysis, and use, connecting as needed to the district office and external partners for support in planning, implementation, monitoring, feedback, and evaluation.
  8. Adopt a systems perspective and promote coherence among improvement efforts and all aspects of school organization, programs, and services.
  9. Manage uncertainty, risk, competing initiatives, and politics of change with courage and perseverance, providing support and encouragement, and openly communicating the need for, process for, and outcomes of improvement efforts.
  10. Develop and promote leadership among teachers and staff for inquiry, experimentation and innovation, and initiating and implementing improvement.

**Historical Note**

Former Section R7-2-603 repealed, new Section R7-2-603 adopted effective December 4, 1978 (Supp. 78-6). Amended effective July 21, 1980 (Supp. 80-4). Amended subsection (J) effective August 20, 1981 (Supp. 81-4). Amended subsections (D) and (E) effective April 10, 1984 (Supp. 84-2). Amended subsection (J)(8) and (9) effective October 10, 1984 (Supp. 84-5). Amended subsection (G) effective December 13, 1985. Amended subsection (J)(6), (7), (8) and (9) effective December 18, 1985 (Supp. 85-6). Editorial correction, amendment to subsections (D) and (E) shown effective April 10, 1984 should read Amended subsections (D) and (E) effective October 1, 1985. Amended by adding subsection (G)(9) and (10) effective January 31, 1986 (Supp. 86-1). Amended by adding subsection (R) effective April 24, 1986 (Supp. 86-2). Amended subsection (G), filed May 5, 1986, effective July 1, 1987 (Supp. 86-3). Amended by adding subsection (J)(10) and (11) effective July 2, 1986; amended by adding subsection (J)(12), (13) and (14), filed August 7, 1986, effective July 1, 1987 (Supp. 86-4). Amended subsection (H) effective September 16, 1987 (Supp. 87-3). Correction: subsection (G)(3), "Provisional" is corrected to read: "Principal" as certified effective December 3, 1985; amended subsection (B) effective July 13, 1988; amended subsection (J)(2) effective August 10, 1988; amended subsection (R)(2)(b) effective August 15, 1988 (Supp. 88-3). Amended effective August 9, 1989, and amended effective September 12, 1989 (Supp. 89-3). Amended effective December 15, 1989 (Supp. 89-4). Amended effective November 6, 1990; Amended effective December 12, 1990 (Supp. 90-4). Amended effective March 21, 1991 (Supp. 91-1). Amended effective May 2, 1991 (Supp. 91-2). Amended effective October 22, 1991 (Supp. 91-4). Section repealed, new Section adopted effective March 10, 1994 (Supp. 94-1). Amended effective December 19, 1996 (Supp. 96-4). Amended effective March 6, 1997 (Supp.

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97-1). Typographical error corrected in subsection (J) (Supp. 97-4). Section repealed; new Section adopted effective December 4, 1998 (Supp. 98-4). Amended by exempt rulemaking at 16 A.A.R. 1249, effective May 24, 2010 (Supp. 10-4). Amended by exempt rulemaking at 18 A.A.R. 1029, effective December 5, 2011 (Supp. 12-2). Amended by final exempt rulemaking at 22 A.A.R. 3369, effective October 24, 2016 (Supp. 16-4).

**R7-2-604. Definitions**

In R7-2-604 through R7-2-604.05, unless the context otherwise requires:

1. "Accreditation" means a professional preparation institution's recognition by a national or regional agency or organization acknowledged for meeting identified standards or criteria.
2. "Alternative educator preparation program" means a program designed for individuals who are working as a PreK-12 teacher or administrator while certified under an alternative teaching certificate or interim administrative certificate. Alternative educator preparation programs may have substantially different program sequences, designs, and/or formats than that of a traditional education preparation program.
3. "Biennial report" means a report submitted every two years to the Department by all Arizona State Board approved professional preparation institutions for each approved educator preparation program.
4. "Biennial status letter" means correspondence issued by the Department to the professional preparation institution within 30 days upon completion of the review of the biennial report, indicating the status of the educator preparation program(s).
5. "Board approved program" means a course of study that is approved by the Board and meets all relevant standards for teachers, administrators, school guidance counselors, or school psychologists.
6. "Capstone experience" means a culminating professional experience in a PreK-12 setting. This experience may include student teaching or internships in administration, counseling, or school psychology, or alternative path PreK-12 teaching.
7. "Classroom-based educator preparation program" means a program administered through a school district or charter school that is approved pursuant to R7-2-604.05.
8. "Educator preparation program" means a traditional or alternative educator preparation program that prepares PreK-12 teachers, administrators, school counselors, and school psychologists for an institutional recommendation for an Arizona certificate.
9. "Field experience" means scheduled, directed, structured, supervised, frequent experiences in a PreK-12 setting that occurs prior to the capstone experience. Field experiences must assist educator candidates in developing the knowledge, skills, and dispositions necessary to ensure all students learn, and provide evidence in meeting standards described in the Board approved professional teaching standards or professional administrative standards, and relevant Board approved academic standards.
10. "Institutional recommendation" means a form developed by the Department and issued by a professional preparation institution, that indicates an individual has completed a Board approved educator preparation program.
11. "Internship" means significant opportunities for candidates to practice and develop the skills identified in relevant state and national standards as measured by substantial and sustained work in real settings, appropriate for the certificate the candidate is seeking, performed under the direction of a supervising practitioner and a program supervisor.
12. "National standards" means written expectations for meeting a specified level of performance that are established by, but not limited to, the following organizations: Council for Accreditation of Counseling and Related Education Program (CACREP), Council for the Accreditation of Educator Preparation (CAEP), Council for Exceptional Children (CEC), The National Educational Leadership Preparation (NELP), Interstate New Teacher Assessment and Support Consortium (InTASC), Professional Standards for Educational Leadership (PSEL), International Society for Technology in Education (ISTE), National Association for the Education of Young Children (NAEYC), National Association of School Psychologists (NASP), National Council for Accreditation of Teacher Education (NCATE) or Teacher Education Accreditation Council (TEAC).
13. "Probationary educator preparation program" means a program with at least one deficiency identified in the biennial status letter issued by the Department, as a result of a Department review of the biennial report. Programs with the same deficiency(s) in two consecutive biennial status letters are subject to revocation of Board approval. A deficiency may include, but is not limited to, stakeholder surveys, completer data and student achievement data.
14. "Professional preparation institutions" means organizations that include, but are not limited to, universities and colleges, school districts, not for profit organizations, professional organizations, private businesses, charter schools, and regional training centers that oversee one or more educator preparation programs.
15. "Program completer" means a student who has met all the professional program institution's requirements of a Board approved educator preparation program necessary to obtain an institutional recommendation.
16. "Program supervisor" means an educator from the professional preparation institution under whose supervision the candidate for licensure practices during a capstone experience. The program supervisor's professional work experiences must be relevant to the license the candidate is seeking. Program supervisors must also have adequate training from the professional preparation institution.
17. "Review Team" means a committee that reviews educator preparation programs seeking Board approval that consists of representatives from the Department and at least three of the following entities: institutions under the jurisdiction of the Arizona Board of Regents, Arizona private institutions of higher education, Arizona community colleges, other organizations with a Board approved educator preparation program, professional educator associations, PreK-12 administrators from local education agencies, National Board Certified Teachers, and a graduate or representative from an Arizona alternative educator preparation program. For alternative educator preparation program applications, the review team shall include at least one graduate or representative from an Arizona alternative educator preparation program.
18. "Student teaching" means a minimum of twelve weeks of rigorous field-based experiences, appropriate for the certificate the candidate is seeking, performed under the direction of a supervising practitioner and a program supervisor. The student teaching placement must be

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appropriate for the certification that the applicant is seeking.

19. "Supervising practitioner" means a standard certified educator, currently employed by a local education agency, private agency or other PreK-12 setting who supervises the candidate during a capstone experience. Supervising practitioners must have:
  - a. A minimum of three full years of experience relevant to the license the candidate is seeking.
  - b. A current classification of highly effective or effective pursuant to A.R.S. §§ 15-341(A)(41), 15-189.06, when applicable.
  - c. Adequate training from the professional preparation institution.
20. "Traditional educator preparation program" means a program that includes courses, field experiences, and a capstone experience that is designed to prepare preservice PreK-12 teachers, administrators, school counselors, and school psychologists."

#### Historical Note

New Section made by exempt rulemaking at 16 A.A.R. 318, effective August 29, 2006 (Supp. 09-1). Amended by exempt rulemaking at 16 A.A.R. 1249, effective May 24, 2010 (Supp. 10-4). Amended by final exempt rulemaking at 21 A.A.R. 2047, effective October 27, 2014 (Supp. 15-3). Amended by final exempt rulemaking at 26 A.A.R. 66, effective December 13, 2019 (Supp. 19-4). Amended by final exempt rulemaking at 26 A.A.R. 1311, effective May 18, 2020 (Supp. 20-2).

#### R7-2-604.02. Educator Preparation Program Approval Procedures

- A. Professional preparation institutions with no Board approved educator preparation programs, seeking initial approval for an educator preparation program shall submit to the Department the information necessary to conduct a readiness review of the professional preparation institution. The Department shall prescribe forms to assist professional preparation institutions with providing all information required as part of the readiness review process. The required information, includes the following:
  1. An institutional profile demonstrating program and financial stability, a description of the educator preparation program seeking approval, a listing of national or regional accreditations the institution's governance and administrative structures and student demographic data.
  2. A description of the professional preparation institution's vision, mission, philosophy and goals, and a description of how this information is shared with students, relevant staff and other relevant stakeholders.
  3. Data regarding the professional preparation institution's relevant staff, including the following:
    - a. Demographic data relating to the relevant staff for each educator preparation program seeking approval, including, at a minimum, educational degrees, staff to student ratio, experience teaching in a PreK-12 setting, and, if available, ethnicity and gender data.
    - b. Definitions of titles and clarification of roles of individuals responsible for courses, seminars, or modules of study; field experiences; capstone experiences; and administration.
    - c. A description of the professional preparation institution's employment policies, including procedures for determining staff assignments, evaluation procedures

and professional development opportunities and requirements.

- B. The Department shall provide professional preparation institutions written notification, within 60 days of receiving readiness review materials, either indicating readiness to submit educator preparation programs for review or specifying any deficiencies. The institution has 30 days from receipt of the notice to supply the Department with all required information regarding identified deficiencies.
- C. The Department shall initiate a review of the specific educator preparation programs being considered for Board approval. The Department shall prescribe forms to assist institutions with providing all information required as part of the educator preparation programs review. Professional Preparation Institutions with accreditation may submit accreditation documentation to be considered as part of the review process. To facilitate this review, institutions shall provide the Department with the following:
  1. A description of the educator preparation programs being considered for Board approval. This shall include, at a minimum, the criteria for student entry into the program; a summary of the program courses, seminars, or modules of study; field experiences; and capstone experiences. The professional preparation institution must verify that it requires courses, seminars, or modules of study necessary to obtain a full Structured English Immersion endorsement if required for the certificate the candidate is seeking.
  2. A description of the field experience and capstone experience policies for the educator preparation programs being considered for Board approval. The review team shall verify that the field experience and capstone experience includes evidence of engagement in the application of relevant standards as articulated in the Board approved professional teaching standards or professional administrative standards and relevant national standards. Educator preparation programs applying for approval in school psychology and guidance counseling shall only be required to demonstrate compliance with applicable national standards.
  3. Evidence that candidates are provided instruction and practice in how to gather, evaluate, and synthesize multiple data sources and how to effectively use data in educational and classroom instructional decisions.
  4. Provide the Department with evidence that candidates are provided instruction and practice in how to appropriately integrate technology when working with students.
  5. A description of the assessment plan for measuring each candidate's competencies as they progress through courses, seminars, or modules of study and field experiences to ensure readiness for a capstone experience. The plan shall require, at a minimum, that candidates demonstrate competencies as articulated in the Board approved professional teaching standards or professional administrative standards, relevant Board approved academic standards, and relevant national standards. The plan shall also describe processes for utilizing performance-based assessments and for providing candidates with necessary remediation. Programs applying for approval in school psychology and guidance counseling shall only be required to demonstrate compliance with relevant national standards.
  6. A description of the procedures used to monitor and evaluate the operation, scope and quality of the educator preparation program being considered for approval. This shall include the use of internal and external evaluations,

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and may include stakeholder surveys, program completer employment information, and PreK-12 student achievement data.

7. An educator preparation program matrices demonstrating that program course, seminar, or module assessments, field experiences and capstone experiences measure candidates' success in meeting the Board approved professional teaching standards or professional administrative standards, and relevant national standards. Educator preparation programs applying for approval in school psychology and guidance counseling shall only be required to demonstrate compliance with relevant national standards.
- D. The Department may schedule and conduct an onsite visit upon completion of the educator preparation programs review for professional preparation institutions seeking initial approval. The onsite visit may include, a tour of the professional preparation institution; a review of documentation and related evidence; and interviews of relevant staff, educator candidates, and local education agency, private agency or other PreK-12 administrators who employ program completers.
- E. Upon completion of the review, and onsite review if applicable, the Department shall, within 90 days, provide the professional preparation institution with a program report of the Department's findings. This report shall cite any evidence showing deviation from each relevant standard Board approved professional teaching standard, professional administrative standard, and relevant national standard that applies to the educator preparation program. The professional preparation institution shall have 30 days from receipt of the Department's program report to submit a response addressing any identified deficiencies.
- F. Based upon the Department's program report, the Department shall recommend to the Board that the educator preparation program be approved or denied.
- G. The Board may grant educator preparation program approval for a period not to exceed six years or deny program approval.
- H. Within 60 days of the Board's action, a professional preparation institution may request reconsideration of the Board's decision to deny an educator preparation program.
- I. Professional preparation institutions with Board approval shall make available to the public a statement indicating the valid period for which the educator preparation program has been approved.
- J. Professional preparation institutions with Board approved educator preparation programs shall comply with the reporting requirements established by Title II of the Higher Education Act (P.L. 110-315).
- K. Each approved professional preparation institution shall submit a biennial report with the Department documenting educator preparation program activities for the previous two years. The biennial report shall include the following:
  1. A description of any substantive changes in courses, seminars, modules, assessments, field experiences or capstone experiences in Board approved educator preparation programs;
  2. Electronic access to relevant educator preparation program information;
  3. The name, title and original signature of the certification officer for the professional preparation institution;
  4. Relevant data on the educator preparation program, relevant staff, and candidates, which may include, but is not limited to, stakeholder surveys, completer data, and student achievement data required as a condition of initial or continuing program approval.
- L. The Department shall provide annual updates to the Board and make publically available information summarizing the biennial reports to include, but not limited to, program status, deficiencies, and commendations.
- M. Board approved educator preparation programs shall provide their program completers with an institutional recommendation for issuance of the appropriate Arizona certification within 45 days.
- N. To maintain Board educator preparation program approval, the professional preparation institution shall be in continuous operation and training candidates in accordance with its mission and program objectives, fulfill all reporting requirements, and maintain compliance with all applicable local, state, tribal and federal requirements.
- O. The Department shall provide a timeline for professional preparation institutions to submit educator preparation programs for approval.
- P. Professional preparation Institutions seeking renewal of educator preparation program approval shall submit the required preliminary documents for review at least six month prior to the program expiration date.

**Historical Note**

New Section made by exempt rulemaking at 16 A.A.R. 318, effective August 29, 2006 (Supp. 09-1). Amended by final exempt rulemaking at 21 A.A.R. 2047, effective October 27, 2014 (Supp. 15-3).

**R7-2-604.03. Alternative Educator Preparation Program Approval Process**

- A. An organization that includes, but is not limited to, universities under the jurisdiction of the Arizona Board of Regents, community colleges in this state, private postsecondary institutions licensed by this state, school districts, charter schools, professional organizations, nonprofit organizations, private entities and regional training centers that oversee one or more educator preparation program which wishes to offer a program for an alternative route for the certification of teachers and administrators in this State shall apply to the Department of Education for review to become an approved provider of such a program. The Department of Education shall convene a review team to review the application, using a rubric approved by the Board, and submit a recommendation to the Board. The application shall include:
  1. The name and location of the applicant;
  2. The name of the program;
  3. If the applicant is accredited, the name of the regional accrediting body and the accreditation status of the applicant;
  4. If the applicant is a private postsecondary educational institution, evidence that the applicant is licensed to operate by the State Board of Private Postsecondary Education pursuant to A.R.S. § 32-3021;
  5. A description of the budget of the program;
  6. A list of all staff members responsible for the administration of the program, the roles and responsibilities of each person and his or her credentials;
  7. The areas of certification for which the applicant will offer the program;
  8. A description of the program, which shall include:
    - a. The way in which the elements of the program will comply with the requirements of this Section and R7-2-602, R7-2-603 as applicable and A.R.S. § 15-501.01;
    - b. The application and review process for persons to enroll in the program, including a copy of all forms that will be used in the process;

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- c. A summary of the program courses, seminars, or modules of study; and
- d. The supervised, school-based experiences the applicant will provide, including:
  - i. The name of each school and school district that will participate in the supervised, school-based experience, evidenced by a letter or other communication from the school or school district that demonstrates interest in participating;
  - ii. The length of time for which a candidate will be required to participate in the supervised, school-based experience, including any orientation that the candidate must complete;
  - iii. The manner by which candidates will be mentored by an effective or highly effective teacher and evaluated during the supervised, school-based experience;
  - iv. How the supervised, school-based experience will promote the effectiveness of teachers and administrators, as appropriate; and
  - v. A copy of all forms that will be used for the supervised, school-based experience process;
- 9. If available, data on the efficacy of its preparation program which may include stakeholder surveys, completer data, and student achievement data;
- 10. A statement of the estimated time it will take a candidate enrolled in the program to complete the program, which shall allow for completion of the program within one year but not more than three years;
- 11. A description of the manner by which the applicant will evaluate the success or failure of each candidate enrolled in the program and track the progress of each such candidate, including a copy of all forms that will be used for the evaluation and tracking;
- 12. A description of how the applicant will evaluate the success of the program, which must include the information required for the evaluation pursuant to R7-2-604.02(K)(4).
- B.** Upon receipt of an application for approval as an approved provider pursuant to subsection (A), the Department of Education shall convene a review team that shall:
  - 1. Examine the application;
  - 2. Determine whether to recommend that the State Board of Education grant its approval of the application based upon the requirements of this Section and the Board-approved rubric without any additional requirements; and
  - 3. Submit its recommendation to the State Board of Education within 90 days of receipt of the application.
- C.** The State Board of Education shall review the recommendation of the review team and provide to the applicant written notice of its approval or denial. The State Board of Education may grant provisional approval to an applicant pursuant to subsection (D). If the State Board of Education denies an application, the applicant may correct any deficiencies identified in the notice of denial and resubmit the application for review by the Department within 30 days of the denial. The review team shall review the resubmitted application and submit its recommendation to the Board within 60 days of receipt of the resubmitted application.
- D.** If the State Board of Education grants an applicant provisional approval, the applicant may offer the program for an alternative route to certification described in the application for the period prescribed by the State Board of Education. The applicant must remove all the provisions under which the approval was issued before the expiration of the provisional approval. If the applicant removes the provisions within the prescribed time, the State Board of Education will grant nonprovisional approval to the applicant as an approved provider. Provisional approval is valid for two years after the date on which the State Board of Education granted provisional approval. If an applicant does not remove all the provisions within the prescribed time, the provisional approval is automatically revoked.
- E.** Except as otherwise provided in subsection (D), if an applicant is approved as an approved provider pursuant to this Section, the approval is valid for six years after the date of approval. To continue the approval, the qualified provider must submit an application for renewal before the expiration of the approval to the Department of Education. If the application for renewal is approved by the State Board of Education, the renewal is valid for six years after the date of the approval.
- F.** If an approved provider intends to offer a program for an alternative route to certification for an area of certification that is different from the area of certification for which the qualified provider has been approved, the qualified provider must submit a new application pursuant to subsection (A) to offer a program for an alternative route to certification for that area of certification.
- G.** An approved provider shall provide its program completers with an institutional recommendation for issuance of the appropriate Arizona alternative path certification within 45 days. An approved provider seeking renewal of its program approval shall submit the required renewal application for review at least 90 days prior to the program expiration date.
- H.** Each qualified provider must submit a report once every two years which includes:
  - 1. A description of any substantive changes in courses, seminars, modules or assessments in the Board approved educator preparation programs;
  - 2. The name, title and original signature of the certification officer for the professional preparation institution; and
  - 3. Relevant data on the educator preparation program, relevant staff, and candidates, which may include, but is not limited to, stakeholder surveys, completer data, and student achievement data required as a condition of continuing program approval.
- I.** The Department shall:
  - 1. Present the results of the report to the State Board of Education; and
  - 2. After the results have been presented to the State Board of Education, post the report on the Department's website.
- J.** Each qualified provider shall cooperate with the State Board of Education and the Department in the evaluation of the effectiveness of this Section.

**Historical Note**

New Section made by exempt rulemaking at 16 A.A.R. 728, effective March 22, 2010 (Supp. 10-3). Amended by final exempt rulemaking at 21 A.A.R. 2047, effective October 27, 2014 (Supp. 15-3). Amended by final exempt rulemaking at 24 A.A.R. 195, effective August 9, 2017; filed in the Office on January 2, 2018 (Supp. 18-1). Amended by final exempt rulemaking at 25 A.A.R. 965, effective March 25, 2019 (Supp. 19-1). Amended by final exempt rulemaking at 26 A.A.R. 1311, effective May 18, 2020 (Supp. 20-2).

**R7-2-604.04. Revocation of Approval of Qualified Provider: Notification of Intent; Requirements of Exit Plan**

- A.** The State Board of Education may revoke its approval of an approved provider if the Board determines that the program for an alternative route to certification offered by the qualified

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provider does not meet the applicable requirements of R7-2-604.03.

- B.** Before the Board revokes its approval of an approved provider, the Board will notify the qualified provider of its intent to revoke approval. The notice must include the specific reasons upon which the Board is basing its decision. Not later than 30 days after the date on which the qualified provider receives the notice, the qualified provider may submit a written response to the Board which sets forth the reasons why approval should not be revoked. The Board will review the notice and any response submitted by the qualified provider and will determine whether to:
1. Revoke the approval of the qualified provider;
  2. Allow the qualified provider to continue providing the program for an alternative route to certification if certain enumerated conditions are met; or
  3. Allow the continued approval of the qualified provider without conditions.
- C.** If the Board revokes its approval of an approved provider, the qualified provider must provide an exit plan which includes a description of how the qualified provider will assist candidates enrolled in the program for an alternative route to certification in completing another program with a different qualified provider at no cost to the candidate.

**Historical Note**

New Section made by exempt rulemaking at 16 A.A.R. 728, effective March 22, 2010 (Supp. 10-3). Amended by final exempt rulemaking at 21 A.A.R. 2047, effective October 27, 2014 (Supp. 15-3). Amended by final exempt rulemaking at 24 A.A.R. 195, effective August 9, 2017; filed in the Office on January 2, 2018 (Supp. 18-1).

**R7-2-604.05. Classroom-Based Alternative Preparation Program Approval Process**

- A.** A school district or charter school may apply to the Department of Education for approval as a classroom-based alternative preparation program provider. The application, on a form prescribed by the Department, shall include the following:
1. The name of the program;
  2. The areas of certification for which the applicant will offer the program;
  3. Verification that individuals to be enrolled in the program will have a bachelor's degree from an accredited institution;
  4. Verification that individuals to be enrolled in the program will have a valid fingerprint card issued by the Arizona Department of Public Safety;
  5. Individuals enrolled in the program possess:
    - a. An emergency teaching certificate; or
    - b. An alternative teaching certificate.
    - c. Individuals enrolled at a charter school classroom-based alternative preparation program are not required to possess a certificate.
  4. Data supporting the efficacy of its teacher preparation program, which may include stakeholder surveys, completion data and student achievement data. The school district or charter school may contract with a third party provider to provide the classroom-based alternative preparation program and may use that program's efficacy data to meet this requirement.
- B.** A review team shall review the application and make a recommendation to the Board as prescribed in R7-2-604.03(B) through (E) and shall submit biennial reports prescribed in R7-2-604.03(H).
- C.** An approved provider shall provide its program completers with an institutional recommendation for issuance of the

appropriate Arizona alternative pathway certification within 45 days.

- D.** Upon successful completion of a classroom-based alternative preparation program, an individual may apply for the appropriate Arizona Classroom-Based Standard Teaching certificate.

**Historical Note**

New Section made by final exempt rulemaking at 24 A.A.R. 195, effective August 9, 2017; filed in the Office on January 2, 2018 (Supp. 18-1). Amended by final exempt rulemaking at 26 A.A.R. 1311, effective May 18, 2020 (Supp. 20-2).

**R7-2-605. Certification Responsibility**

The Superintendent of Public Instruction or the Superintendent's designee shall be responsible for the issuance and evaluation of the appropriate certificates based on the applicant's compliance with the statutes and rules.

**Historical Note**

Repealed effective December 4, 1978 (Supp. 78-6). New Section R7-2-605 adopted effective April 10, 1984 (Supp. 84-2). Editorial correction, new Section R7-2-605 shown adopted effective April 10, 1984 should read new Section R7-2-605 adopted effective October 1, 1985. Amended by adding a new subsection (B) effective December 18, 1985 (Supp. 85-6). Amended by adding subsection (C), filed May 5, 1986, effective July 1, 1987; amended by adding subsection (D) effective June 30, 1986 (Supp. 86-3). Correction to Historical Note dated June 30, 1986, second part should have read: "...amended by adding subsections (D), (E), (F), (G) and (H) effective June 30, 1986"; amended subsection (A) effective August 10, 1988 (Supp. 88-3). Amended effective September 12, 1989 (Supp. 89-3). Amended effective November 6, 1990; Amended effective December 12, 1990 (Supp. 90-4). Amended effective March 10, 1994 (Supp. 94-1). Section repealed; new Section adopted effective December 4, 1998 (Supp. 98-4). Amended by exempt rulemaking at 16 A.A.R. 1249, effective May 24, 2010 (Supp. 10-4).

**R7-2-606. Proficiency Assessments**

- A.** The Arizona Teacher Proficiency Assessment is adopted as the proficiency assessment for applicants for teaching certificates. The Arizona Administrator Proficiency Assessment is adopted as the proficiency assessment for applicants for administrative certificates.
- B.** The subject knowledge portion of the Arizona Teacher Proficiency Assessment shall assess proficiency as described in R7-2-602 related to the teacher's knowledge of the certification subject area or areas.
- C.** The professional knowledge portion of the Arizona Teacher Proficiency Assessment shall assess proficiency as described in R7-2-602 related to the teacher's pedagogical knowledge.
- D.** The Arizona Administrator Proficiency Assessment shall assess professional knowledge as described in R7-2-603 as a requirement for certification of administrators, supervisors, principals, and superintendents.
- E.** The passing score for each assessment shall be determined by the Board using the results of validity and reliability studies. The passing score for each assessment shall be reviewed by the Board at least every three years.
- F.** The proficiency assessments for professional knowledge and subject knowledge for a certificate, endorsement, or approved area shall be approved by the Board.

**Historical Note**

Repealed effective December 4, 1978 (Supp. 78-6). New



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Section adopted effective March 10, 1994 (Supp. 94-1). Amended effective March 6, 1997 (Supp. 97-1). Section repealed; new Section adopted effective December 4, 1998 (Supp. 98-4). Section R7-2-606 amended by emergency rulemaking under A.R.S. § 41-1026 at 8 A.A.R. 2562, effective May 23, 2002 for a period of 180 days (Supp. 02-2). Emergency Section R7-2-606 amended by emergency rulemaking under A.R.S. § 41-1026 at 8 A.A.R. 3739, effective August 5, 2002 for a period of 180 days (Supp. 02-3). May 23, 2002 emergency rulemaking renewed under A.R.S. § 41-1026 at 8 A.A.R. 5132, effective November 19, 2002 for a period of 180 days (Supp. 02-4). August 5, 2002 emergency rulemaking renewed under A.R.S. § 41-1026 at 9 A.A.R. 522, effective January 31, 2003 for a period of 180 days (Supp. 03-1). Amended by final rulemaking at 9 A.A.R. 1605, effective May 5, 2003 (Supp. 03-2). Amended by exempt rulemaking at 16 A.A.R. 1249, effective May 24, 2010 (Supp. 10-4). Amended by final exempt rulemaking at 24 A.A.R. 1427, effective April 23, 2018 (Supp. 18-2).

**R7-2-607. General Certification Provisions**

- A.** The evaluation to determine qualification for certification shall not begin until an institutional recommendation or application for certification and official transcripts, and the appropriate fees have been received by the Department. Course descriptions, verification of employment, and other documents may also be required for the evaluation.
- B.** Unless otherwise specified, a standard certificate shall be issued for 12 years and may be issued with deficiencies. Applicants may receive a standard certificate with the following deficiencies of requirements to be completed within three years: research-based phonics; reading instruction including for students with dyslexia; professionalism and ethics; and U.S. and Arizona Constitutions. If an applicant fails to meet these requirements within the prescribed time period, the Department of Education or the Board shall temporarily suspend the standard certificate, but the suspension is not considered a disciplinary action and the individual shall be allowed to correct the deficiency within the remaining time of the standard certification.
- C.** The effective date of a new certificate shall be the date the evaluation is completed by the Department. The effective date of a renewed certificate shall be the date the evaluation for renewal is completed by the Department.
- D.** Unless otherwise specified, all certificates and provisional endorsements issued for three years or less shall expire on the date of issuance in the year of expiration. All certificates issued for more than three years shall expire on the holder's birth date in the year of expiration.
- E.** Only those degrees awarded by an accredited institution shall be considered to satisfy the requirements for certification.
- F.** Professional preparation programs, courses, practica, and examinations required for certification shall be taken at an accredited institution or a Board-approved teacher preparation program.
- G.** Only those courses in which the applicant received a passing grade or credit shall be considered to satisfy the requirements for certification.
- H.** All certificates issued by the Board before the effective date of this Article are considered to have been issued in conformance with these rules.
- I.** The Board shall issue a comparable Arizona certificate, if one has been established by R7-2-608, R7-2-609, R7-2-610, R7-2-611, R7-2-612, or R7-2-613, and shall waive the requirements for passing the comparable professional knowledge, subject knowledge, and performance portions of the Arizona Teacher Proficiency Assessment, to an applicant who holds current comparable certification from the National Board for Professional Teaching Standards.
- J.** An applicant is not required to take any portion of the Arizona Teacher Proficiency Assessment if the applicant has at least three years of full-time teaching experience in any state, including this state, in the comparable area of certification or endorsement in which the person is applying for certification, regardless of whether the applicant was certified or uncertified. An applicant is not required to take any portion of the Arizona Administrator Proficiency Assessment if the person has been an administrator in any state, including this state, regardless of whether the applicant was certified or uncertified.
- K.** An applicant is exempt from the testing requirements for Arizona certificates if the applicant passed corresponding portions of a professional or subject knowledge examinations, or administrator examination adopted by a state agency in another state that are substantially similar to the Arizona Teacher Proficiency Assessments or the Arizona Administrator Proficiency Assessment.
- L.** An applicant is exempt from the subject knowledge portion of the Arizona Teacher Proficiency Assessment if:
  1. The applicant provides verification of teaching courses relevant to a content area or subject matter for the last two consecutive years, and for a total of at least three years at one or more accredited postsecondary institutions; or
  2. The applicant obtained a bachelor's, master's or doctoral degree from an accredited institution in a relevant subject area; or
  3. The applicant provides verification of a minimum of five years of work experience that is relevant to a subject area of certification.
- M.** Teachers in grades six through 12 whose primary assignment is in an academic subject required pursuant to R7-2-301 and R7-2-302, shall hold a certificate, endorsement, or approved area in the assigned subject or demonstrate proficiency by passing the appropriate subject area portion of the Arizona Teacher Proficiency Assessment or as provided in subsections (J), (K) and (L). The subject areas of demonstrated proficiency shall be specified on the certificate. If a proficiency assessment is not offered in a subject area, an approved area shall consist of a minimum of 24 semester hours of courses in the subject.
- N.** If a language assessment is not offered through the Arizona Teacher Proficiency Assessment, a passing score on a nationally accredited test of a foreign language approved by the Board may demonstrate proficiency of that foreign language in lieu of the 24 semester hours of courses in that subject.
- O.** A teacher's language proficiency in a Native American language shall be verified by a person, persons, or entity designated by the appropriate tribe in lieu of the 24 semester hours of courses in that subject.
- P.** Teachers of homebound students shall hold the same certificate that is required of a classroom teacher.
- Q.** Fingerprint clearance cards shall be issued by the Arizona Department of Public Safety.
- R.** A person who surrenders their teaching certificate for any reason shall not submit an application for certification with the Board for a period of five years. A person re-applying after the five-year ban must apply under the current rules at the time of re-application.
- S.** A teacher with National Board Certification in the subject area(s) the applicant is seeking certification(s) is exempt from the professional knowledge and the subject knowledge portions of the Arizona Teacher Proficiency Assessments.

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- T. Notwithstanding any other provision, an individual with a deficiency in the Arizona and U.S. Constitutions who teaches an academic course that focuses primarily on history, government, social studies, citizenship, law or civics shall be issued a standard certificate subject to suspension in one year if that deficiency is not removed. The suspension is not considered a disciplinary action and the individual shall be allowed to correct that deficiency within the remaining time of the standard certification.
- U. As used in this Article, unless otherwise provided, "work experience" means work experience identified in the submission of a resume verified by a hiring superintendent of personnel director at the public school or the Department of Education which demonstrates knowledge or skill relevant to a subject area.

**Historical Note**

Adopted effective December 5, 1977 (Supp. 77-6).  
 Repealed effective December 4, 1978 (Supp. 78-6). New Section adopted effective May 3, 1993 (Supp. 93-2).  
 Amended effective March 6, 1997 (Supp. 97-1). Section repealed; new Section adopted effective December 4, 1998 (Supp. 98-4). Amended by final rulemaking at 6 A.A.R. 1132, effective March 10, 2000 (Supp. 00-1).  
 Amended by exempt rulemaking at 16 A.A.R. 102, effective May 1, 2009 (Supp. 10-1). Amended by exempt rulemaking at 16 A.A.R. 160, effective October 26, 2009 (Supp. 10-2). Amended by exempt rulemaking at 16 A.A.R. 324, effective January 25, 2010 (Supp. 10-3).  
 Amended by exempt rulemaking at 16 A.A.R. 1249, effective May 24, 2010 (Supp. 10-4). Amended by final exempt rulemaking at 21 A.A.R. 2054, effective December 8, 2014 (Supp. 15-3). Amended by final exempt rulemaking at 22 A.A.R. 648, effective January 25, 2016 (Supp. 16-1). Amended by final exempt rulemaking at 24 A.A.R. 195, effective August 9, 2017; filed in the Office on January 2, 2018 (Supp. 18-1).

**R7-2-607.01 Subject Areas – Waiver**

Notwithstanding any other provision in this Article, any individual with a valid Elementary or Secondary certificate, or a Special Education certificate that includes grades six through 12, issued prior to August 1, 2016 may add one or more approved areas to the certificate prior to August 1, 2017 without any additional requirements provided the individual received an evaluation in the top two levels of performance on the most recent teacher evaluation related to one or more of the subject areas and meets one of the following requirements:

1. The individual was teaching in one or more subject areas based on a verified Arizona High, Objective, Uniform, State Standard of Evaluation (HOUSSE) rubric as highly qualified to teach the subject area(s) as defined under the No Child Left Behind Act; or
2. The individual has completed a minimum of 24 semester hours of courses in the subject area(s).

**Historical Note**

New Section made by final exempt rulemaking at 23 A.A.R. 725, effective January 23, 2017 (Supp. 17-1).

**R7-2-608. Early Childhood Teaching Certificates**

- A. A standard early childhood education certificate shall be required for individuals teaching in public school early childhood education programs, except as provided in R7-2-611 or in R7-2-615(N). For individuals teaching in grades kindergarten through three, this certificate is optional. An Early Childhood Special Education certificate as described in R7-2-611 is not required for individuals who hold the Early Childhood

Teaching Certificate as described in this Section in combination with an Arizona cross-categorical mild-moderate disabilities, specialized special education, or moderate to severe disabilities teaching certificate as described in R7-2-611.

- B. For the purposes of this Section, public school early childhood education programs means education programs provided by local education agencies, including their sub-grantees and contracted providers, for children birth through age 8 for the purpose of providing academically and developmentally appropriate learning opportunities that are standards-based with defined curriculum and comprehensive in content to include all appropriate developmental and academic areas as defined by the Arizona Early Childhood Education Standards or the Arizona K-12 Academic Standards approved by the Board. C. Except as noted, all certificates are subject to the general certification provisions in R7-2-607 and the renewal requirements in R7-2-619.
- D. Standard Professional Early Childhood Education Certificate – birth through age 8 or through grade three. The requirements are:
1. A bachelor's degree, and
  2. One of the following:
    - a. Completion of a teacher preparation program in early childhood education from an accredited institution or a teacher preparation program approved by the Board, or
    - b. Early childhood education coursework and practicum experience which teaches the knowledge and skills described in R7-2-602 and includes both of the following:
      - i. Thirty-seven semester hours of early childhood education courses to include all of the following areas of study:
        - (1) Foundations of early childhood education;
        - (2) Child guidance and classroom management;
        - (3) Characteristics and quality practices for typical and atypical behaviors of young children;
        - (4) Child growth and development, including health, safety and nutrition;
        - (5) Child, family, cultural and community relationships;
        - (6) Developmentally appropriate instructional methodologies for teaching language, math, science, social studies and the arts;
        - (7) Early language and literacy development;
        - (8) Assessing, monitoring and reporting progress of young children; and
      - ii. A minimum of eight semester hours of practicum, including:
        - (1) A minimum of four semester hours in a supervised field experience, practicum, internship or student teaching setting serving children birth through preschool. One year of full-time verified teaching experience with children in birth through preschool may substitute for this student teaching experience. This verification may come from a school-based education program or center-based program licensed by the Department of Health Services or regulated by tribal or military authorities; and
        - (2) A minimum of four semester hours in a supervised student teaching setting serv-

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- ing children in kindergarten through grade three. One year of full-time verified teaching experience with children in kindergarten through grade three in an accredited school may substitute for this student teaching experience; or
- c. A valid early childhood education certificate from another state.
3. A valid Fingerprint Clearance Card issued by the Arizona Department of Public Safety, and
  4. A passing score on the professional knowledge portion of the Arizona Teacher Proficiency Assessment once that portion of the AEPA is adopted by the Board, and
  5. A passing score on the early childhood subject knowledge portion of the Arizona Teacher Proficiency Assessment unless the applicant has a bachelor's, master's or doctoral degree in a relevant content area or otherwise qualifies for a waiver of the subject knowledge examination.
- E. Standard Professional Early Childhood Education Certificate – birth through age 8 or through grade three for applications received on and after August 1, 2018.**
1. The requirements include all of the following:
    - a. A bachelor's degree;
    - b. Completion of a teacher preparation program in early childhood education from a Board-approved educator preparation program or from an accredited institution offering substantially similar training addressing the following topics and any others as required by law:
      - i. Research-based systematic phonics, including early language and literacy development;
      - ii. Research-based instructional strategies for delivering differentiated reading instruction, assessment, intervention and remediation to support readers of varying ages and ability levels, including students with dyslexia;
      - iii. Foundations of early childhood education;
      - iv. Teaching students with exceptionalities;
      - v. Child guidance and classroom management, including characteristics and quality practices for typical and atypical behaviors of young children;
      - vi. Child growth and development, including health, safety and nutrition;
      - vii. Child, family, cultural and community relationships;
      - viii. Developmentally appropriate instructional methodologies for teaching language, math, science, social studies and the arts;
      - ix. Assessing, monitoring and reporting progress of young children;
      - x. Instructional design and lesson planning, including modifications and accommodations;
      - xi. Practicum as described in R7-2-604 serving children birth through preschool;
      - xii. Professional responsibility and ethical conduct; and
      - xiii. Twelve-week capstone experience as described in R7-2-604 children in kindergarten through grade three, which may be completed during the valid period of a teaching intern or student teaching intern certificate. For individuals seeking dual certification, any capstone experience requirements may be met through separate eight-week capstone experiences in each of the certification areas sought.
  - c. A valid Fingerprint Clearance Card issued by the Arizona Department of Public Safety;
  - d. A passing score on the professional knowledge portion of the Arizona Teacher Proficiency Assessment; and
  - e. A passing score on the early childhood subject knowledge portion of the Arizona Teacher Proficiency Assessment, unless the applicant has a bachelor's, master's or doctoral degree in a relevant content area or otherwise qualifies for a waiver of the subject knowledge examination.
2. Applicants may meet the requirements in subsection (E)(1)(b) with the submission of an application for the Standard Professional Early Childhood Education certificate that includes evidence of two years of verified full-time teaching experience serving children birth through grade three, and Board-approved or accredited training or coursework which teaches the knowledge and skills described in R7-2-602 and subsections (E)(1)(b)(i) through (xii). One year of verified full-time teaching experience serving children in kindergarten through grade three may be substituted for the capstone experience.

**Historical Note**

Adopted effective May 20, 1994 (Supp. 94-2). Section repealed; new Section adopted effective December 4, 1998 (Supp. 98-4). Amended by final rulemaking at 6 A.A.R. 1132, effective March 10, 2000 (Supp. 00-1).

Section R7-2-608 amended by emergency rulemaking under A.R.S. § 41-1026 at 8 A.A.R. 2562, effective May 23, 2002 for a period of 180 days (Supp. 02-2). May 23, 2002 emergency rulemaking renewed under A.R.S. § 41-1026 at 8 A.A.R. 5132, effective November 19, 2002 (Supp. 02-4). Amended by final rulemaking at 9 A.A.R. 1605, effective May 5, 2003 (Supp. 03-2). Former Section R7-2-608 recodified to R7-2-609 at 16 A.A.R. 68, effective December 8, 2008 (Supp. 10-1). New Section R7-2-608 made by exempt rulemaking at 16 A.A.R. 52, effective December 8, 2008 (Supp. 10-1). Amended by exempt rulemaking at 16 A.A.R. 119, effective September 21, 2009 (Supp. 10-2). Amended by exempt rulemaking at 16 A.A.R. 235, effective December 7, 2009 (Supp. 10-3). Amended by final exempt rulemaking at 24 A.A.R. 195, effective August 9, 2017; filed in the Office on January 2, 2018 (Supp. 18-1).

**R7-2-609. Elementary Teaching Certificates**

- A.** Except as noted, all certificates are subject to the general certification provisions in R7-2-607 and the renewal requirements in R7-2-619.
- B.** Standard Professional Elementary Certificate – grades K through eight. The requirements are:
  1. A bachelor's degree,
  2. One of the following:
    - a. Completion of a teacher preparation program in elementary education from an accredited institution or a Board-approved teacher preparation program, described in R7-2-604; or
    - b. Forty-five semester hours of education courses which teach the knowledge and skills described in R7-2-602, including at least eight semester hours of practicum in grades K through eight. Two years of verified teaching experience in grades Prekindergarten

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- ten through eight may be substituted for the eight semester hours of practicum; or
- c. A valid elementary certificate from another state.
  3. A passing score on the professional knowledge portion of the Arizona Teacher Proficiency Assessment;
  4. A passing score on the subject knowledge portion of the Arizona Teacher Proficiency Assessment unless the applicant has a bachelor's, master's or doctoral degree in a relevant content area or otherwise qualifies for a waiver of the subject knowledge assessment;
  5. A valid fingerprint card issued by the Arizona Department of Public Safety; and
  6. Forty-five hours or three semester hours of instruction in research-based systematic phonics. An accredited institution or other provider may provide this instruction.
- C. Standard Professional Elementary Certificate – grades kindergarten through eight for applications received on and after August 1, 2018.
1. The requirements include all of the following:
    - a. A bachelor's degree;
    - b. Completion of a teacher preparation program in elementary education from a Board-approved educator preparation program or from an accredited institution offering substantially similar training, addressing the following topics and any others as required by law:
      - i. At least forty-five hours or three semester hours of instruction in research-based systematic phonics, including language and literacy development;
      - ii. For applications received on and after October 15, 2020, at least forty-five hours or three semester hours of instruction in research-based instructional strategies for delivering differentiated reading instruction, assessment, intervention and remediation to support readers of varying ages and ability levels, including students with dyslexia;
      - iii. Developmentally appropriate instructional delivery, facilitation and methodologies for teaching language, math, science, social studies and the arts;
      - iv. Instructional design and lesson planning, including modifications, and accommodations;
      - v. The learning environment, including classroom management;
      - vi. Assessing, monitoring and reporting progress;
      - vii. Teaching students with exceptionalities;
      - viii. Professional responsibility and ethical conduct; and
      - ix. Twelve weeks of capstone experience as described in R7-2-604 in grades kindergarten through eight, which may be completed during the valid period of a teaching intern or student teaching intern certificate. One year of verified full-time teaching experience in grades kindergarten through eight may be substituted for the capstone experience requirement. For individuals seeking dual certification, any capstone experience requirements may be met through separate eight-week capstone experiences in each of the certification areas sought.
    - c. A passing score on the professional knowledge portion of the Arizona Teacher Proficiency Assessment;
    - d. A passing score on the subject knowledge portion of the Arizona Teacher Proficiency Assessment, unless

the applicant has a bachelor's, master's or doctoral degree in a relevant content area or otherwise qualifies for a waiver of the subject knowledge assessment; and

- e. A valid fingerprint card issued by the Arizona Department of Public Safety.
2. Applicants may meet the requirements in subsection (C)(1)(b) with the submission of an application for the Standard Professional Elementary certificate that includes evidence of two years of verified full-time teaching experience in grades kindergarten through eight, and Board-approved or accredited training or coursework which teaches the knowledge and skills described in R7-2-602 and subsections (C)(1)(b)(i) through (viii).

**Historical Note**

Adopted effective December 4, 1998 (Supp. 98-4). Amended by final rulemaking at 6 A.A.R. 1132, effective March 10, 2000 (Supp. 00-1). Section R7-2-609 amended by emergency rulemaking under A.R.S. § 41-1026 at 8 A.A.R. 2562, effective May 23, 2002 for a period of 180 days (Supp. 02-2). May 23, 2002 emergency rulemaking renewed under A.R.S. § 41-1026 at 8 A.A.R. 5132, effective November 19, 2002 (Supp. 02-4). Amended by final rulemaking at 9 A.A.R. 1605, effective May 5, 2003 (Supp. 03-2). Former R7-2-609 recodified to R7-2-610; new R7-2-609 recodified from R7-2-608 at 16 A.A.R. 68, effective December 8, 2008 (Supp. 10-1). R7-2-609 "Pre-kindergarten" corrected to "PreK" at request of the Board, Office File No. M09-444, filed November 24, 2009 (Supp. 10-1). Amended by exempt rulemaking at 16 A.A.R. 235, effective December 7, 2009 (Supp. 10-3). Amended by exempt rulemaking at 16 A.A.R. 1249, effective May 24, 2010 (Supp. 10-4). Amended by final exempt rulemaking at 24 A.A.R. 195, effective August 9, 2017; filed in the Office on January 2, 2018 (Supp. 18-1). Amended by final exempt rulemaking at 24 A.A.R. 2947, effective September 24, 2018 (Supp. 18-3).

**R7-2-609.01. Middle Grades Teaching Certificate**

- A. Except as noted, all certificates are subject to the general certification provisions in R7-2-607 and the renewal requirements in R7-2-619.
- B. Standard Professional Middle Grades Certificate – grades five through nine
1. The requirements include all of the following:
    - a. A bachelor's degree;
    - b. Completion of a teacher preparation program in middle grades education from a Board-approved educator preparation program or from an accredited institution offering substantially similar training, addressing the following topics and any others as required by law:
      - i. Early adolescent psychology;
      - ii. Research-based instructional strategies for delivering differentiated reading instruction, assessment, intervention and remediation to support readers of varying ages and ability levels, including students with dyslexia;
      - iii. Instructional design and lesson planning, including modifications and accommodations;
      - iv. The learning environment, including classroom management;
      - v. Developmentally appropriate instructional delivery, facilitation and methodologies;
      - vi. Assessing, monitoring and reporting progress;
      - vii. Teaching students with exceptionalities;

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- viii. Professional responsibility and ethical conduct; and
  - ix. Twelve weeks of capstone experience as described in R7-2-604 in grades five through nine, which may be completed during the valid period of a teaching intern or student teaching intern certificate. One year of verified full-time teaching experience in grades five through nine may be substituted for the capstone experience requirement. For individuals seeking dual certification, any capstone experience requirements may be met through separate eight-week capstone experiences in each of the certification areas sought.
  - c. A passing score on the professional knowledge portion of the Arizona Teacher Proficiency Assessment;
  - d. A passing score on at least one subject knowledge portion of the Arizona Teacher Proficiency Assessment, unless the applicant has a bachelor's, master's or doctoral degree in the relevant content area or otherwise qualifies for a waiver of the subject knowledge assessment; and
  - e. A valid fingerprint card issued by the Arizona Department of Public Safety.
  - 2. Applicants may meet the requirements in subsection (B)(1)(b) with the submission of an application for the Standard Professional Middle Grades certificate that includes evidence of two years of verified full-time teaching experience in grades five through nine, and Board-approved or accredited training or coursework which teaches the knowledge and skills described in R7-2-602 and subsections (B)(1)(b)(i) through (viii).
- C. Standard Professional Secondary Certificate – grades six through 12 for applications received on and after August 1, 2018.
    - 1. The requirements include all of the following:
      - a. A bachelor's degree;
      - b. Completion of a teacher preparation program in secondary education from a Board-approved educator preparation program or from an accredited institution offering substantially similar training, addressing the following topics and any others as required by law:
        - i. Research-based instructional strategies for delivering differentiated reading instruction, assessment, intervention and remediation to support readers of varying ages and ability levels, including students with dyslexia;
        - ii. Instructional design and lesson planning, including modifications and accommodations;
        - iii. The learning environment, including classroom management;
        - iv. Developmentally appropriate instructional delivery, facilitation and methodologies;
        - v. Assessing, monitoring and reporting progress;
        - vi. Teaching students with exceptionalities;
        - vii. Professional responsibility and ethical conduct;
        - viii. Twelve weeks of capstone experience as described in R7-2-604 in grades six through postsecondary, which may be completed during the valid period of a teaching intern or student teaching intern certificate; one year of verified full-time teaching experience in grades six through postsecondary may substitute for the capstone experience requirement. For individuals seeking dual certification, any capstone experience requirements may be met through separate eight-week capstone experiences in each of the certification areas sought.
    - c. A passing score on one or more subject knowledge portions of the Arizona Teacher Proficiency Assessment unless the applicant has a bachelor's, master's or doctoral degree in a relevant subject area or otherwise qualifies for a waiver of the subject knowledge exam;
    - d. A passing score on the professional knowledge portion of the Arizona Teacher Proficiency Assessment; and
    - e. A valid fingerprint clearance card issued by the Arizona Department of Public Safety.
    - 2. Applicants may meet the requirements in subsection (C)(1)(b) with the submission of an application for the Standard Professional Secondary certificate that includes evidence of two years of verified full-time teaching experience in grades six through postsecondary, and Board-approved or accredited training or coursework which teaches the knowledge and skills described in R7-2-602 and subsections (C)(1)(b)(i) through (vii). One year of verified full-time teaching experience in grades six through postsecondary may be substituted for the capstone experience.

**Historical Note**

New Section by final exempt rulemaking at 24 A.A.R. 791, effective March 26, 2018 (Supp. 18-1).

**R7-2-610. Secondary Teaching Certificates**

- A. Except as noted, all certificates are subject to the general certification provisions in R7-2-607 and the renewal requirements in R7-2-619.
- B. Standard Professional Secondary Certificate – grades six through 12. The requirements are:
  - 1. A bachelor's degree,
  - 2. One of the following:
    - a. Completion of a teacher preparation program in secondary education from an accredited institution or a Board-approved teacher preparation program, described in R7-2-604; or
    - b. Thirty semester hours of education courses which teach the knowledge and skills described in R7-2-602, including at least eight semester hours of practicum in grades six through 12. Two years of verified teaching experience in grades six through postsecondary may substitute for the eight semester hours of practicum; or
    - c. A valid secondary certificate from another state.
  - 3. A passing score on one or more subject knowledge portions of the Arizona Teacher Proficiency Assessment, unless the applicant has a bachelor's, master's or doctoral degree in a relevant subject area or otherwise qualifies for a waiver of the subject knowledge exam;
  - 4. A passing score on the professional knowledge portion of the Arizona Teacher Proficiency Assessment; and
  - 5. A valid fingerprint clearance card issued by the Arizona Department of Public Safety.
- D. Notwithstanding any other provision, individuals seeking a secondary certificate with an approved area in science, technology, engineering or mathematics are exempted from the requirements of a passing score on one or more subject knowledge portions of the Arizona Teacher Proficiency Assessment based on:

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1. Verified work experience of five or more years in science, technology, engineering or mathematics; and
2. Demonstrated adequate knowledge of science, technology, engineering or mathematics by:
  - a. A master's or a doctoral degree in an academic subject that is specific to science, technology, engineering or mathematics; or
  - b. Twenty-four semester hours of relevant coursework in an academic subject that is specific to science, technology, engineering or mathematics.

**Historical Note**

Adopted effective December 4, 1998 (Supp. 98-4). Amended by final rulemaking at 6 A.A.R. 1132, effective March 10, 2000 (Supp. 00-1). Section R7-2-610 amended by emergency rulemaking under A.R.S. § 41-1026 at 8 A.A.R. 2562, effective May 23, 2002 for a period of 180 days (Supp. 02-2). May 23, 2002 emergency rulemaking renewed under A.R.S. § 41-1026 at 8 A.A.R. 5132, effective November 19, 2002 (Supp. 02-4). Amended by final rulemaking at 9 A.A.R. 1605, effective May 5, 2003 (Supp. 03-2). Amended by final rulemaking at 10 A.A.R. 2399, effective July 23, 2004 (Supp. 04-2). Amended by exempt rulemaking at 15 A.A.R. 1838, effective August 29, 2006 (Supp. 09-1). Former R7-2-610 recodified to R7-2-611; new R7-2-610 recodified from R7-2-609 at 16 A.A.R. 68, effective December 8, 2008 (Supp. 10-1). Amended by exempt rulemaking at 16 A.A.R. 235, effective December 7, 2009 (Supp. 10-3). Amended by exempt rulemaking at 16 A.A.R. 1249, effective May 24, 2010 (Supp. 10-4). Amended by final exempt rulemaking at 21 A.A.R. 2054, effective December 8, 2014 (Supp. 15-3). Amended by final exempt rulemaking at 24 A.A.R. 195, effective August 9, 2017; filed in the Office on January 2, 2018 (Supp. 18-1).

**R7-2-610.01. Specialized Secondary Teaching Certificates**

Specialized Secondary Certificate – Science, Technology, Engineering or Mathematics – grades six through 12

**A.** The requirements are:

1. One of the following:
  - a. Demonstrate expertise in the subject matter knowledge through:
    - i. A bachelor's, master's or a doctoral degree and 24 semester hours of relevant coursework in an academic subject that is specific to science, technology, engineering or mathematics; or
    - ii. Verified teaching experience for the last two consecutive years, and for a total of at least three years at one or more accredited postsecondary institutions in science, technology, engineering or mathematics
2. Verified work experience of five or more years in science, technology, engineering or mathematics
3. A valid fingerprint clearance card issued by the Arizona Department of Public Safety.

**B.** An individual who meets the requirements of this Section is exempt from the competency requirements of the United States and Arizona Constitutions, and the professional knowledge and the subject knowledge portions of the Arizona Teacher Proficiency Assessments.**Historical Note**

New Section made by final exempt rulemaking at 24 A.A.R. 195, effective August 9, 2017; filed in the Office on January 2, 2018 (Supp. 18-1).

**R7-2-610.02. Subject Matter Expert Standard Teaching Certificate****icate**

Subject Matter Expert Standard Teaching Certificate – grades six through 12

**A.** The requirements are:

1. A bachelor's degree and one of the following:
  - a. Verified teaching experience for the last two consecutive years, and for a total of at least three years at one or more accredited postsecondary institutions in the relevant subject area of certification. An individual seeking certification pursuant to this subdivision is exempt from passing the professional knowledge portion of the Arizona Teacher Proficiency Assessment; or
  - b. A bachelor's, master's or doctoral degree from an accredited postsecondary institution in the specific subject area of certification that is directly relevant to a content area or subject matter taught in public schools; or
  - c. Verification of expertise through work experience of a minimum of five years in the relevant area of certification.
2. A passing score on the professional knowledge Arizona Teacher Proficiency Assessment within two years except as provided by subsection (A)(1)(a). If an applicant fails to meet this requirement within two years, the Department of Education or the Board shall temporarily suspend the standard certificate, but the suspension is not considered a disciplinary action and the individual shall be allowed to correct the deficiency within the remaining time of the standard certification.
3. A valid fingerprint clearance card issued by the Arizona Department of Public Safety.

**B.** An individual who meets the requirements of this Section is exempt from the competency requirements of the United States and Arizona Constitutions and the subject knowledge portion of the Arizona Teacher Proficiency Assessment.**Historical Note**

New Section made by final exempt rulemaking at 24 A.A.R. 195, effective August 9, 2017; filed in the Office on January 2, 2018 (Supp. 18-1). Amended by final exempt rulemaking at 24 A.A.R. 2947, effective September 24, 2018 (Supp. 18-3).

**R7-2-611. Special Education Teaching Certificates**

- A.** Except as noted, all certificates are subject to the general certification provisions in R7-2-607 and the renewal requirements in R7-2-619. An Early Childhood Special Education certificate as described in this Section is not required for individuals who hold the Early Childhood endorsement as described in R7-2-615 in combination with an Arizona cross-categorical, specialized special education, or moderate/severe disabilities teaching certificate as described in this Section. An Early Childhood Special Education certificate as described in this Section is not required for individuals who hold the Early Childhood Teaching Certificate as described in R7-2-608 in combination with an Arizona cross-categorical, specialized special education, or moderate/severe disabilities teaching certificate as described in this Section.
- B.** Terms used in this Section are defined in A.R.S. § 15-761.
- C.** Standard Professional Mild/Moderate Disabilities Certificate - grades K through 12.

1. The holder is qualified to teach students with mild/moderate disabilities as documented by student needs in the individualized education program and the following categories, including: autism, mild/moderate intellectual disabilities, traumatic brain injury, emotional disability,

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specific learning disability, orthopedic impairments, developmental delay and/or other health impairments.

2. The requirements are:

- a. A bachelor's degree;
- b. One of the following:
  - i. Completion of a teacher preparation program in special education from an accredited institution which included courses in the instruction and behavior management of students with mild/moderate disabilities; or
  - ii. Forty-five semester hours of education courses which teach the standards described in R7-2-602, including a minimum of 37 semester hours of special education courses and eight semester hours of practicum with students with mild/moderate disabilities. Special education courses shall include foundations of special education, legal aspects, effective collaboration and communication practices, research-based instruction in mathematics, research-based instruction in English language arts, classroom management and behavior analysis, assessment and eligibility, language development and disorders, and electives. Two years of verified teaching experience in mild/moderate special education, grades K through 12 may substitute for the eight semester hours of practicum.
- c. A passing score on the professional knowledge portion of the Arizona Teacher Proficiency Assessment;
- d. A passing score on the subject knowledge portion of the Arizona Teacher Proficiency Assessment, unless the applicant has a bachelor's, master's or doctoral degree in mild/moderate special education or otherwise qualifies for a waiver of the subject knowledge examination; and
- e. A valid fingerprint clearance card issued by the Arizona Department of Public Safety.

**D. Standard Professional Mild/Moderate Disabilities Certificate - grades kindergarten through twelve for applications received on or after August 1, 2018.**

1. The holder is qualified to teach students with mild/moderate disabilities as documented by student needs in the individualized education program and the following categories, including: autism, mild/moderate intellectual disabilities, traumatic brain injury, emotional disability, specific learning disability, orthopedic impairments, developmental delay and/or other health impairments.
2. The requirements include all of the following:
  - a. A bachelor's degree;
  - b. Completion of a teacher preparation program in mild/moderate disabilities special education from a Board-approved educator preparation program or from an accredited institution offering substantially similar training addressing the following topics and any others as required by law:
    - i. Research-based systematic phonics;
    - ii. Research-based instructional strategies for delivering differentiated reading instruction, assessment, intervention and remediation to support readers of varying ages and ability levels, including students with dyslexia;
    - iii. Instructional design and lesson planning, including specially designed instruction;
    - iv. The learning environment, including classroom and behavioral management;

- v. Instructional delivery, facilitation and methodologies;
- vi. Legal aspects of special education, including individualized education programs and transition planning;
- vii. Effective collaboration and communication practices, including modifications and accommodations;
- viii. Research-based instruction in math;
- ix. Research-based instruction in English language arts;
- x. Assessment and eligibility, including monitoring and reporting requirements;
- xi. Language development and disorders;
- xii. Professional responsibility and ethical conduct;
- xiii. Twelve weeks of capstone experience as described in R7-2-604 in mild/moderate special education in grades kindergarten through twelve, which may be completed during the valid period of a teaching intern certificate. One year of verified teaching experience in mild/moderate special education in grades kindergarten through twelve may substitute for the capstone experience requirement. For individuals seeking dual certification, any capstone experience requirements may be met through separate eight-week capstone experiences in each of the certification areas sought.

- c. A passing score on the professional knowledge portion of the Arizona Teacher Proficiency Assessment;
- d. A valid fingerprint clearance card issued by the Arizona Department of Public Safety.

3. Applicants may meet the requirements in subsection (D)(2)(b) with the submission of an application for the Standard Professional Mild/Moderate Disabilities Certificate grades kindergarten through twelve that includes evidence of two years of verified full-time teaching experience in mild/moderate disabilities special education in grades kindergarten through twelve and Board-approved or accredited training or coursework which teaches the knowledge and skills described in R7-2-602 and subsections (D)(2)(b)(i)-(xii).

4. Board approved educator preparation programs leading to dual certification in mild/moderate disabilities and elementary, middle school, or secondary education may exempt a student from the mild/moderate special education capstone experience upon the completion of the following:

- a. Verification from the applicable district or charter school administrator that the student was employed continuously as a paraprofessional whose primary responsibility was working with students in mild/moderate special education classrooms for the two years preceding commencement of the capstone experience in elementary, middle school, or secondary education;
- b. Verification from the applicable district or charter school administrator that the student received evaluations, in each of the preceding two years of employment as a paraprofessional, indicating effectiveness in performance; and
- c. Completion of the capstone experience in elementary, middle school or secondary education and demonstration of all of the following competencies during the dual certification educator preparation program:

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- i. Participation on a multi-disciplinary evaluation team;
  - ii. Participation in and drafting of an acceptable individualized education program; and
  - iii. Planning and delivery of specially designed instruction for a class of students.
- E. Provisional Specialized Special Education Certificate – grades K through 12.
  - 1. The certificate is valid for three years and is not renewable.
  - 2. No new applications for a Provisional Specialized Education Certificate will be accepted after December 31, 2015.
  - 3. The holder is qualified to teach students with intellectual disabilities, emotional disability, specific learning disability, orthopedic impairments or other health impairments, as specified on the certificate.
- F. Standard Professional Specialized Special Education Certificate – grades K through 12.
  - 1. The certificate is valid for twelve years and may be renewed.
  - 2. The holder is qualified to teach students with intellectual disabilities, emotional disability, specific learning disability, orthopedic impairments or other health impairments, as specified on the certificate.
  - 3. The requirements are:
    - a. A valid Arizona Provisional Specialized Special Education certificate, or a Provisional Specialized Special Education certificate which has not expired for more than one year;
    - b. A valid fingerprint clearance card issued by the Arizona Department of Public Safety.
- G. Standard Professional Moderate/Severe Disabilities Certificate – grades K through 12.
  - 1. The holder is qualified to teach students with moderate/severe disabilities as documented by student needs in the individualized education program and the following categories, including: autism, moderate/severe intellectual disabilities, traumatic brain injury, emotional disability, orthopedic impairments, and/or other health impairments.
  - 2. The requirements are:
    - a. A bachelor's degree,
    - b. One of the following:
      - i. Completion of a teacher preparation program in moderate/severe disabilities education from an accredited institution; or
      - ii. Forty-five semester hours of education courses which teach the standards described in R7-2-602, including a minimum of 37 semester hours of special education courses and eight semester hours of practicum with students with moderate/severe disabilities. Special education courses shall include foundations of low incidence disabilities, legal aspects, effective collaboration and communication practices, adaptive communication, instructional strategies across the curriculum, classroom management and behavior analysis, assessment and eligibility, and electives. Two years of verified special education teaching experience in with students with moderate/severe disabilities, grades K through 12 may substitute for the eight semester hours of practicum.
    - c. A passing score on the professional knowledge portion of the Arizona Teacher Proficiency Assessment,
    - d. A passing score on the subject knowledge portion of the Arizona Teacher Proficiency Assessment, unless
      - the applicant has a bachelor's, master's or doctoral degree in moderate/severe special education or otherwise qualifies for a waiver of the subject knowledge examination, and
- e. A valid fingerprint card issued by the Arizona Department of Public Safety.
- H. Standard Professional Moderate/Severe Disabilities Certificate – grades kindergarten through twelve for applications received on or after August 1, 2018.
  - 1. The holder is qualified to teach students with moderate/severe disabilities as documented by student needs in the individualized education program and the following categories, including: autism, moderate/severe intellectual disabilities, traumatic brain injury, emotional disability, orthopedic impairments, and/or other health impairments. The requirements include all of the following:
    - a. A bachelor's degree;
    - b. Completion of a teacher preparation program in moderate/severe disabilities education from a Board-approved educator preparation program or from an accredited institution offering substantially similar training addressing the following topics and any others as required by law:
      - i. Research-based systematic phonics;
      - ii. Research-based instructional strategies for delivering differentiated reading instruction, assessment, intervention and remediation to support readers of varying ages and ability levels, including students with dyslexia;
      - iii. Instructional design and lesson planning, including specially designed instruction;
      - iv. The learning environment, including classroom and individual behavioral management;
      - v. Instructional delivery, facilitation and methodologies for teaching research-based instruction in math and English language arts;
      - vi. Legal aspects of special education, including individualized education programs and transition planning;
      - vii. Effective collaboration and communication practices, including modifications and accommodations;
      - viii. Adaptive communication, including language development and disorders;
      - ix. Assessment and eligibility, including monitoring and reporting requirements;
      - x. Professional responsibility and ethical conduct;
      - xi. Twelve weeks of capstone experience as described in R7-2-604 in special education in moderate/severe disabilities grades K through 12, which may be completed during the valid period of a teaching intern certificate. One year of verified full-time teaching experience in special education in moderate/severe disabilities grades kindergarten through twelve may substitute for the capstone experience requirement. For individuals seeking dual certification, any capstone experience requirements may be met through separate eight-week capstone experiences in each of the certification areas sought.
  - c. A passing score on the professional knowledge portion of the Arizona Teacher Proficiency Assessment,
  - d. A passing score on the subject knowledge portion of the Arizona Teacher Proficiency Assessment unless the applicant has a bachelor's, master's or doctoral degree in moderate/severe special education or otherwise



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- erwise qualifies for a waiver of the subject knowledge examination, and
- e. A valid fingerprint card issued by the Arizona Department of Public Safety.
3. Applicants may meet the requirements in subsection (H)(2)(b) with the submission of an application for the Standard Professional Moderate/Severe Disabilities Certificate grades kindergarten through twelve that includes evidence of two years of verified full-time teaching experience in moderate/severe disabilities special education in grades kindergarten through twelve and Board-approved or accredited training or coursework which teaches the knowledge and skills described in R7-2-602 and subsections (H)(2)(b)(i)-(x).
- I. Standard Professional Hearing Impaired Certificate – birth through grade 12. The requirements are:**
1. A bachelor's degree,
  2. One of the following:
    - a. Completion of a teacher preparation program in hearing impaired education from an accredited institution; or
    - b. Forty-five semester hours of education courses which teach the knowledge and skills described in R7-2-602, including 21 semester hours of special education courses for the hearing impaired and eight semester hours of practicum. Special education courses shall include survey of exceptional students, teaching methodologies for students with hearing impairment, foundations of instruction of students with hearing impairment, and diagnostic and assessment procedures for the hearing impaired. Two years of verified teaching experience in the area of hearing impaired in grades PreK-12 may be substituted for the eight semester hours of practicum.
  3. A passing score on the professional knowledge portion of the Arizona Teacher Proficiency Assessment,
  4. A passing score on the subject knowledge portion of the Arizona Teacher Proficiency Assessment unless the applicant has a bachelor's, master's or doctoral degree in hearing impaired special education or otherwise qualifies for a waiver of the subject knowledge examination, and
  5. A valid fingerprint clearance card issued by the Arizona Department of Public Safety.
- J. Standard Professional Hearing Impaired Certificate – birth through grade twelve for applications received on or after August 1, 2018.**
1. The requirements include all of the following:
    - a. A bachelor's degree;
    - b. Completion of a teacher preparation program in hearing impaired education from a Board-approved educator preparation program or from an accredited institution offering substantially similar training addressing the following topics and any others as required by law:
      - i. Research-based systematic phonics;
      - ii. Research-based instructional strategies for delivering differentiated reading instruction, assessment, intervention and remediation to support readers of varying ages and ability levels, including students with dyslexia;
      - iii. Survey of exceptional students;
      - iv. Teaching methodologies for students with hearing impairment;
      - v. Foundations of instruction of students with hearing impairment;
  - vi. Diagnostic and assessment procedures for the hearing impaired;
  - vii. Professional responsibility and ethical conduct;
  - viii. Twelve weeks of capstone experience as described in R7-2-604 in hearing impaired special education birth through grade twelve, which may be completed during the valid period of a teaching intern certificate. One year of verified full-time teaching experience in the area of hearing impaired in birth through grade twelve may be substituted for the capstone experience requirement. For individuals seeking dual certification, any capstone experience requirements may be met through separate eight-week capstone experiences in each of the certification areas sought.
  - c. A passing score on the professional knowledge portion of the Arizona Teacher Proficiency Assessment;
  - d. A passing score on the subject knowledge portion of the Arizona Teacher Proficiency Assessment unless the applicant has a bachelor's, master's or doctoral degree in hearing impaired special education or otherwise qualifies for a waiver of the subject knowledge examination; and
  - e. A valid fingerprint clearance card issued by the Arizona Department of Public Safety.
2. Applicants may meet the requirements in subsection (J)(1)(b) with the submission of an application for the Standard Professional Hearing Impaired Certificate – birth through grade twelve that includes evidence of receipt of two years of verified full-time teaching experience in hearing impaired special education birth through grade twelve and training or coursework which teaches the knowledge and skills described in R7-2-602 and subsections (J)(1)(b)(i)-(vii).
- K. Standard Professional Visually Impaired Certificate – birth through grade 12. The requirements are:**
1. A bachelor's degree,
  2. One of the following:
    - a. Completion of a teacher preparation program in visual impairment from an accredited institution; or
    - b. Forty-five semester hours of education courses which teach the knowledge and skills described in R7-2-602, including 21 semester hours of special education courses for the visually impaired and eight semester hours of practicum. Special education courses shall include survey of exceptional students, teaching methodologies for students with visual impairment, foundations of instruction of students with visual impairment, and diagnostic and assessment procedures for the visually impaired. Two years of verified teaching experience in the area of visually impaired in grades PreK-12 may be substituted for the eight semester hours of practicum.
  3. A passing score on the professional knowledge portion of the Arizona Teacher Proficiency Assessment,
  4. A passing score on the subject knowledge portion of the Arizona Teacher Proficiency Assessment, and
  5. Demonstration of competency in Braille through one of the following:
    - a. A passing score on the original version of the National Library of Congress certification exam, or
    - b. A valid certificate for a literary Braille transcriber issued by the National Library of Congress, or
    - c. A passing score on a Braille exam administered by another state, or

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- d. A passing score on the Braille exam developed and administered by the University of Arizona. Individuals who take this test and are not students at the University of Arizona may be assessed a fee.
- 6. A valid fingerprint clearance card issued by the Arizona Department of Public Safety.
- L. Standard Professional Visually Impaired Certificate – birth through grade 12 for applications received on or after August 1, 2018.
  - 1. The requirements include all of the following:
    - a. A bachelor's degree;
    - b. Completion of a teacher preparation program in visual impairment from a Board-approved educator preparation program or from an accredited institution offering substantially similar training addressing the following topics and any others as required by law:
      - i. Research-based systematic phonics;
      - ii. Research-based instructional strategies for delivering differentiated reading instruction, assessment, intervention and remediation to support readers of varying ages and ability levels, including students with dyslexia;
      - iii. Survey of exceptional students;
      - iv. Teaching methodologies for students with visual impairment;
      - v. Foundations of instruction of students with visual impairment;
      - vi. Diagnostic and assessment procedures for the visually impaired;
      - vii. Professional responsibility and ethical conduct;
      - viii. Twelve weeks of capstone experience as described in R7-2-604 in visually impaired special education birth through grade twelve, which may be completed during the valid period of a teaching intern certificate. One year of verified full-time teaching experience in the area of visually impaired in birth through grade twelve may be substituted for the capstone experience requirement. For individuals seeking dual certification, any capstone experience requirements may be met through separate eight-week capstone experiences in each of the certification areas sought.
    - c. A passing score on the professional knowledge portion of the Arizona Teacher Proficiency Assessment,
    - d. A passing score on the subject knowledge portion of the Arizona Teacher Proficiency Assessment,
    - e. Demonstration of competency in Braille through one of the following:
      - i. A passing score on the original version of the National Library of Congress certification exam, or
      - ii. A valid certificate for a literary Braille transcriber issued by the National Library of Congress, or
      - iii. A passing score on a Braille exam administered by another state, or
      - iv. A passing score on the Braille exam developed and administered by the University of Arizona. Individuals who take this test and are not students at the University of Arizona may be assessed a fee.
    - f. A valid fingerprint clearance card issued by the Arizona Department of Public Safety.
- 2. Applicants may meet the requirements in subsection (L)(1)(b) with the submission of an application for the Standard Professional Visually Impaired Certificate – birth through grade twelve that includes evidence of two years of verified full-time teaching experience in visually impaired special education birth through grade twelve and Board-approved or accredited training or coursework which teaches the knowledge and skills described in R7-2-602 and subsections (L)(1)(b)(i)-(vii).
- M. Standard Professional Early Childhood Special Education Certificate – Birth through age 8 or grade 3.
  - 1. The requirements are:
    - a. A bachelor's degree,
    - b. Completion of a teacher preparation program in early childhood special education from an accredited institution,
    - c. A passing score on the subject knowledge portion of the Arizona Teacher Proficiency Assessment, unless the applicant has a bachelor's, master's or doctoral degree in early childhood special education or otherwise qualifies for a waiver of the subject knowledge examination,
    - d. A passing score on the professional knowledge portion of the Arizona Teacher Proficiency Assessment,
    - e. A valid fingerprint clearance card issued by the Arizona Department of Public Safety.
  - 2. Applicants may meet the requirements in subsection (M)(1)(b) with completion of the following:
    - a. Thirty-seven semester hours of early childhood education which teach the standards described in R7-2-602 which include the following areas of study:
      - i. Foundations early childhood education and special education;
      - ii. Behavioral interventions for children with and without disabilities;
      - iii. Characteristics and quality practices for typical and atypical behaviors of young children;
      - iv. Typical and atypical child growth and development, including health, safety and nutrition with an emphasis on special health care needs for children birth through grade 3;
      - v. Child, family, cultural and community relationships including community organizations that support and assist children with disabilities and their families;
      - vi. Developmentally appropriate instructional and inclusive methodologies for teaching social and emotional development, language arts, math, science, social studies, and the arts;
      - vii. Diagnosis and remediation of learning difficulties;
      - viii. Early language and literacy development including communication methods in early childhood education/special education;
      - ix. Assessment and evaluation for early childhood special education to include observing, assessing, monitoring and reporting on the progress of young children;
      - x. A minimum of four semester hours in a supervised field experience, practicum, internship or student teaching setting serving children with identified special needs birth through preschool or one year of full-time teaching experience with children identified with special needs birth through preschool; and

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- xi. A minimum of four semester hours in a supervised student teaching setting serving children with identified special needs in kindergarten through grade 3 or one year of full time teaching experience with children identified with special needs kindergarten through grade 3.
- N. Standard Professional Early Childhood Special Education Certificate – birth through age eight or grade three for applications received on or after August 1, 2018.
  - 1. The requirements include all of the following:
    - a. A bachelor's degree;
    - b. Completion of a teacher preparation program in early childhood special education from a Board-approved educator preparation program or from an accredited institution offering substantially similar training addressing the following topics and any others as required by law:
      - i. Research-based systematic phonics;
      - ii. Research-based instructional strategies for delivering differentiated reading instruction, assessment, intervention and remediation to support readers of varying ages and ability levels, including students with dyslexia;
      - iii. Teaching students with exceptionalities;
      - iv. Characteristics and quality practices for typical and atypical behaviors of young children, including behavioral interventions for children with and without disabilities;
      - v. Typical and atypical child growth and development, including health, safety and nutrition with an emphasis on special health care needs for children birth through grade three;
      - vi. Child, family, cultural and community relationships including community organizations that support and assist children with disabilities and their families;
      - vii. Developmentally appropriate instructional and inclusive methodologies for teaching social and emotional development, language arts, math, science, social studies, the arts and diagnosis and remediation of learning difficulties;
      - viii. Early language and literacy development including communication methods in early childhood education/special education;
      - ix. Assessment and evaluation for early childhood special education to include observing, assessing, monitoring and reporting on the progress of young children;
      - x. Substantial experience in practicum as described in R7-2-604 serving children with exceptionalities birth through preschool and kindergarten through grade three;
      - xi. Professional responsibility and ethical conduct; and
      - xii. Twelve weeks of capstone experience as described in R7-2-604 serving children with exceptionalities in birth through grade three, which may be completed during the valid period of a teaching intern certificate. For individuals seeking dual certification, any capstone experience requirements may be met through separate eight-week capstone experiences in each of the certification areas sought.
    - c. A passing score on the professional knowledge portion of the Arizona Teacher Proficiency Assessment,
    - d. A passing score on the subject knowledge portion of the Arizona Teacher Proficiency Assessment unless the applicant has a bachelor's, master's or doctoral degree in early childhood special education or otherwise qualifies for a waiver of the subject knowledge examination, and
    - e. A valid fingerprint clearance card issued by the Arizona Department of Public Safety.
  - 2. Applicants may meet the requirements in subsection (N)(1)(b) with the submission of an application for the Standard Professional Early Childhood Special Education Certificate – birth through age eight or grade three that includes two years of verified full-time teaching experience in early childhood special education serving children birth through prekindergarten and kindergarten through grade three and Board-approved or accredited training or coursework which teaches the knowledge and skills described in R7-2-602 and subsections (N)(1)(b)(i)-(xi).
  - 3. Board approved educator preparation programs leading to dual certification in early childhood special education and early childhood teaching may exempt a student from the early childhood special education capstone experience upon completion of the following:
    - a. Verification from the applicable district or charter school administrator that the student was employed continuously as a paraprofessional whose primary responsibility was working with students in early childhood special education for two years preceding commencement of the early childhood teaching capstone experience;
    - b. Verification from the applicable district or charter school administrator that the student received evaluations, in each of the preceding two years of employment as a paraprofessional, indicating effectiveness in performance; and
    - c. Completion of the capstone experience in early childhood education and demonstration of all of the following competencies during the dual certification educator preparation program:
      - i. Participation on a multi-disciplinary evaluation team;
      - ii. Participation in and drafting of an acceptable individualized education program; and
      - iii. Planning and delivery of specially designed instruction for a class of students.
- O. Provisional Cross-Categorical Special Education Certificate – grades K through 12
  - 1. No new applications for the Provisional Cross-Categorical Special Education certificate are accepted as of December 31, 2015.
  - 2. Individuals who hold a valid Provisional Cross-Categorical Special Education certificate are qualified to teach students with mild to moderate autism, intellectual disabilities, traumatic brain injury, emotional disability, specific learning disability, orthopedic impairments, developmental delay and/or other health impairments.
  - 3. The Provisional certificate may not be renewed or extended. Individuals who hold a valid Provisional Cross-Categorical Special Education certificate, or a Provisional Cross-Categorical certificate which has not expired for more than one year, may apply for a Standard Professional Cross-Categorical Special Education certificate.
- P. Standard Professional Cross-Categorical Special Education Certificate – grades K through 12.

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1. The Standard Professional Cross-Categorical is valid for 12 years and may be renewed.
2. Individuals who hold a valid Standard Professional Cross-Categorical Special Education certificate are qualified to teach students with autism, intellectual disabilities, traumatic brain injury, emotional disability, specific learning disability, orthopedic impairments, developmental delay and/or other health impairments.
3. The requirements are:
  - a. An Arizona Provisional Cross-Categorical Special Education Certificate that is either valid or has not expired for more than one year.
  - b. A valid fingerprint clearance card issued by the Arizona Department of Public Safety.

**Historical Note**

Adopted effective December 4, 1998 (Supp. 98-4). Amended by final rulemaking at 6 A.A.R. 1132, effective March 10, 2000 (Supp. 00-1). Amended by emergency rulemaking under A.R.S. § 41-1026 at 8 A.A.R. 5139, effective November 19, 2002 for a period of 180 days (Supp. 02-4). Emergency rulemaking renewed under A.R.S. § 41-1026(D) at 9 A.A.R. 1547, effective April 29, 2003 for a period of 180 days (Supp. 03-2). Emergency rulemaking repealed under A.R.S. § 41-1026(E) and permanent R7-2-611 amended by final rulemaking at 9 A.A.R. 3950, effective October 21, 2003 (Supp. 03-3). Former R7-2-611 recodified to R7-2-612; new R7-2-611 recodified from R7-2-610 at 16 A.A.R. 68, effective December 8, 2008 (Supp. 10-1). R7-2-611 "Prekindergarten" corrected to "PreK" at request of the Board, Office File No. M09-444, filed November 24, 2009 (Supp. 10-1). Amended by exempt rulemaking at 16 A.A.R. 119, effective September 21, 2009 (Supp. 10-2). Amended by exempt rulemaking at 16 A.A.R. 235, effective December 7, 2009 (Supp. 10-3). Amended by exempt rulemaking at 16 A.A.R. 1249, effective May 24, 2010 (Supp. 10-4). Amended by final exempt rulemaking at 21 A.A.R. 2056, effective December 2, 2013 (Supp. 15-3). Amended by final exempt rulemaking at 24 A.A.R. 195, effective August 9, 2017; filed in the Office on January 2, 2018 (Supp. 18-1). Amended by final exempt rulemaking at 24 A.A.R. 1427, effective April 23, 2018 (Supp. 18-2).

**R7-2-612. Career and Technical Education Teaching Certificates**

- A. Except as noted, all certificates are subject to the general certification provisions in R7-2-607, and the renewal requirements in R7-2-619.
- B. For purposes of this rule, the following definitions apply:
  1. "Career and Technical Education means a field of study in any area relating to a CTE program approved by the Arizona Department of Education as described in the Guidance on CTE Teacher Certification, which is on file with the Arizona Department of Education.
  2. "Occupational Area" means employment in any area relating to a CTE program approved by the Department as described in the Guidance on CTE Teacher Certification, which is on file with the Arizona Department of Education.
  3. "Verified Work Experience" means written documentation from a current or former supervisor for paid or unpaid work, a current school superintendent, or the Department of Education Career and Technical Education Programmatic State Supervisor indicating that an applicant for a career and technical education certificate per-

formed work in a business or industry setting related to an approved CTE program occupational area.

**C. Standard Career and Technical Education (CTE) Certificate – CTE Field of Study – grades K through 12**

1. The requirements include all of the following:
  - a. Within three years, obtain a passing score on the professional knowledge portion of the Arizona Teacher Proficiency Assessment or qualification for a waiver of this assessment.
  - b. A valid fingerprint clearance card issued by the Arizona Department of Public Safety.
  - c. At least one of the following options:
    - i. Option A – Bachelor's degree in the specified CTE field of study – requirements include all of the following:
      - (1) A bachelor's or more advanced degree in the specified CTE field of study from an accredited institution.
      - (2) Thirty semester hours of courses in the specified CTE field of study.
      - (3) Two hundred forty clock hours of verified work experience in the specified CTE occupational area. Hours may have been accumulated before obtaining a certification.
      - (4) Within three years, complete fifteen semester hours of courses in professional knowledge in career and technical education, to include any of the following areas: principles/philosophy of career and technical education, developmentally appropriate instructional delivery, facilitation and methodologies, instructional technology, instructional design and lesson planning, including modifications and accommodations, assessing, monitoring and reporting progress, the learning environment, including classroom management, teaching students with exceptionalities, or professional responsibility and ethical conduct. Hours may be obtained prior to issuance of the standard career and technical education certificate in the specified CTE field of study. Fifteen semester hours may be obtained through Department or Board-CTE approved professional development. Fifteen clock hours equals one semester hour.
    - ii. Option B – Valid non-CTE Arizona Provisional or Standard teaching certificate or an Arizona CTE teaching certificate in another CTE field of study – requirements include all of the following:
      - (1) A valid Arizona provisional or standard teaching certificate for teachers in Birth through grade 12 issued pursuant to this Article.
      - (2) One year of the most recent teacher evaluation(s) approved by a certificated administrator, or the administrator's designee, in a PreK-12 school setting and issued during the term of the Arizona teaching certificate exhibiting satisfactory performance in the classroom.
      - (3) Three semester hours of courses in professional knowledge in career and technical

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- education to include any of the following areas: principles/philosophy of career and technical education, developmentally appropriate instructional delivery, facilitation and methodologies for career and technical education, or instructional technology. Three semester hours may be obtained through Department or Board-CTE approved professional development. Fifteen clock hours equals one semester hour.
- (4) Two hundred forty clock hours of verified work experience in the specified CTE occupational area. Hours may have been accumulated before obtaining a certification.
  - (5) Within three years, complete nine semester hours of subject knowledge courses in the CTE field of study.
- iii. Option C – Business and industry professional - requirements include six thousand clock hours of verified work experience in an occupational area. Within three years, complete fifteen semester hours of courses in professional knowledge in career and technical education to include any of the following areas: principles/philosophy of career and technical education, developmentally appropriate instructional delivery, facilitation and methodologies, instructional design and lesson planning, including modifications and accommodations, assessing, monitoring and reporting progress, instructional technology, the learning environment, including classroom management, teaching students with exceptionalities, or professional responsibility and ethical conduct. Fifteen semester hours may be obtained through Department or Board-CTE approved professional development. Fifteen clock hours equals one semester hour; and
  - iv. Option D – Bachelor's degree in the specified CTE field of study teacher preparation program – requirements include both of the following:
    - (1) A bachelor's or more advanced degree that included completion of a Board approved teacher preparation program in the CTE field of study or from an accredited institution offering substantially similar training, addressing the following topics in career and technical education and any others as required by law: Principles/philosophy of career and technical education, instructional design and lesson planning, including modifications and accommodations; the learning environment, including classroom management; developmentally appropriate instructional delivery, facilitation and methodologies; assessing, monitoring and reporting progress; teaching students with exceptionalities; professional responsibility and ethical conduct; and
    - (2) Two hundred forty clock hours of verified work experience in the specified occupational area. Hours shall have been accumulated before obtaining a certification.
  2. If an applicant fails to meet these requirements within the prescribed time period, the Department of Education or the Board shall temporarily suspend the standard certificate, but the suspension is not considered a disciplinary action and the individual shall be allowed to correct the deficiency within the remaining time of the standard certification.

**Historical Note**

Adopted effective December 4, 1998 (Supp. 98-4).

Amended by final rulemaking at 6 A.A.R. 1132, effective March 10, 2000 (Supp. 00-1). Section R7-2-612 amended by emergency rulemaking under A.R.S. § 41-1026 at 8 A.A.R. 2562, effective May 23, 2002 for a period of 180 days (Supp. 02-2). May 23, 2002 emergency rulemaking renewed under A.R.S. § 41-1026 at 8 A.A.R. 5132, effective November 19, 2002 (Supp. 02-4). Amended by final rulemaking at 9 A.A.R. 1605, effective May 5, 2003 (Supp. 03-2). Amended by final rulemaking at 11 A.A.R. 1885, effective June 26, 2005 (Supp. 05-2). Amended by exempt rulemaking at 15 A.A.R. 1292, effective June 26, 2006 (Supp. 09-1). Amended by exempt rulemaking at 15 A.A.R. 1893, effective September 25, 2006 (Supp. 09-2).

Amended by exempt rulemaking at 15 A.A.R. 2086, effective May 19, 2008 (Supp. 09-3). Former R7-2-612 recodified to R7-2-613 at 15 A.A.R. 2146, effective August 25, 2008 (Supp. 09-4). New Section made by exempt rulemaking at 15 A.A.R. 2143, effective August 25, 2008 (Supp. 09-4). Former R7-2-612 recodified to R7-2-613; new R7-2-612 recodified from R7-2-611 at 16 A.A.R. 68, effective December 8, 2008 (Supp. 10-1).

Amended by exempt rulemaking at 16 A.A.R. 102, effective May 1, 2009 (Supp. 10-1). Amended by final exempt rulemaking at 21 A.A.R. 2063, effective August 26, 2013 (Supp. 15-3). Amended by final exempt rulemaking at 23 A.A.R. 725, effective January 23, 2017 (Supp. 17-1).

Amended by final exempt rulemaking at 24 A.A.R. 195, effective August 9, 2017; filed in the Office on January 2, 2018 (Supp. 18-1). Amended by final exempt rulemaking at 23 A.A.R. 694, effective February 26, 2018 (Supp. 18-1).

**R7-2-612.01. Standard Specialized Career and Technical Education (CTE) Certificates – grades K-12**

- A. Standard Specialized CTE certificates are subject to the general certification provisions in R7-2-607 and the renewal requirements in R7-2-619.
- B. The holder is qualified to teach in an area that is specified on the certificate relating to a CTE program approved by the Arizona Department of Education as described in Guidance on CTE Teacher Certification which is on file with the Arizona Department of Education.
- C. The requirements are:
  1. A valid fingerprint clearance card issued by the Arizona Department of Public Safety.
  2. Demonstration of expertise in the specified CTE area through one of the following:
    - a. A Bachelor's, master's or doctoral degree in the specified CTE area; or
    - b. A Bachelor's or more advanced degree and completion of twenty-four semester hours of coursework in the specified CTE area; or
    - c. An Associate's degree in the specified CTE area; or
    - d. An industry certification, license, or credential in the specified CTE area approved by the appropriate Department of Education Career and Technical Edu-

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- education Program Specialist or Career and Technical Education Program Services Director; or
- e. Verified teaching experience for the last two consecutive years, and for a total of at least three years at one or more accredited postsecondary institutions in a subject that is specific to the CTE course being taught.
  3. Verification of five years of work experience in the specified CTE occupational area.
  4. An individual who meets the requirements of this Section is exempt from the competency requirements of the United States and Arizona Constitutions, the professional knowledge and subject knowledge portions of the Arizona Teacher Proficiency Assessments, and structured English immersion endorsement requirements.

**Historical Note**

New Section made by final exempt rulemaking at 22 A.A.R. 2617, effective August 22, 2016 (Supp. 16-4).  
Amended by final exempt rulemaking at 23 A.A.R. 694, effective February 26, 2018 (Supp. 18-1).

**R7-2-613. PreK-12 Teaching Certificates**

- A. Except as noted, all certificates are subject to the general certification provisions in R7-2-607 and the renewal requirements in R7-2-619.
- B. Standard Professional PreK-12 Arts Education Certificate: art, dance, dramatic arts or music. The requirements are:
  1. A bachelor's degree.
  2. One of the following:
    - a. Completion of a teacher preparation program in PreK-12 arts education in one of the following approved areas: art, dance, dramatic arts or music from a Board-approved teacher preparation program, described in R7-2-604; or
    - b. Completion of a teacher preparation program in PreK-12 arts education in one of the following approved areas: art, dance, dramatic arts or music from an institution accredited by the National Association of Schools of Art and Design, National Association of Schools of Dance, National Association of Schools of Theatre, the National Association of Schools of Music, or National Council for Accreditation of Teacher Education; or
    - c. Thirty semester hours of education or arts education courses which teach the knowledge and skills described in R7-2-602, including at least eight semester hours of elementary and secondary methods in the certificate area and 12 semester hours of practicum in the certificate area grades PreK-12. Two years of verified full-time teaching experience in the certificate area in grades PreK-12 may substitute for the 12 semester hours of practicum; or
    - d. A valid PreK-12 arts education certificate from another state.
  3. A passing score on the appropriate subject knowledge portion of the Arizona Teacher Proficiency Assessment, unless the applicant has a bachelor's, master's or doctoral degree in a relevant content area or otherwise qualifies for a waiver of the subject knowledge assessment. If a proficiency assessment is not offered in a subject area, an approved area shall consist of a minimum of 24 semester hours of courses in the subject.
  4. A passing score on the professional knowledge portion of the Arizona Teacher Proficiency Assessment.
  5. A valid fingerprint clearance card issued by the Arizona Department of Public Safety.
- C. Standard Professional PreK-12 Arts Education Certificate for applications received on or after August 1, 2018.
  1. The requirements include all of the following:
    - a. A bachelor's degree;
    - b. Completion of a teacher preparation program in PreK-12 arts education from a Board-approved teacher educator preparation program or from an accredited institution offering substantially similar training, addressing the following topics and any others as required by law:
      - i. Studio art;
      - ii. Art history and analysis;
      - iii. Advanced work in studio or art application areas;
      - iv. Technical processes;
      - v. Instructional design and lesson planning, including modifications, and accommodations;
      - vi. The learning environment, including classroom management;
      - vii. Assessing, monitoring and reporting progress;
      - viii. Professional responsibility and ethical conduct;
      - ix. Twelve weeks of capstone experience as described in R7-2-604 in grades PreK-12 arts education, which may be completed during the valid period of a teaching intern or student teaching intern certificate. One year of verified full-time teaching experience in the certificate area in grades PreK-12 arts education may substitute for the capstone experience requirement;
    - c. A passing score on the appropriate subject knowledge portion of the Arizona Teacher Proficiency Assessment, unless the applicant has a bachelor's, master's or doctoral degree in a relevant content area or otherwise qualifies for a waiver of the subject knowledge assessment.
    - d. A passing score on the professional knowledge portion of the Arizona Teacher Proficiency Assessment and
    - e. A valid fingerprint clearance card issued by the Arizona Department of Public Safety.
  2. Applicants may meet the requirements in subsection (C)(1)(b) with the submission of an application for the Standard Professional PreK-12 Arts Education certificate that includes evidence of two years of verified full-time teaching experience in grades PreK-12 arts education, and Board-approved or accredited training or coursework which teaches the knowledge and skills described in R7-2-602 and subsections (C)(1)(b)(i) through (vii). One year of verified full-time teaching experience in grades PreK-12 arts education may be substituted for the capstone experience.
- D. Standard Professional PreK-12 Dance Education Certificate
  1. The requirements include all of the following:
    - a. A bachelor's degree;
    - b. Completion of a teacher preparation program in PreK-12 dance education from an accredited institution offering substantially similar training, addressing the following topics and any others as required by law:
      - i. Performance;
      - ii. Choreography;
      - iii. Theoretical and historical studies of dance;
      - iv. Technical processes;
      - v. Instructional design and lesson planning, including modifications, and accommodations;

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- vi. The learning environment, including classroom management;
- vii. Assessing, monitoring and reporting progress;
- viii. Professional responsibility and ethical conduct; and
- ix. Twelve weeks of capstone experience as described in R7-2-604 in grades PreK-12 dance education, which may be completed during the valid period of a teaching intern or student teaching intern certificate. One year of verified full-time teaching experience in grades PreK-12 dance education may substitute for the capstone experience requirement; and
- c. A passing score on the appropriate subject knowledge portion of the Arizona Teacher Proficiency Assessment, unless the applicant has a bachelor's, master's or doctoral degree in a relevant content area or otherwise qualifies for a waiver of the subject knowledge assessment.
- d. A passing score on the professional knowledge portion of the Arizona Teacher Proficiency Assessment; and
- e. A valid fingerprint clearance card issued by the Arizona Department of Public Safety.
- 2. Applicants may meet the requirements in subsection (D)(1)(b) with the submission of an application for the Standard Professional PreK-12 Dance Education certificate that includes evidence of two years of verified full-time teaching experience in grades PreK-12 dance education, and Board-approved or accredited training or coursework which teaches the knowledge and skills described in R7-2-602 and subsections (D)(1)(b)(i) through (viii). One year of verified full-time teaching experience in grades PreK-12 dance education may be substituted for the capstone experience.
- E. Standard Professional PreK-12 Theatre Education Certificate
  - 1. The requirements include all of the following:
    - a. A bachelor's degree;
    - b. Completion of a teacher preparation program in PreK-12 theatre education from an accredited institution offering substantially similar training, addressing the following topics and any others as required by law:
      - i. Foundations of production;
      - ii. Aesthetics, theatre history, literature, theory and criticism;
      - iii. Advanced work in theatre performance;
      - iv. Instructional design and lesson planning, including modifications, and accommodations;
      - v. The learning environment, including classroom management;
      - vi. Assessing, monitoring and reporting progress;
      - vii. Professional responsibility and ethical conduct and;
      - viii. Twelve weeks of capstone experience as described in R7-2-604 in grades PreK-12 theatre education, which may be completed during the valid period of a teaching intern or student teaching intern certificate. One year of verified full-time teaching experience in grades PreK-12 theatre education may substitute for the capstone experience requirement; and
    - c. A passing score on the appropriate subject knowledge portion of the Arizona Teacher Proficiency Assessment, unless the applicant has a bachelor's, master's or doctoral degree in a relevant content area or otherwise qualifies for a waiver of the subject knowledge assessment.
    - d. A passing score on the professional knowledge portion of the Arizona Teacher Proficiency Assessment; and
    - e. A valid fingerprint clearance card issued by the Arizona Department of Public Safety.
  - 2. Applicants may meet the requirements in subsection (F)(1)(b) with the submission of an application for the Standard Professional PreK-12 Music Education certificate that includes evidence of two years of verified full-time teaching experience in grades PreK-12 music education, and Board-approved or accredited training or coursework which teaches the knowledge and skills described in R7-2-602 and subsections (F)(1)(b)(i) through (viii). One year of verified full-time teaching experience in grades PreK-12 music education may substitute for the capstone experience requirement; and
- F. Standard Professional PreK-12 Music Education Certificate
  - 1. The requirements include all of the following:
    - a. A bachelor's degree;
    - b. Completion of a teacher preparation program in PreK-12 music education from an accredited institution offering substantially similar training, addressing the following topics and any others as required by law:
      - i. Performance;
      - ii. Musicianship skills and analysis;
      - iii. Composition and improvisation;
      - iv. Music history and repertory;
      - v. Instructional design and lesson planning, including modifications, and accommodations;
      - vi. The learning environment, including classroom management;
      - vii. Assessing, monitoring and reporting progress;
      - viii. Professional responsibility and ethical conduct; and
      - ix. Twelve weeks of capstone experience as described in R7-2-604 in grades PreK-12 music education, which may be completed during the valid period of a teaching intern or student teaching intern certificate. One year of verified full-time teaching experience in grades PreK-12 music education may substitute for the capstone experience requirement; and
    - c. A passing score on the appropriate subject knowledge portion of the Arizona Teacher Proficiency Assessment, unless the applicant has a bachelor's, master's or doctoral degree in a relevant content area or otherwise qualifies for a waiver of the subject knowledge assessment.
    - d. A passing score on the professional knowledge portion of the Arizona Teacher Proficiency Assessment; and
    - e. A valid fingerprint clearance card issued by the Arizona Department of Public Safety.
  - 2. Applicants may meet the requirements in subsection (E)(1)(b) with the submission of an application for the Standard Professional PreK-12 Theatre Education certificate that includes evidence of two years of verified full-time teaching experience in grades PreK-12 theatre education, and Board-approved or accredited training or coursework which teaches the knowledge and skills described in R7-2-602 and subsections (E)(1)(b)(i) through (viii). One year of verified full-time teaching experience in grades PreK-12 theatre education may be substituted for the capstone experience.

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experience in grades PreK-12 music education may be substituted for the capstone experience.

**G. Standard Professional PreK-12 Physical Education Certificate.**  
The requirements are:

1. A bachelor's degree.
2. One of the following:
  - a. Completion of a teacher preparation program in PreK-12 physical education, including 12 semester practicum hours evenly split between elementary and secondary physical education from an accredited institution or a Board-approved teacher preparation program; or
  - b. Thirty-three semester hours of education or physical education courses, including:
    - i. At least nine semester hours of elementary, secondary and adaptive physical education methods;
    - ii. Foundational coursework in the areas of Growth and Motor Development, Movement Activities, Lifelong Physical Fitness and Comprehensive School Physical Activity Program; and
    - iii. Twelve semester hours of practicum in physical education in PreK-12 grades, evenly split between elementary and secondary physical education, and supervised by a licensed or certified physical education teacher. Two years of verified full-time teaching experience in the certificate area in grades PreK-12 may substitute for the 12 semester hours of practicum; or
  - c. A valid PreK-12 physical education certificate from another state.
3. A passing score on the professional knowledge portion of the Arizona Teacher Proficiency Assessment.
4. A passing score on the Physical Education subject knowledge portion of the Arizona Teacher Proficiency Assessment, unless the applicant has a bachelor's, master's or doctoral degree in a relevant content area or otherwise qualifies for a waiver of the subject knowledge assessment.
5. A valid fingerprint clearance card issued by the Arizona Department of Public Safety.

**H. Standard Professional PreK-12 Physical Education Certificate for applications received on or after August 1, 2018.**

1. The requirements include all of the following:
  - a. A bachelor's degree;
  - b. Completion of a teacher preparation program in PreK-12 physical education a Board-approved educator preparation program or from an accredited institution offering substantially similar training, addressing the following topics and any others as required by law:
    - i. Elementary, secondary and adaptive physical education methods;
    - ii. Foundational coursework in the areas of Growth and Motor Development;
    - iii. Movement Activities;
    - iv. Lifelong Physical Fitness;
    - v. Instructional design and lesson planning, including modifications, and accommodations;
    - vi. The learning environment, including classroom management;
    - vii. Assessing, monitoring and reporting progress;
    - viii. Professional responsibility and ethical conduct and;

ix. Twelve weeks of capstone experience as described in R7-2-604 in grades PreK-12 physical education, serving students in elementary and secondary physical education, which may be completed during the valid period of a teaching intern or student teaching intern certificate. One year of verified full-time teaching experience in the certificate area in grades PreK-12 physical education may substitute for the capstone experience requirement;

- c. A passing score on the professional knowledge portion of the Arizona Teacher Proficiency Assessment;
  - d. A passing score on the Physical Education subject knowledge portion of the Arizona Teacher Proficiency Assessment, unless the applicant has a bachelor's, master's or doctoral degree in a relevant content area or otherwise qualifies for a waiver of the subject knowledge assessment; and
  - e. A valid fingerprint clearance card issued by the Arizona Department of Public Safety.
2. Applicants may meet the requirements in subsection (H)(1)(b) with the submission of an application for the Standard Professional PreK-12 Physical Education certificate that includes evidence of two years of verified full-time teaching experience in grades PreK-12 physical education, and Board-approved or accredited training or coursework which teaches the knowledge and skills described in R7-2-602 and subsections (H)(1)(b)(i) through (viii). One year of verified full-time teaching experience in grades PreK-12 physical education may be substituted for the capstone experience.

**Historical Note**

Adopted effective December 4, 1998 (Supp. 98-4).  
Amended by final rulemaking at 10 A.A.R. 4581, effective December 18, 2004 (Supp. 04-4). Amended by final rulemaking at 11 A.A.R. 1885, effective June 26, 2005 (Supp. 05-2). Amended by exempt rulemaking at 15 A.A.R. 1225, effective December 5, 2006 (Supp. 09-1). Amended by exempt rulemaking at 15 A.A.R. 1259, effective March 26, 2007 (Supp. 09-2). Amended by exempt rulemaking at 15 A.A.R. 1298, effective July 18, 2007 (Supp. 09-3). Former R7-2-613 recodified to R7-2-614; new R7-2-613 recodified from R7-2-612 at 15 A.A.R. 2146, effective August 25, 2008 (Supp. 09-4). Former R7-2-613 recodified to R7-2-614; new R7-2-613 recodified from R7-2-612 at 16 A.A.R. 68, effective December 8, 2008 (Supp. 10-1). Amended by exempt rulemaking at 16 A.A.R. 235, effective December 7, 2009 (Supp. 10-3). Amended by exempt rulemaking at 16 A.A.R. 1249, effective May 24, 2010 (Supp. 10-4). Amended by final exempt rulemaking at 21 A.A.R. 2073, effective June 22, 2015 (Supp. 15-3). Amended by final exempt rulemaking at 24 A.A.R. 195, effective August 9, 2017; filed in the Office on January 2, 2018 (Supp. 18-1).

**R7-2-614. Other Teaching Certificates**

- A.** Except as noted, all certificates are subject to the general certification provisions in R7-2-607.
- B.** Substitute Certificate – PreK-12
  1. The certificate is valid for six years and renewable by reapplication.
  2. The certificate entitles the holder to substitute in the temporary absence of a regular contract teacher. A person holding only a substitute certificate shall not be assigned a contract teaching position.



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3. An individual who holds a valid teaching or administrator certificate shall not be required to hold a substitute certificate to be employed as a substitute teacher.
  4. A person holding only a substitute certificate shall be limited to teaching 120 days in the same school each school year.
  5. The requirement for issuance is a bachelor's degree and a valid fingerprint clearance card issued by the Arizona Department of Public Safety.
  6. Substitute certificates previously issued as valid for life under this rule shall remain valid for life.
  7. A person holding only a substitute certificate may be exempt from the limit on teaching 120 days in the same school each school year if the school district superintendent has provided verification to the Department of Education that the position is continuously advertised on a statewide basis at a minimum of three sites with at least one being a higher education institution and that a highly qualified and employable candidate was not found. An exemption from teaching 120 days shall not be granted to the same individual more than three times.
- C. Emergency Substitute Certificate – PreK-12**
1. The certificate is valid for one school year or part thereof. The expiration date shall be the following July 1.
  2. The certificate entitles the holder to substitute only in the district that verifies that an emergency employment situation exists.
  3. The certificate entitles the holder to substitute in the temporary absence of a regular contract teacher. A person holding only an emergency substitute certificate shall not be assigned a contract teaching position.
  4. The holder of an emergency substitute certificate shall be limited to 120 days of substitute teaching per school year.
  5. The requirements for initial issuance are:
    - a. High school diploma, General Education diploma, or associate's degree;
    - b. Verification from the school district superintendent that an emergency employment situation exists; and
    - c. A valid fingerprint clearance card issued by the Arizona Department of Public Safety.
  6. The requirements for each reissuance are:
    - a. Two semester hours of academic courses completed since the last issuance of the Emergency Substitute Certificate. District in-service programs designed for professional development may substitute for academic courses. Fifteen clock hours of in-service is equivalent to one semester hour. In-service hours shall be verified by the district superintendent or personnel director. Individuals who have earned 30 or more semester hours are exempt from this requirement,
    - b. Verification from the school district superintendent that an emergency employment situation exists, and
    - c. A valid fingerprint clearance card issued by the Arizona Department of Public Safety.
- D. Emergency Teaching Certificate – birth through grade 12**
1. The emergency teaching certificate is valid one school year or part thereof. The expiration date shall be the following July 1. Excluding an emergency teaching certificate issued under subsection (D)(6), an emergency teaching certificate shall not be issued more than three times to an individual.
  2. The emergency teaching certificate entitles the holder to enter into a teaching contract.
  3. Emergency teaching certificates shall be issued for early childhood, elementary and secondary certificates required by A.R.S. § 15-502(B) and required endorsements.
  4. The emergency teaching certificate entitles the holder to teach only in the district or charter school that verifies that an emergency employment situation exists.
  5. The requirements for initial issuance are:
    - a. A bachelor's degree,
    - b. Verification from the school district superintendent or charter school administrator that an emergency employment situation exists, and
    - c. A valid fingerprint clearance card issued by the Arizona Department of Public Safety.
  6. Notwithstanding this subsection, an emergency teaching certificate entitling the holder to teach in any Arizona school district or charter school may be issued for early childhood, elementary, middle grades, secondary, special education, and PreK-12 teaching certificates for applicants who meet the following requirements:
    - a. A bachelor's degree,
    - b. Completion of a teacher preparation program in the certification area, as described in R7-2-608, R7-2-609, R7-2-609.01, R7-2-610, R7-2-611 and R7-2-613, from a Board-approved educator preparation program or from an accredited institution offering substantially similar training,
    - c. Verification that the applicant was unable to take one or all portions of the proficiency assessments required for the requested certificate as the result of a public health emergency declared by the governor or a public health official, and
    - d. A valid fingerprint clearance card issued by the Arizona Department of Public Safety.
  7. Emergency teaching certificates issued pursuant to subsection (D)(6) shall not be renewed or re-issued.
- E. Alternative Teaching Certificate – PreK-12**
1. The certificate is valid for two years from the date of initial issuance and may be extended yearly for no more than two consecutive years at no cost to the applicant if the provisions in subsection (E)(5) are met.
  2. The alternative teaching certificate entitles the holder to enter into a teaching contract while completing the requirements for an Arizona teaching certificate. During the valid period of the alternative teaching certificate the holder may teach in a Structured English Immersion classroom, or in any subject area in which the holder has passed the appropriate Arizona Teacher Proficiency Assessment. Alternative Teaching certificate holders who teach in a Structured English Immersion classroom shall hold a valid Provisional or full Structured English Immersion Endorsement, an English as a Second Language Endorsement, or a Bilingual Endorsement, if applicable. The candidate shall be enrolled in a Board authorized alternative path to certification program or a Board approved teacher educator preparation program.
  3. An individual is not eligible to hold the alternative teaching certificate more than once in a five year period.
  4. The requirements for initial issuance of the alternative teaching certificate are:
    - a. A bachelor's degree or higher from an accredited institution;
    - b. Verification of enrollment in a Board approved alternative path to certification program, or a Board approved educator preparation program; and
    - c. A valid fingerprint clearance card issued by the Arizona Department of Public Safety.

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5. The requirements for the extension of the alternative teaching certificate are:
    - a. The alternative teaching certificate outlined in subsection (E)(4),
    - b. Verification from the educator preparation program in which the alternative teaching certificate holder is enrolled, that the certificate holder has made adequate progress toward completion of the program,
    - c. A valid fingerprint clearance card issued by the Arizona Department of Public Safety.
  6. The holder of the alternative teaching certificate may apply for a Standard teaching certificate upon completion of the following:
    - a. Successful completion of a Board authorized alternative path to certification program or a Board-approved educator preparation program.
    - b. A passing score on the professional knowledge portion of the Arizona Teacher Proficiency Assessment as applicable;
    - c. A passing score on one or more subject knowledge portions of the Arizona Teacher Proficiency Assessment that corresponds to the Board approved alternative path to certification program in which the applicant is enrolled, unless the applicant has a bachelor's, master's or doctoral degree in the corresponding content area;
    - d. The submission of an application for a Standard teaching certificate to the Department;
    - e. A valid fingerprint clearance card issued by the Arizona Department of Public Safety.
  7. Placement decisions of alternative teaching certificate holders shall only be based on agreements between the educator preparation provider, the provider's partner organizations and the local education agency except as otherwise provided in this subsection.
- F. Standard Adult Education Certificate**
1. The holder is qualified to teach Adult Basic Education, Adult Secondary Education, English Language Acquisition for Adults, or Citizenship.
  2. The requirements are:
    - a. A valid fingerprint clearance card issued by the Arizona Department of Public Safety, and
    - b. A bachelor's degree.
  3. The renewal requirements are completion of a professional development program, described in R7-2-619.
- G. Junior Reserve Officer Training Corps Teaching Certificate – grades nine through 12**
1. The standard certificate is valid at any local education agency which conducts an approved Junior Reserve Officer Training Corps program of the Air Force, Army, Navy, or Marine Corps.
  2. The requirements are:
    - a. Verification by the district of an approved Junior Reserve Officer Training Corps program of instruction in which the applicant will be teaching,
    - b. Verification by the district that the applicant meets the work experience required by the respective military service, and
    - c. A valid fingerprint clearance card issued by the Arizona Department of Public Safety.
- H. Athletic coaching certificate – grades seven through 12**
1. The standard certificate entitles the holder to perform coaching duties in interscholastic and extracurricular athletic activities. It is not required for teachers who hold a valid elementary, secondary or special education certificate.
2. The requirements are:
    - a. Valid certification in first aid and Coronary and Pulmonary Resuscitation (CPR);
    - b. Completion of courses, Board-approved or accredited seminars or modules of study which shall include the following:
      - i. Methods of coaching,
      - ii. Anatomy and physiology,
      - iii. Sports psychology,
      - iv. Adolescent psychology,
      - v. The prevention and treatment of athletic injuries; and
      - vi. Signs of physical abuse, emotional abuse, sexual abuse, neglect, bullying, hazing and cyberbullying.
    - c. Two hundred fifty hours of verified coaching experience in the sport to be coached. Coaching experience may include experience as a head coach or assistant coach in a school program or in an organized athletic league; and
    - d. A valid fingerprint clearance card issued by the Arizona Department of Public Safety.
  4. Renewal requirements are:
    - a. Completion of a professional development program described in R7-2-619,
    - b. Valid certification in first aid and CPR.
- I. International Teaching Certificate**
1. The International Teaching certificate is issued to teachers from foreign countries who are contracted through the foreign teacher program as authorized by federal statutes enacted by the Congress of the United States or other foreign teacher recruitment programs approved by the United States Department of State or the United States Citizenship and Immigration Services.
  2. This certificate is valid for the length of the certificate holder's visa, not to exceed 12 years.
  3. The requirements are:
    - a. Verification that the applicant has completed teacher preparation in the home country or country of legal residence that is comparable to the requirements to qualify for an Arizona teaching certificate as provided in R7-2-608, R7-2-609, R7-2-610, R7-2-610.01, R7-2-610.02, R7-2-611 and R7-2-613.
    - b. A valid fingerprint clearance card issued by the Arizona Department of Public Safety.
    - c. A valid non-immigrating visa issued by the United States Department of State or the United States Citizenship and Immigration Services for international teachers.
    - d. Verification that the applicant has been contracted by an Arizona school through a foreign teacher program.
  4. An individual with an international teaching certificate may qualify for a certificate to instruct students in a language other than English with submission of a letter from a department chair or dean of an accredited institution in another country or in the United States verifying that the applicant is proficient in the language.
  5. The international teaching certificate may be extended with the following:
    - a. Verification of an extended visa issued by the United States Department of State or the United States Citizenship and Immigration Services for international teachers. The certificate may be extended to the new expiration date of the visa not to exceed twelve years.

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- b. A valid fingerprint clearance card issued by the Arizona Department of Public Safety.
- J. Native American Language Certificate
  - 1. The standard certificate is optional and issued to individuals to teach only a Native American language in grades preK-12.
  - 2. The requirements are:
    - a. A valid fingerprint clearance card issued by the Arizona Department of Public Safety.
    - b. Language proficiency in a Native American Language. Proficiency shall be verified on official letterhead by a person, persons, or entity designated by the appropriate tribe.
  - 3. The certificate may be renewed upon completion of professional development, as prescribed in R7-2-619.
- K. Student Teaching Intern Certificate – PreK-12
  - 1. The student teaching intern certificate is optional and is not a requirement for participation in a student teaching capstone experience.
  - 2. The certificate entitles the holder to perform teaching duties under the supervision of a program supervisor as defined in R7-2-604(14) and is only valid in the school district or charter school requesting the certificate.
  - 3. The certificate is valid for one year from date of initial issuance and may be extended for one year at no cost to the applicant if the provisions in subsection (K)(4) are met.
  - 4. The requirements are:
    - a. Verification of enrollment in the culminating student teaching capstone experience of a Board approved educator preparation program pursuant to R7-2-604.01,
    - b. Verification documenting completed coursework with a minimum GPA of 3.0 on a 4.0 scale or the equivalent,
    - c. A passing score on the professional knowledge portion of the Arizona Teacher Proficiency Assessment that corresponds to the teaching certificate the student teaching intern is pursuing,
    - d. A passing score on the subject knowledge portion of the Arizona Teacher Proficiency Assessment that corresponds to the teaching certificate the student teaching intern is pursuing,
    - e. A request for issuance of the student teaching intern certificate from the district superintendent or charter school superintendent and the educator preparation program.
    - f. Verification from the educator preparation provider that a written supervision plan, approved by the Board, includes the following:
      - i. The educator preparation provider's roles and responsibilities for the Program Supervisor, and
      - ii. The onsite mentorship and induction provided by the Local Education Agency.
    - g. A valid fingerprint card issued by the Arizona Department of Public Safety.
  - 5. Placement decisions of student teaching intern certificate holders shall only be based on collaborative agreements between the Board approved educator preparation provider and the local education agency. Notwithstanding any other provision, a student teaching intern certificate holder may not teach in a special education classroom unless the certificate holder has a bachelor's degree.
  - 6. The holder of the student teaching certificate may apply for an Arizona Teaching Certificate upon completion of the following:
    - a. Successful completion of a Board approved educator preparation program.
    - b. The submission of an application, and all required documentation including an institutional recommendation, for the Arizona teaching certificate to the Department.
- L. Classroom-Based Standard Teaching Certificate
  - 1. The requirements are:
    - a. A bachelor's degree;
    - b. Successful completion of a Board-approved Classroom-Based Alternative Preparation Program;
    - c. Verification of satisfactory progress and achievement with students;
    - d. Demonstration of subject knowledge proficiency with:
      - i. Verification of teaching courses relevant to a content area or subject matter for the last two consecutive years, and for a total of at least three years at one or more accredited postsecondary institutions; or
      - ii. A bachelor's, master's or doctoral degree from an accredited institution in the applicable subject area; or
      - iii. Verification of a minimum of five years of work experience in the applicable subject area of certification; or
      - iv. Three years of verified teaching experience in the same area of certification in which the individual is applying for certification; or
      - v. A passing score on the applicable subject knowledge portion of the Arizona Teacher Proficiency Assessment;
    - e. Demonstration of professional knowledge proficiency with:
      - i. Three years of verified teaching experience in the same area of certification in which the individual is applying for certification; or
      - ii. A passing score on the applicable professional knowledge portion of the Arizona Teacher Proficiency Assessment;
    - f. An individual seeking certification who was teaching courses or subjects tested by the statewide assessment must also provide:
      - i. Verified evidence of two years of full-time teaching; and
      - ii. Verified evidence that the individual's students performed at grade level; or
      - iii. Verified evidence that the individual's students achieved at least one year of academic growth at a rate equivalent to the state average for the students' associated peer groups;
  - g. A valid fingerprint clearance card issued by the Arizona Department of Public Safety.

**Historical Note**

Adopted effective December 4, 1998 (Supp. 98-4).  
 Amended by final rulemaking at 6 A.A.R. 1132, effective March 10, 2000 (Supp. 00-1). Section R7-2-614 amended by emergency rulemaking under A.R.S. § 41-1026 at 8 A.A.R. 3739, effective August 5, 2002 for a period of 180 days (Supp. 02-3). Emergency rulemaking renewed under A.R.S. § 41-1026 at 9 A.A.R. 522, effective January 31, 2003 for a period of 180 days (Supp. 03-1). Amended by final rulemaking at 9 A.A.R. 1605, effective May 5, 2003 (Supp. 03-2). Amended by exempt rulemaking at 15 A.A.R. 1304, effective June 26, 2006 (Supp. 09-1). Amended by exempt rulemaking at 15 A.A.R. 1898,

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effective April 28, 2008 (Supp. 09-2). Former R7-2-614 recodified to R7-2-615; new R7-2-614 recodified from R7-2-613 at 15 A.A.R. 2146, effective August 25, 2008 (Supp. 09-4). Former R7-2-614 recodified to R7-2-615; new R7-2-614 recodified from R7-2-613 at 16 A.A.R. 68, effective December 8, 2008 (Supp. 10-1). Amended by exempt rulemaking at 16 A.A.R. 52, effective December 8, 2008 (Supp. 10-1). Amended by exempt rulemaking at 16 A.A.R. 63, effective June 22, 2009 (Supp. 10-2). Amended by exempt rulemaking at 16 A.A.R. 728, effective March 22, 2010 (Supp. 10-3). Amended by exempt rulemaking at 16 A.A.R. 1249, effective May 24, 2010 (Supp. 10-4). R7-2-614(J) amended by final exempt rulemaking at 21 A.A.R. 2073, effective August 27, 2012; R7-2-614(I) amended by final exempt rulemaking at 21 A.A.R. 2073, effective June 24, 2013; R7-2-614(B)(C)(E) amended by final exempt rulemaking at 21 A.A.R. 2073, effective January 26, 2015 (Supp. 15-3). Amended by final exempt rulemaking at 22 A.A.R. 667, effective January 25, 2016; filed in the Office March 1, 2016 (Supp. 16-3). Amended by final exempt rulemaking at 22 A.A.R. 2617, effective August 22, 2016 (Supp. 16-4). Amended by final exempt rulemaking at 23 A.A.R. 725, effective January 23, 2017 (Supp. 17-1). Amended by final exempt rulemaking at 24 A.A.R. 195, effective August 9, 2017; filed in the Office on January 2, 2018 (Supp. 18-1). Amended by final exempt rulemaking at 24 A.A.R. 2947, effective September 24, 2018 (Supp. 18-3). Amended by final exempt rulemaking at 26 A.A.R. 1311, effective May 18, 2020 (Supp. 20-2).

**R7-2-615. Endorsements**

- A.** An endorsement shall be automatically renewed with the certificate on which it is posted.
- B.** Except as noted, all endorsements are subject to the general certification provisions in R7-2-607.
- C.** Endorsements which are optional as specified herein may be required by local governing boards.
- D.** Special subject endorsements – grades Pre-K through 12
  1. Special subject endorsements shall be issued in the area of art, computer science, dance, dramatic arts, music, or physical education.
  2. Special subject endorsements are optional.
  3. The requirements are:
    - a. An Arizona elementary, secondary, or special education certificate;
    - b. One course in the methods of teaching the subject at the elementary level and one course in the methods of teaching the subject at the secondary level; and
    - c. One of the following:
      - i. Thirty semester hours of courses in the subject area which may include the courses listed in subsection (D)(3)(b);
      - ii. A passing score on the subject area portion of the Arizona Teacher Proficiency Assessment, if an assessment has been adopted by the Board; or
      - iii. A passing score on a comparable out-of-state subject area assessment.
- E.** Mathematics Specialist Endorsement – grades K through eight. This subsection is valid until June 30, 2011.
  1. The mathematics specialist endorsement is optional.
  2. The requirements are:
    - a. An Arizona elementary or special education certificate,
    - b. Three semester hours of courses in the methods of teaching elementary school mathematics, and
    - c. Fifteen semester hours of courses in mathematics education for teachers of elementary or middle school mathematics.
- F.** Mathematics Endorsement – grades K through eight. This subsection becomes effective on July 1, 2011.
  1. The mathematics endorsement is optional for all K through eight teachers, but recommended for an individual in the position of mathematics specialist, consultant, interventionist, or coach. Nothing in this Section prevents school districts from requiring certified staff to obtain a mathematics endorsement as a condition of employment. The mathematics endorsement does not waive the requirements set forth in R7-2-607(J).
  2. The requirements are:
    - a. An Arizona elementary or special education certificate;
    - b. Three years of full-time teaching experience in grades K through eight; and
    - c. Eighteen semester hours to include:
      - i. Three semester hours of data analysis, probability, and discrete mathematics;
      - ii. Three semester hours of geometry and measurement;
      - iii. Six semester hours of patterns, algebra, and functions; and
      - iv. Six semester hours of number and operations.
    - d. Six semester hours to include:
      - i. Three semester hours of mathematics classroom assessment;
      - ii. Three semester hours of research-based practices, pedagogy, and instructional leadership in mathematics.
    - e. A passing score on the middle school mathematics knowledge portion of the Arizona Educator Proficiency Assessment may be substituted for the 18 semester hours described in subsection (F)(2)(c).
    - f. Completion of a comparable valid mathematics specialist certificate or endorsement from another state may be substituted for the requirements described in subsection (F)(2)(c) and (d).
- G.** Reading Specialist Endorsement – grades K through 12. This subsection is valid until June 30, 2011.
  1. The reading specialist endorsement shall be required of an individual in the position of reading specialist, reading consultant, remedial reading teacher, special reading teacher, or in a similar position.
  2. The requirements are:
    - a. An Arizona elementary, secondary, or special education certificate; and
    - b. Fifteen semester hours of courses to include decoding, diagnosis and remediation of reading difficulties, and practicum in reading.
- H.** Reading Endorsement. This subsection becomes effective on July 1, 2011.
  1. A reading endorsement shall be required of an individual in the position of reading or literacy specialist, reading or literacy coach, and reading or literacy interventionist.
  2. Reading Endorsement for grades K through eight. The requirements are:
    - a. A valid Arizona elementary special education or early childhood certificate,
    - b. Three years of full-time teaching experience,
    - c. Three semester hours of a supervised field experience or practicum in reading completed for the grades K through eight, and
    - d. One of the following:

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- i. Twenty-one semester hours beyond requirements of initial provisional or standard teaching certificate to include the following:
    - (1) Three semester hours in the theoretical and research foundations of language and literacy;
    - (2) Three semester hours in the essential elements of elementary reading and writing instruction (K through eight);
    - (3) Three semester hours in the elements of elementary content area reading and writing (K through eight);
    - (4) Six total semester hours in reading assessment systems;
    - (5) Three semester hours in leadership; and
    - (6) Three semester hours of elective courses in an area of focus that will deepen knowledge in the teaching of reading to elementary students, such as children's literature, or teaching reading to English Language Learners.
  - ii. Proof of a comparable valid reading specialist certificate or endorsement from another state may be substituted for the requirements described in subsections (H)(2)(c) and (d)(i).
  - e. A passing score on the reading endorsement subject knowledge portion of the Arizona Educator Proficiency Assessment for grades K through eight may be substituted for 21 semester hours of reading endorsement coursework as described in subsection (H)(2)(d)(i).
3. Reading Endorsement for grades six through 12. The requirements are:
    - a. A valid Arizona elementary, secondary, or special education certificate;
    - b. Three years of full-time teaching experience;
    - c. Three semester hours of supervised field experience or practicum in reading completed for the grades six through 12; and
    - d. One of the following:
      - i. Twenty-one semester hours beyond requirements of initial provisional or standard teaching certificate to include the following:
        - (1) Three semester hours in the theoretical and research foundations of language and literacy;
        - (2) Three semester hours in the essential elements of reading and writing instruction for adolescents (grades six through 12);
        - (3) Three semester hours in the elements of content area reading and writing for adolescents (grades six through 12);
        - (4) Six total semester hours in reading assessment systems;
        - (5) Three semester hours in leadership; and
        - (6) Three semester hours of elective courses in an area of focus that will deepen knowledge in the teaching of reading such as adolescent literature, or teaching reading to English Language Learners.
      - ii. Proof of a comparable valid reading specialist certificate or endorsement from another state may be substituted for the requirements described in subsections (H)(3)(c) and (d)(i).
    - e. A passing score on the reading endorsement subject knowledge portion of the Arizona Educator Proficiency Assessment for grades six through 12 may be substituted for 21 semester hours of reading endorsement coursework as described in subsection (H)(3)(d)(i).
  4. Reading Endorsement – grades K through 12. The requirements are:
    - a. A valid Arizona elementary, secondary, special education certificate or early childhood certificate;
    - b. Three years of full-time teaching experience;
    - c. Three semester hours of a supervised field experience or practicum in reading completed for the grades K through five;
    - d. Three semester hours of a supervised field experience or practicum in reading completed for the grades six through 12; and
    - e. One of the following:
      - i. Twenty-four semester hours beyond requirements of initial provisional or standard teaching certificate to include the following:
        - (1) Three semester hours in the theoretical and research foundations of language and literacy,
        - (2) Three semester hours in the essential elements of elementary reading and writing instruction (grades K through eight),
        - (3) Three semester hours in the essential elements of reading and writing instruction for adolescents (grades six through 12),
        - (4) Three semester hours in the elements of elementary content area reading and writing (grades K through eight),
        - (5) Three semester hours in the elements of content area reading and writing for adolescents (grades six through 12),
        - (6) Six total semester hours in reading assessment systems, and
        - (7) Three semester hours in leadership,
      - ii. Proof of a comparable valid reading specialist certificate or endorsement from another state may be substituted for the requirements described in subsections (H)(4)(c), (d) and (e)(i).
    - f. A passing score on the reading endorsement subject knowledge portion of the Arizona Educator Proficiency Assessment for grades K through eight and a passing score on the reading endorsement professional knowledge portion of the Arizona Educator Proficiency Assessment for grades six through 12 may be substituted for 24 semester hours of reading endorsement coursework as described in subsection (H)(4)(e)(i).
- I. Elementary Foreign Language Endorsement – grades K through eight
    1. The elementary foreign language endorsement is optional.
    2. The requirements are:
      - a. An Arizona elementary, secondary or special education certificate.
      - b. Proficiency in speaking, reading, and writing a language other than English, verified by the appropriate language department of an accredited institution. American Indian language proficiency shall be verified by an official designated by the appropriate tribe.
      - c. Three semester hours of courses in the methods of teaching a foreign language at the elementary level.

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**J. Bilingual Endorsements - PreK through 12**

1. A provisional bilingual endorsement or a bilingual endorsement is required of an individual who is a bilingual classroom teacher, bilingual resource teacher, bilingual specialist, or otherwise responsible for providing bilingual instruction.
2. The provisional bilingual endorsement is valid for three years and is not renewable. The requirements are:
  - a. An Arizona elementary, secondary, supervisor, principal, superintendent, special education, early childhood, arts education or CTE certificate; and
  - b. Proficiency in a spoken language other than English, verified by one of the following:
    - i. A passing score on the Arizona Classroom Spanish Proficiency exam;
    - ii. A passing score on a foreign language subject knowledge portion of the Arizona Teacher Proficiency Assessment or a comparable foreign language subject knowledge exam from another state;
    - iii. If an exam in the language is not offered through the Arizona Teacher Proficiency Assessment or the American Council on the Teaching of Foreign Languages, proficiency may be verified by the language department of an accredited institution. A minimum passing score of "Advanced Low" is required on the American Council on the Teaching of Foreign Languages for Speaking and Writing Exams in the foreign language;
    - iv. Proficiency in American Indian languages shall be verified by an official designated by the appropriate tribe; or
  - c. Proficiency in sign language is verified through 24 hours of coursework from an accredited institution.
3. The holder of the bilingual endorsement is also authorized to teach English as a Second Language.
4. The requirements are:
  - a. An Arizona elementary, secondary, supervisor, principal, superintendent, special education, early childhood, arts education or CTE certificate;
  - b. Completion of a bilingual education program from an accredited institution or the following courses:
    - i. Three semester hours of foundations of instruction for non-English-language-background students;
    - ii. Three semester hours of bilingual methods;
    - iii. Three semester hours of English as a Second Language for bilingual settings;
    - iv. Three semester hours of courses in bilingual materials and curriculum, assessment of limited-English-proficient students, teaching reading and writing in the native language, or English as a Second Language for bilingual settings;
    - v. Three semester hours of linguistics to include psycholinguistics, sociolinguistics, first language acquisition, and second language acquisition for language minority students, or American Indian language linguistics;
    - vi. Three semester hours of courses dealing with school, community, and family culture and parental involvement in programs of instruction for non-English-language-background students; and

vii. Three semester hours of courses in methods of teaching and evaluating handicapped children from non-English-language backgrounds. These hours are only required for bilingual endorsements on special education certificates.

- c. A valid bilingual certificate or endorsement from another state may be substituted for the courses described in subsection (J)(4)(b);
- d. Practicum in a bilingual program or two years of verified bilingual teaching experience; and
- e. Proficiency in a spoken language other than English, verified by one of the following:
  - i. A passing score on the Arizona Classroom Spanish Proficiency exam;
  - ii. A passing score on a foreign language subject knowledge portion of the Arizona Teacher Proficiency Assessment or a comparable foreign language subject knowledge exam from another state;
  - iii. If an exam in the language is not offered through the Arizona Teacher Proficiency Assessment or the American Council on the Teaching of Foreign Languages, proficiency may be verified by the language department of an accredited institution. A minimum passing score of "Advanced Low" is required on the American Council on the Teaching of Foreign Languages for Speaking and Writing Exams in the foreign language;
  - iv. Proficiency in American Indian languages shall be verified by an official designated by the appropriate tribe; or
- f. Proficiency in sign language is verified through 24 hours of coursework from an accredited institution.

**K. English as a Second Language (ESL) Endorsements – grades Pre-K through 12**

1. An ESL or bilingual endorsement is required of an individual who is an ESL classroom teacher, ESL specialist, ESL resource teacher, or otherwise responsible for providing ESL instruction.
2. The provisional ESL endorsement is valid for three years and is not renewable. The requirements are:
  - a. An Arizona elementary, secondary, supervisor, principal, superintendent, special education, early childhood, arts education or CTE certificate; and
  - b. Six semester hours of courses specified in subsection (K)(3)(b), including at least one course in methods of teaching ESL students.
3. The requirements for the ESL endorsement are:
  - a. An Arizona elementary, secondary, supervisor, principal, superintendent, special education, early childhood, arts education or CTE certificate;
  - b. Completion of an ESL education program from an accredited institution or the following courses:
    - i. Three semester hours of courses in foundations of instruction for non-English-language-background students. Three semester hours of courses in the nature and grammar of the English language, taken before January 1, 1999, may be substituted for this requirement;
    - ii. Three semester hours of ESL methods;
    - iii. Three semester hours of teaching of reading and writing to limited-English-proficient students;
    - iv. Three semester hours of assessment of limited-English-proficient students;

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- v. Three semester hours of linguistics; and
    - vi. Three semester hours of courses dealing with school, community, and family culture and parental involvement in programs of instruction for non-English-language-background students.
    - vii. A passing score on a foreign language subject knowledge portion of the Arizona Teacher Proficiency Assessment or a comparable foreign language subject knowledge exam from another state; or
  - c. Three semester hours of a practicum or two years of verified ESL or bilingual teaching experience, verified by the district superintendent;
  - d. Second language learning experience, which may include sign language. Second language learning experience may be documented by any of the following:
    - i. Six semester hours of courses in a single second language, or the equivalent, verified by the department of language, education, or English at an accredited institution;
    - ii. Completion of intensive language training by the Peace Corps, the Foreign Service Institute, or the Defense Language Institute;
    - iii. Placement by the language department of an accredited institution in a third-semester level;
    - iv. Placement at level 1-intermediate/low or more advanced score on the Oral Proficiency Interview, verified by the American Council for the Teaching of Foreign Languages;
    - v. Passing score on the Arizona Classroom Spanish Proficiency Examination approved by the Board; or
    - vi. Proficiency in an American Indian language, verified by an official designated by the appropriate tribe.
    - vii. A passing score on a foreign language subject knowledge portion of the Arizona Teacher Proficiency Assessment or a comparable foreign language subject knowledge exam from another state; or
  - e. A valid ESL certificate or endorsement from another state may be substituted for the requirements described in subsection (K)(3)(b), (c) and (d).
- L. Structured English Immersion (SEI) Endorsement - Pre-K through 12.** A Provisional or full Structured English Immersion (SEI) endorsement, or an English as a Second Language or Bilingual endorsement, shall be required of a teacher who is instructing students in a sheltered English immersion or structured English immersion model.
- 1. The provisional SEI endorsement is valid for three years and is not renewable. The requirements are:
    - a. An Arizona elementary, secondary, special education, CTE, early childhood, PreK-12 teaching, supervisor, principal or superintendent certificate; and
    - b. One semester hour or 15 clock hours of professional development in Structured English Immersion methods of teaching English Language Learner (ELL) students, including but not limited to instruction in SEI strategies, teaching with the ELL Proficiency Standards adopted by the Board and monitoring ELL student academic progress using a variety of assessment tools through a training program that meets the requirements of A.R.S. § 15-756.09(B).
  - 2. The requirements for the SEI endorsement are: an Arizona elementary, secondary, special education, CTE, early childhood, PreK-12 teaching, supervisor, principal, or superintendent certificate; and one of the following:
    - a. Three semester hours of courses related to the teaching of the English Language Learner Proficiency Standards adopted by the Board, including but not limited to instruction in SEI strategies, teaching with the ELL Proficiency Standards adopted by the Board and monitoring ELL student academic progress using a variety of assessment tools; or
    - b. Completion of 45 clock hours of professional development in the teaching of the English Language Learner Proficiency Standards adopted by the Board, including but not limited to instruction in SEI strategies, teaching with the ELL Proficiency Standards adopted by the Board and monitoring ELL student academic progress using a variety of assessment tools through a training program that meets the requirements of A.R.S. § 15-756.09(B).
    - c. A passing score on the Structured English Immersion portion of the Arizona Teacher Proficiency Assessment.
  - 3. Nothing in this Section prevents a school district or charter school from requiring certified staff to obtain an SEI, ESL or bilingual endorsement as a condition of employment.
- M. Gifted Endorsements – grades Pre-K through 12**
- 1. A gifted endorsement is required of individuals whose primary responsibility is teaching gifted students.
  - 2. The provisional gifted endorsement is valid for three years and is not renewable. The requirements are an Arizona elementary, secondary, early childhood or special education certificate and one of the following:
    - a. Two years of verified teaching experience in which most students were gifted,
    - b. Ninety clock hours of verified in-service training in gifted education, or
    - c. Six semester hours of courses in gifted education.
  - 3. Requirements for the gifted endorsement are:
    - a. An Arizona elementary, secondary, early childhood or special education certificate;
    - b. Completion of nine semester hours of upper division or graduate level courses in an academic discipline such as science, mathematics, language arts, foreign language, social studies, psychology, fine arts, or computer science; and
    - c. Two of the following:
      - i. Three years of verified teaching experience in gifted education as a teacher, resource teacher, specialist, or similar position, verified by the district; or
      - ii. A minimum of 135 clock hours of verified in-service training in gifted education; or
      - iii. Completion of 12 semester hours of courses in gifted education. District in-service programs in gifted education may be substituted for up to six semester hours of gifted education courses. Fifteen clock hours of in-service is equivalent to one semester hour. In-service hours shall be verified by the district superintendent or personnel director. Practicum courses shall not be accepted toward this requirement; or
      - iv. Completion of six semester hours of practicum or two years of verified teaching experience in which most students were gifted.

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- N. Early Childhood Education Endorsements - birth through age 8
- 8 Early Childhood Endorsements – birth through age 8
1. When combined with an Arizona elementary education teaching certificate or an Arizona special education teaching certificate, the early childhood endorsement may be used in lieu of an early childhood education certificate as described in R7-2-608. When combined with an Arizona cross-categorical, specialized special education, or severe and profound teaching certificate as described in R7-2-611, the early childhood endorsement may be used in lieu of an Early Childhood Special Education certificate.
  2. The provisional early childhood endorsement is valid for three years and is not renewable. The requirements are:
    - a. A valid Arizona elementary teaching certificate as provided in R7-2-609 or a valid Arizona special education teaching certificate as provided in R7-2-611, and
    - b. A passing score on the early childhood subject knowledge portion of the Arizona Teacher Proficiency Assessment.
  3. The requirements for the early childhood endorsement are:
    - a. A valid Arizona elementary education teaching certificate as provided in R7-2-609 or a valid Arizona special education teaching certificate as provided in R7-2-611, and
    - b. Early childhood education coursework and practicum experience which includes both of the following:
      - i. Twenty-one semester hours of early childhood education courses to include all of the following areas of study:
        - (1) Foundations of early childhood education;
        - (2) Child guidance and classroom management;
        - (3) Characteristics and quality practices for typical and atypical behaviors of young children;
        - (4) Child growth and development, including health, safety and nutrition;
        - (5) Child, family, cultural and community relationships;
        - (6) Developmentally appropriate instructional methodologies for teaching language, math, science, social studies and the arts;
        - (7) Early language and literacy development;
        - (8) Assessing, monitoring and reporting progress of young children; and
      - ii. A minimum of eight semester hours of practicum including:
        - (1) A minimum of four semester hours in a supervised field experience, practicum, internship or student teaching setting serving children birth through preschool. One year of full-time verified teaching experience with children in birth through preschool may substitute for this student teaching experience. This verification may come from a school-based education program or center-based program licensed by the Department of Health Services or regulated by tribal or military authorities; and
        - (2) A minimum of four semester hours in a supervised student teaching setting serving children in kindergarten through grade three. One year of full-time verified teaching experience with children in kindergarten through grade three in an accredited school may substitute for this student teaching experience;
  - c. A valid fingerprint clearance card issued by the Arizona Department of Public Safety, and
  - d. A passing score on the early childhood professional knowledge portion of the Arizona Educator Proficiency Assessment may be substituted for the 21 semester hours of early childhood education courses as described in subsection (N)(3)(b)(i); and
  - e. A passing score on the early childhood subject knowledge portion of the Arizona Educator Proficiency Assessment.
4. Teachers with a valid Arizona elementary education certificate or Arizona special education certificate meet the requirements of this Section with evidence of the following:
  - a. A minimum of three years infant/toddler, preschool or kindergarten through grade three classroom teaching experience; and
  - b. A passing score on the early childhood subject knowledge portion of the Arizona Educator Proficiency Assessment.
- O. Library-Media Specialist Endorsement – grades Pre-K through 12
1. The library-media specialist endorsement is optional.
  2. Requirements are:
    - a. An Arizona elementary, secondary, early childhood or special education certificate;
    - b. A passing score on the Library Media Specialist portion of the Arizona Teacher Proficiency Assessment. A master's degree in Library Science may be substituted for a passing score on the assessment; and
    - c. One year of teaching experience.
- P. Middle Grade Endorsement – grades five through nine
1. The middle grade endorsement is optional. The middle grade endorsement may expand the grades a teacher is authorized to teach on an elementary or secondary certificate.
  2. The requirements are:
    - a. An Arizona elementary or secondary certificate, and
    - b. Six semester hours of courses in middle grade education to include:
      - i. One course in early adolescent psychology;
      - ii. One course in middle grade curriculum; and
      - iii. A practicum or one year of verified teaching experience, in grades five through nine.
- Q. Drivers Education Endorsement
1. The drivers education endorsement is optional.
  2. The requirements are:
    - a. An Arizona teaching certificate,
    - b. A valid Arizona driver's license,
    - c. One course in each of the following:
      - i. Safety education,
      - ii. Driver and highway safety education, and
      - iii. Driver education laboratory experience, and
    - d. A driving record with less than seven violation points and no revocation or suspension of driver's license within the two years preceding application.
  3. For the purposes of this Section, a course is defined as a 3 hour semester course offered by an accredited institution of higher learning or 45 clock hours of educational classes approved by the Department. Each semester hour



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- of courses shall be equivalent to 15 clock hours of training. If semester hours are used, the required documentation for the semester hours shall be an official transcript.
- R. Cooperative Education Endorsement – grades K through 12**
1. The cooperative education endorsement is required for individuals who coordinate or teach CTE.
  2. The requirements are:
    - a. A provisional or standard CTE certificate in the areas of agriculture, business, family and consumer sciences, health occupations, marketing, or industrial technology; and
    - b. One course in CTE.
- S. Computer Science, PreK-8 Endorsement**
1. The computer science, PreK-8 endorsement authorizes the holder to teach computer science in prekindergarten through grade eight.
  2. The requirements are:
    - a. An Arizona Standard Professional Early Childhood, Elementary, Middle Grades, Secondary, Special Education, or PreK-12 Teaching certificate;
    - b. Three semester hours in foundations for teaching computer science which addresses the following topics:
      - i. Introduction to computer science;
      - ii. Inclusive recruitment, retention, and pedagogical strategies in computing education;
      - iii. Computational thinking;
      - iv. Instructional planning based on the Arizona state standards for computer science, or comparable computer science standards.
    - c. Six semester hours in computer science to include the following:
      - i. Three semester hours in teaching and learning programming for educators; and
      - ii. Three semester hours in a computer science elective which may include, but is not limited to, physical computing or mobile computing.
  3. Completion of a training program through an Arizona public local education agency or an accredited institution may substitute for the semester hours required in subsection (S)(2)(b) (S)(2)(c). Fifteen clock hours of training, or the equivalent competency-based credential, is equivalent to one semester hour of college coursework. Training programs shall be verified by a superintendent or personnel director of the Arizona local education agency or the appropriate administrator of an accredited institution.
- T. Computer Science, grades 6-12 Endorsement**
1. The computer science, grades 6-12 endorsement authorizes the holder to teach computer science in grades 6-12.
  2. The requirements are:
    - a. A valid Arizona Standard Professional Elementary, Middle Grades, Secondary, Hearing Impaired, Visually Impaired, Mild/Moderate Disabilities, Moderate/Severe Disabilities, or PreK-12 Teaching certificate;
    - b. Three semester hours in foundations for teaching computer science which addresses the following topics:
      - i. Introduction to computer science;
      - ii. Inclusive recruitment, retention, and pedagogical strategies in computing education;
      - iii. Computational thinking;
      - iv. Instructional planning based on the Arizona state standards for computer science or comparable computer science standards.
    - c. Nine semester hours of courses in computer science to include the following:
      - i. Three semester hours in teaching and learning programming for educators; and
      - ii. Six semester hours in computer science electives which may include, but is not limited to, computer programming, cybersecurity, algorithms and data structures, operating systems, artificial intelligence, machine learning, database development and management, computer networks, and data mining and analytics.
  3. Completion of a training program through an Arizona public local education agency or an accredited institution may substitute for the semester hours required in subsections (T)(2)(b) and (T)(2)(c). Fifteen clock hours of training, or the equivalent competency-based credential, is equivalent to one semester hour of college coursework. Training programs shall be verified by a superintendent or personnel director of the Arizona local education agency or the appropriate administrator of an accredited institution.

**Historical Note**

Adopted effective December 4, 1998 (Supp. 98-4). Amended by final rulemaking at 6 A.A.R. 1132, effective March 10, 2000 (Supp. 00-1). Amended by exempt rulemaking at 15 A.A.R. 1838, effective August 29, 2006 (Supp. 09-1). Amended by exempt rulemaking at 15 A.A.R. 1306, effective September 26, 2006 (Supp. 09-1). Former R7-2-615 recodified to R7-2-616; new R7-2-615 recodified from R7-2-614 at 15 A.A.R. 2146, effective August 25, 2008 (Supp. 09-4). Former R7-2-615 recodified to R7-2-616; new R7-2-615 recodified from R7-2-614 at 16 A.A.R. 68, effective December 8, 2008 (Supp. 10-1). Amended by exempt rulemaking at 16 A.A.R. 52, effective December 8, 2008 (Supp. 10-1). Amended by exempt rulemaking at 16 A.A.R. 119, effective September 21, 2009 (Supp. 10-2). Amended by exempt rulemaking at 16 A.A.R. 129, effective September 21, 2009 (Supp. 10-2). Amended by exempt rulemaking at 16 A.A.R. 734, effective July 1, 2011 (Supp. 10-3). Amended by exempt rulemaking at 16 A.A.R. 1249, effective May 24, 2010 (Supp. 10-4). Amended by exempt rulemaking at 16 A.A.R. 1496, effective July 1, 2011 (Supp. 11-1). Amended by final exempt rulemaking at 22 A.A.R. 227, effective June 23, 2014; filed in the Office January 20, 2016 (Supp. 16-2). Amended by final exempt rulemaking at 22 A.A.R. 1912, effective October 1, 2011; filed in the Office July 1, 2016 (Supp. 16-3). Amended by final exempt rulemaking at 22 A.A.R. 219, effective June 5, 2015; filed in the Office January 20, 2016 (Supp. 16-4). Amended by final exempt rulemaking at 22 A.A.R. 233, effective September 28, 2015 and filed in the Office January 20, 2016 (Supp. 17-1). Amended by final exempt rulemaking at 22 A.A.R. 670, effective January 1, 2016, filed in the Office March 2, 2016; amended by final exempt rulemaking at 22 A.A.R. 2241, effective August 6, 2016, filed in the Office August 5, 2016 (Supp. 17-2). Amended by final exempt rulemaking at 25 A.A.R. 1552, effective May 20, 2019 (Supp. 19-2).

**R7-2-615.01 Special Education Endorsements**

- A.** Except as noted, special education endorsements are subject to the general certification provisions in R7-2-607.
- B.** Mild/Moderate Disabilities Endorsement:

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1. The endorsement authorizes the holder to teach students with mild/moderate disabilities in preschool through grade twelve.
  2. A provisional mild/moderate disabilities endorsement is valid for three years and is not renewable. The requirements are:
    - a. A valid Arizona Standard Professional Early Childhood, Elementary, Middle Grades, Secondary, Visually Impaired, Hearing Impaired, Early Childhood Special Education, or Moderate/Severe Disabilities certificate;
    - b. Three years of full-time teaching experience in preschool through grade twelve;
    - c. Six semester hours of special education courses to include both of the following:
      - i. Behavior management for students with disabilities; and
      - ii. Special education assessment and individualized education program planning.
    - d. Completion of 15 clock hours of practicum in mild/moderate disabilities special education that may be included in the courses listed in (B)(2)(c).
  3. The requirements for the mild/moderate disabilities endorsement are:
    - a. A valid Arizona Standard Professional Early Childhood, Elementary, Middle Grades, Secondary, Visually Impaired, Hearing Impaired, Early Childhood Special Education, or Moderate/Severe Disabilities certificate;
    - b. Three years of full-time teaching experience in preschool through grade twelve;
    - c. Fifteen semester hours of special education courses to include all of the following:
      - i. Methods for teaching students with disabilities;
      - ii. Behavior management for students with disabilities;
      - iii. Special education law;
      - iv. Special education assessment and individualized education program planning;
      - v. Language development and disorders.
    - d. Completion of 45 clock hours of practicum in mild/moderate disabilities special education that may be included in the courses listed in (B)(3)(c).
- C. Moderate/Severe Disabilities Endorsement**
1. The endorsement authorizes the holder to teach students with moderate/severe disabilities in preschool through grades twelve.
  2. A provisional moderate/severe disabilities endorsement is valid for three years and is not renewable. The requirements are:
    - a. A valid Arizona Standard Professional Early Childhood, Elementary, Middle Grades, Secondary, Visually Impaired, Hearing Impaired, Early Childhood Special Education, or Mild/Moderate Disabilities certificate;
    - b. Three years of full-time teaching experience in preschool through grade twelve; and
    - c. Six semester hours of special education courses to include both of the following:
      - i. Behavior management for students with disabilities; and
      - ii. Special education assessment and individualized education program planning.
    - d. Completion of 15 clock hours of practicum in moderate/severe disabilities special education that may be included in the courses listed in (C)(2)(c).
  3. The requirements are for the moderate/severe disabilities endorsement are:
    - a. A valid Arizona Standard Professional Early Childhood, Elementary, Middle Grades, Secondary, Visually Impaired, Hearing Impaired, Early Childhood Special Education, or Mild/Moderate Disabilities certificate;
    - b. Three years of full-time teaching experience in preschool through grade twelve;
    - c. Fifteen semester hours of special education courses to include all of the following:
      - i. Behavior management for students with disabilities;
      - ii. Special education law;
      - iii. Special education assessment and individualized education program planning;
      - iv. Methods for teaching students with severe disabilities;
      - v. Adaptive communication, including language development and disorders.
    - d. Completion of 45 clock hours of practicum in moderate/severe disabilities special education that may be included in the courses listed in (C)(3)(c).
- Historical Note**  
New Section made by final exempt rulemaking at 26 A.A.R. 595, effective February 24, 2020 (Supp. 20-1).
- R7-2-616. Standard Professional Administrative Certificates**
- A.** All certificates are subject to the general certification provisions in R7-2-607 and the renewal requirements in R7-2-619.
- B.** Standard Professional Supervisor Certificate – grades PreK through 12
1. Except for individuals who hold a valid Arizona principal or superintendent certificate, the supervisor certificate is required for all personnel whose primary responsibility is administering instructional programs, supervising certified personnel, or similar administrative duties.
  2. The requirements are:
    - a. A valid Arizona early childhood, elementary, secondary, special education, CTE certificate or other professional certificate issued by the Department;
    - b. A master's or more advanced degree;
    - c. Three years of verified full-time teaching experience or related education services experience in a PreK through 12 setting;
    - d. Completion of a program in educational administration which shall consist of a minimum of 18 graduate semester hours of educational administration courses which teach the knowledge and skills described in R7-2-603 to include three credit hours in school law and three credit hours in school finance;
    - e. A practicum in educational administration or two years of verified educational administrative experience in grades PreK through 12;
    - f. A passing score on the Arizona Administrator Proficiency Assessment;
    - g. An SEI endorsement or an ESL endorsement or a Bilingual Endorsement; and
    - h. A valid fingerprint clearance card issued by the Arizona Department of Public Safety.
- C.** Standard Professional Principal Certificate – grades PreK through 12
1. The principal certificate is required for all personnel who hold the title of principal, assistant principal, or perform

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- the duties of principal or assistant principal as delineated in A.R.S. Title 15.
2. The requirements are:
    - a. A master's or more advanced degree,
    - b. Three years of verified teaching experience in grades PreK through 12,
    - c. Completion of a program in educational administration for principals including at least 30 graduate semester hours of educational administration courses teaching the knowledge and skills described in R7-2-603 to include three credit hours in school law and three credit hours in school finance,
    - d. A practicum as a principal or two years of verified experience as a principal or assistant principal under the supervision of a certified principal in grades PreK through 12,
    - e. A passing score on either the Principal or Superintendent portion of the Arizona Administrator Proficiency Assessment,
    - f. An SEI endorsement or an ESL endorsement or a Bilingual Endorsement, and
    - g. A valid fingerprint clearance card issued by the Arizona Department of Public Safety.
- D. Standard Professional Superintendent Certificate – grades PreK through 12**
1. Individuals who hold the title of superintendent, assistant superintendent or associate superintendent and who perform duties directly relevant to curriculum, instruction, certified employee evaluations, and instructional supervision may obtain a superintendent certificate.
  2. The requirements are:
    - a. A master's or more advanced degree including at least 60 graduate semester hours;
    - b. Completion of a program in educational administration for superintendents, including at least 36 graduate semester hours of educational administrative courses which teach the standards described in R7-2-603 to include three credit hours in school law and three credit hours in school finance;
    - c. Three years of verified full-time teaching experience or related education services experience in a PreK through 12 setting;
    - d. A practicum as a superintendent or two years verified experience as a superintendent, assistant superintendent, or associate superintendent in grades PreK through 12;
    - e. A passing score on the Superintendent portion of the Arizona Administrator Proficiency Assessment; and
    - f. An SEI endorsement or an ESL endorsement or a Bilingual endorsement; and
    - g. A valid fingerprint clearance card issued by the Arizona Department of Public Safety.
- E. Interim Supervisor Certificate – grades PreK through 12**
1. Except as noted, the administrative interim certificate is subject to the general certification provisions in R7-2-607.
  2. The certificate is valid for one year from the date of initial issuance and may be extended yearly for no more than two consecutive years at no cost to the applicant if the provisions in subsection (F)(6) are met.
  3. The administrative interim certificate entitles the holder to perform the duties described in subsection (B)(1). The candidate shall be enrolled in a Board approved alternative path to certification program, or a Board authorized administrative preparation program.
4. An individual is not eligible to hold the administrative interim certificate more than once in a five year period.
  5. The requirements for initial issuance of the administrative interim certificate are:
    - a. A valid Arizona early childhood, elementary, secondary, special education, CTE certificate, PreK through 12 Arts, or other professional certificate issued by the Department;
    - b. A bachelor's degree or higher in education from an accredited institution;
    - c. Three years of verified full-time teaching experience or related education services experience in a PreK through 12 setting;
    - d. Verification of enrollment in a Board approved alternative path to administrator certification program, or a Board approved administrator preparation program;
    - e. Verification the holder of the interim certificate shall be under the direct supervision of an Arizona certified district administrator or the appropriate county school superintendent; and
    - f. A valid fingerprint clearance card issued by the Arizona Department of Public Safety.
  6. The requirements for the extension of the administrative interim certificate are:
    - a. Qualification for the initial issuance of the administrative interim certificate outlined in subsection (F)(5),
    - b. Official transcripts documenting the completion of required coursework,
    - c. Verification the holder of the interim certificate shall be under the direct supervision of an Arizona certified district administrator, and
    - d. A valid fingerprint clearance card issued by the Arizona Department of Public Safety.
  7. The holder of the administrative interim certificate may apply for an Arizona Standard Professional Supervisor Certificate upon completion of the following:
    - a. Successful completion of a Board approved alternative path to administrator certification program or a Board approved administrator preparation program. This shall include satisfactory completion of a field experience or capstone experience of no less than one full academic year. The field experience or capstone experience shall include performance evaluations in a manner that is consistent with policies for the applicable alternative professional preparation program;
    - b. A passing score on the Arizona Administrator Proficiency Assessment;
    - c. The submission of an application for the Standard Professional Supervisor certificate to the Department; and
    - d. A valid fingerprint clearance card issued by the Arizona Department of Public Safety.
- F. Interim Principal Certificate – grades PreK through 12**
1. Except as noted, the administrative interim certificate is subject to the general certification provisions in R7-2-607.
  2. The certificate is valid for one year from the date of initial issuance and may be extended yearly for no more than two consecutive years at no cost to the applicant if the provisions in subsection (G)(6) are met.
  3. The administrative interim certificate entitles the holder to perform the duties described in subsection (C)(1). The candidate shall be enrolled in a Board approved alterna-

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- tive path to certification program, or a Board authorized administrative preparation program.
4. An individual is not eligible to hold the administrative interim certificate more than once in a five year period.
  5. The requirements for initial issuance of the administrative interim certificate are:
    - a. A bachelor's degree or higher in education from an accredited institution;
    - b. Three years of verified full-time teaching experience in grades PreK through 12;
    - c. Verification of enrollment in a Board approved alternative path to administrator certification program, or a Board approved administrator preparation program;
    - d. Verification the holder of the interim certificate shall be under the direct supervision of an Arizona certified district principal or superintendent or the appropriate county school superintendent; and
    - e. A valid fingerprint clearance card issued by the Arizona Department of Public Safety.
  6. The requirements for the extension of the administrative interim certificate are:
    - a. Qualification for the initial issuance of the administrative interim certificate outlined in subsection (G)(5),
    - b. Official transcripts documenting the completion of required coursework,
    - c. Verification the holder of the interim certificate shall be under the direct supervision of an Arizona certified district principal or superintendent, and
    - d. A valid fingerprint clearance card issued by the Arizona Department of Public Safety.
  7. The holder of the administrative interim certificate may apply for an Arizona Principal Certificate upon completion of the following:
    - a. Successful completion of a Board approved alternative path to administrator certification program or a Board approved administrator preparation program. This shall include satisfactory completion of a field experience or capstone experience of no less than one full academic year. The field experience or capstone experience shall include performance evaluations in a manner that is consistent with policies for the applicable alternative professional preparation program;
    - b. A passing score on either the Principal or Superintendent portion of the Arizona Administrator Proficiency Assessment;
    - c. The submission of an application for the Principal certificate to the Department; and
    - d. A valid fingerprint clearance card issued by the Arizona Department of Public Safety.
- G. Interim Superintendent Certificate – grades PreK through 12**
1. Except as noted, the administrative interim certificate is subject to the general certification provisions in R7-2-607.
  2. The certificate is valid for one year from the date of initial issuance and may be extended yearly for no more than two consecutive years at no cost to the applicant if the provisions in subsection (H)(6) are met.
  3. The administrative interim certificate entitles the holder to perform the duties described in subsection (D)(1). The candidate shall be enrolled in a Board approved alternative path to certification program, or a Board authorized administrative preparation program.
  4. An individual is not eligible to hold the administrative interim certificate more than once in a five year period.
  5. The requirements for initial issuance of the administrative interim certificate are:
    - a. A master's degree or higher from an accredited institution;
    - b. Three years of verified full-time teaching experience or related education services experience in a PreK through 12 setting;
    - c. Verification of enrollment in a Board approved alternative path to administrator certification program, or a Board approved administrator preparation program;
    - d. Verification the holder of the interim certificate shall be under the direct supervision of an Arizona certified district superintendent or the appropriate county school superintendent; and
    - e. A valid fingerprint clearance card issued by the Arizona Department of Public Safety.
  6. The requirements for the extension of the administrative interim certificate are:
    - a. Qualification for the initial issuance of the administrative interim certificate outlined in subsection (H)(5),
    - b. Official transcripts documenting the completion of required coursework,
    - c. Verification the holder of the interim certificate shall be under the direct supervision of an Arizona certified district superintendent or the appropriate county school superintendent, and
    - d. A valid fingerprint clearance card issued by the Arizona Department of Public Safety.
  7. The holder of the administrative interim certificate may apply for an Arizona Superintendent Certificate upon completion of the following:
    - a. Successful completion of a Board approved alternative path to administrator certification program or a Board approved administrator preparation program. This shall include satisfactory completion of a field experience or capstone experience of no less than one full academic year. The field experience or capstone experience shall include performance evaluations in a manner that is consistent with policies for the applicable alternative professional preparation program;
    - b. A passing score on the Superintendent portion of the Arizona Administrator Proficiency Assessment;
    - c. The submission of an application for the Superintendent certificate to the Department; and
    - d. A valid fingerprint clearance card issued by the Arizona Department of Public Safety.
- H. Interim Administrative Certificates – Public Health Emergency**
1. Notwithstanding this Section, an Interim Administrative Certificate entitling the holder to serve as a supervisor, principal, or superintendent may be issued to an applicant who meets the following requirements:
    - a. Completion of all requirements for the Standard Professional Supervisor, Standard Professional Principal, or Standard Professional Superintendent certificate, as described in subsection (B)(2), (C)(2), and (D)(2), with the exception of a passing score on the Arizona Administrator Proficiency Assessment.
    - b. Verification that the applicant was unable to take the Arizona Administrator Proficiency Assessment required for the Standard Professional Administra-

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tive certificate as the result of a public health emergency declared by the governor or a public health official.

2. A certificate issued pursuant to this subsection shall be issued for one year and shall not be renewed or extended.

**Historical Note**

Adopted effective December 4, 1998 (Supp. 98-4). Former R7-2-616 recodified to R7-2-617; new R7-2-616 recodified from R7-2-615 at 15 A.A.R. 2146, effective August 25, 2008 (Supp. 09-4). Former R7-2-616 recodified to R7-2-617; new R7-2-616 recodified from R7-2-615 at 16 A.A.R. 68, effective December 8, 2008 (Supp. 10-1). Amended by exempt rulemaking at 16 A.A.R. 326, effective January 25, 2010 (Supp. 10-1). Amended by exempt rulemaking at 16 A.A.R. 1249, effective May 24, 2010 (Supp. 10-4). Amended by exempt rulemaking at 16 A.A.R. 2034, effective October 1, 2010 (Supp. 11-1). Amended by final exempt rulemaking at 22 A.A.R. 219, effective June 5, 2015; filed in the Office January 20, 2016 (Supp. 16-4). Amended by final exempt rulemaking at 24 A.A.R. 195, effective August 9, 2017; filed in the Office on January 2, 2018 (Supp. 18-1). Amended by final exempt rulemaking at 26 A.A.R. 1311, effective May 18, 2020 (Supp. 20-2).

**R7-2-617. Other Professional Certificates**

- A. All certificates are subject to the general certification provisions in R7-2-607 and the renewal requirements in R7-2-619.
- B. Standard School Counselor Certificate - grades PreK-12.
  1. The school counselor certificate is optional but may be required by local governing boards.
  2. The requirements are:
    - a. A master's or more advanced degree,
    - b. Completion of a graduate program in guidance and counseling,
    - c. A valid fingerprint clearance card issued by the Arizona Department of Public Safety, and
    - d. One of the following:
      - i. Completion of a supervised counseling practicum in school counseling;
      - ii. Two years of verified, full-time experience as a school counselor; or
      - iii. Three years of verified teaching experience.
  3. The certificate may be renewed consistent with the provisions of R7-2-619 that may include continuing education in the area of college and career readiness.
- C. Standard School Psychologist Certificate - grades PreK-12
  1. A standard school psychologist certificate is required for all personnel whose primary responsibility is in the role of a school psychologist providing services that include but are not limited to the duties of student psychoeducational assessment, therapeutic consultation and intervention, and involvement in the process of determination of student disabilities or disorders.
  2. The requirements are:
    - a. A master's or more advanced degree;
    - b. Completion of a graduate program in school psychology consisting of at least 60 graduate semester hours, or completion of a doctoral program in psychology and completion of a re-training program in school psychology from an accredited institution or Board approved program with a letter of institutional endorsement from the head of the school psychology program;
    - c. A supervised internship of at least 1200 clock hours with a minimum of 600 of those hours in a school

setting. Three years experience as a certified school psychologist within the last 10 years may be substituted for the internship requirement; and

- d. A valid fingerprint clearance card issued by the Arizona Department of Public Safety.
3. Any of the following may be substituted for the requirement described in subsection (C)(3)(b):
  - a. Five years experience within the last 10 years working full time in the capacity of a school psychologist in a school setting serving any portion of grades kindergarten through 12; or
  - b. A Nationally Certified School Psychologist Credential; or
  - c. A diploma in school psychology from the American Board of School Psychology.
- D. Standard Speech-Language Pathologist Certificate - grades PreK-12
  1. The standard speech-language pathologist certificate is required for school-based speech-language pathologists.
  2. The certificate may be renewed consistent with the provisions of R7-2-619 with relevant professional development in the field of speech pathology, or professional development in the areas of articulation, voice, fluency, language, low incidence disabilities, curriculum and instruction, professional issues and ethics, or service delivery models.
  3. The requirements are:
    - a. A master's or more advanced degree, from an accredited institution, in speech pathology or communication disorders;
    - b. A minimum of 250 clinical clock hours supervised by a university or a speech-language pathologist with a certificate of clinical competence;
    - c. A certificate of clinical competence, or a passing score on the national exam, or a passing score on the speech and language impaired special education portion of the Arizona Teacher Proficiency Assessment; and
    - d. A valid fingerprint clearance card issued by the Arizona Department of Public Safety.
- E. Standard Speech-Language Technician - grades PreK-12
  1. The standard speech-language technician certificate is required for school-based speech-language professionals.
  2. No new applications for a speech-language technician certificate will be accepted after June 30, 2014.
  3. The certificate may be renewed consistent with the provisions of R7-2-619 with professional development in the areas of articulation, voice, fluency, language disorders, low incidence disabilities, professional issues and ethics, or service delivery models.
  4. The requirements are:
    - a. A bachelor's degree from an accredited program in Speech-Language Pathology, Speech Hearing Sciences, or Communication Disorders;
    - b. A minimum of 50 hours of university supervised observation;
    - c. A minimum of 150 university clinical clock hours, or 150 clock hours supervised by a master's level licensed speech-language pathologist, or two years' experience as a school speech-language therapist or technician;
    - d. A passing score on the speech and language impaired special education portion of the Arizona Teacher Proficiency Assessment; and
    - e. A valid fingerprint clearance card issued by the Arizona Department of Public Safety.

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- F. Standard School Social Worker Certificate - grades PreK-12
1. The standard School Social Worker certificate is optional but may be required by local governing boards.
  2. The requirements are:
    - a. Master's or more advanced degree in Social Work from an accredited institution or completion of a Board approved school social worker program;
    - b. A valid fingerprint clearance issued by the Arizona Department of Public Safety; and
    - c. One of the following:
      - i. Completion of at least 6 semester hours of practicum in Social Work in a school setting completed through an accredited institution; or
      - ii. One year of full time experience as a Social Worker in a setting which primarily serves children in preschool through grade 12.

**Historical Note**

Adopted effective December 4, 1998 (Supp. 98-4). Amended by emergency rulemaking under A.R.S. § 41-1026 at 8 A.A.R. 5139, effective November 19, 2002 for a period of 180 days (Supp. 02-4). Emergency rulemaking renewed under A.R.S. § 41-1026(D) at 9 A.A.R. 1547, effective April 29, 2003 for a period of 180 days (Supp. 03-2). Emergency rulemaking repealed under A.R.S. § 41-1026(E) and permanent R7-2-617 amended by final rulemaking at 9 A.A.R. 3950, effective October 21, 2003 (Supp. 03-3). Amended by exempt rulemaking at 15 A.A.R. 1264, effective May 22, 2006 (Supp. 09-1). Former R7-2-617 recodified to R7-2-618; new R7-2-617 recodified from R7-2-616 at 15 A.A.R. 2146, effective August 25, 2008 (Supp. 09-4). Former R7-2-617 recodified to R7-2-618; new R7-2-617 recodified from R7-2-616 at 16 A.A.R. 68, effective December 8, 2008 (Supp. 10-1). R7-2-617 "Prekindergarten" corrected to "PreK" at request of the Board, Office File No. M09-444, filed November 24, 2009 (Supp. 10-1). Office corrected labeling error in subsection (C) under A.R.S. § 41-1011 and A.A.C. R1-1-108 (Supp. 10-4). Amended by final exempt rulemaking at 21 A.A.R. 2077, effective October 28, 2013 (Supp. 15-3). Amended by final exempt rulemaking at 23 A.A.R. 231, effective December 19, 2016 (Supp. 17-1). Amended by final exempt rulemaking at 24 A.A.R. 195, effective August 9, 2017; filed in the Office on January 2, 2018 (Supp. 18-1). Amended by final exempt rulemaking at 24 A.A.R. 2947, effective September 24, 2018 (Supp. 18-3).

**R7-2-618. Fees**

- A. The Superintendent of Public Instruction or the Superintendent's designee shall collect proper fees for certification services and shall transmit the fees to the state Treasurer. The following fees are established for certification services:
1. Evaluation of qualification for a certificate: \$30.
  2. Evaluation of qualification for an endorsement: \$30.
  3. Issuance of a certificate, endorsement, or letter of non-qualification: \$30.
  4. Renewal of a certificate: \$20.
  5. Name change, duplicate copy, or changes of coding to existing files or certificates: \$20.
- B. Fees shall be paid by money order, cashier's check, certified check, business check, or personal check and shall be made payable to the order of the Arizona Department of Education. If a check offered in payment for services is not cleared by the financial institution, the applicant shall be notified to pay the fees by money order or certified check. If a certificate has been issued or renewed and payment is not received within two

weeks of notification to the applicant, the Board shall file a statement of complaint pursuant to R7-2-1302. If a certificate or renewal has not been issued, no certificate or renewal shall be issued until the fees are paid by cashier's check or money order.

- C. Fees paid pursuant to this Section are not refundable.

**Historical Note**

New Section adopted by final rulemaking at 5 A.A.R. 2002, effective May 27, 1999 (Supp. 99-2). Former R7-2-618 recodified to R7-2-619; new R7-2-618 recodified from R7-2-617 at 15 A.A.R. 2146, effective August 25, 2008 (Supp. 09-4). Former R7-2-618 recodified to R7-2-619; new R7-2-618 recodified from R7-2-617 at 16 A.A.R. 68, effective December 8, 2008 (Supp. 10-1). Amended by exempt rulemaking at 16 A.A.R. 1249, effective May 24, 2010 (Supp. 10-4).

**R7-2-619. Renewal Requirements**

- A. A certificate may be renewed within six months of its expiration date except that an individual holding multiple valid certificates may renew all certificates at one time in order to align the expiration dates of each certificate. Certificates being aligned shall be renewed at the same time as the certificate that will expire first. Individuals seeking to align certificates shall meet the renewal requirements for each certificate being aligned. Certificates that are renewed or aligned pursuant to this Section shall be valid for 12 years.
- B. A certificate may be renewed within one year after it expires. Individuals whose certificates have been expired for more than one year shall reapply for certification under the requirements in effect at the time of reapplication. Nothing in this Section shall imply that an individual may be employed in a position that requires certification after the expiration of the relevant certificate.
- C. Renewal of certificates requires the completion of continuing education credits after the most recent issuance or renewal of the certificate, except that continuing education credits completed during the valid term of the certificate that expires first meets the requirement of certificates being aligned. Fifteen hours of continuing education credits are required each year of the certificate term to renew a certificate, which may be accumulated in various increments per year prior to renewal. One hour of continuing education credit shall be equivalent to one clock hour of a professional development activity. Continuing education credits must relate to Arizona academic or professional educator standards or apply toward the attainment of an additional Arizona certificate, endorsement, or approved area, and may include training regarding suicide awareness and prevention; child abuse, human trafficking of children and the sexual abuse of children, including warning signs that a child may be a victim of child abuse, human trafficking, or sexual abuses; screening, intervention, accommodation, use of technology and advocacy for students with reading impairments, including dyslexia; or other training programs explicitly permitted by state law. Professional development that may be counted toward the required hours of continuing education credit shall consist of any of the following activities:
1. Courses related to education or a subject area taught in Arizona schools, taken from an accredited institution. Each semester hour of courses shall be equivalent to 15 clock hours of professional development. The required documentation shall be an official transcript.
  2. Professional activities such as conferences and workshops related to the profession of teaching or the field of public education. A maximum of 30 clock hours per year may be earned by attendance at professional conferences

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- and workshops. The required documentation shall be a conference agenda and a statement or certificate from the sponsoring organization noting the clock hours earned.
3. District-sponsored or school-sponsored in-services or activities which are specifically designed for professional development. The required documentation shall be written verification from the sponsoring district or school stating the dates of participation and the number of clock hours earned.
  4. Internships in business settings. The internship shall be based on an agreement between a business and a district or school with the stated objective of aligning teaching curriculum with workplace skills. A maximum of 80 clock hours may be earned through business internships. The required documentation shall be written verification by the sponsoring business and district or school stating the dates of participation and number of clock hours earned.
  5. Educational research. The research shall be sponsored by a research facility or an accredited institution or funded by a grant. The required documentation shall be the published report of the research or verification by the sponsoring agency; and a statement of the dates of participation and the number of clock hours earned.
  6. Serving in a leadership role of a professional organization that provides training, activities, or projects related to the profession of teaching or the field of public education. A maximum of 30 clock hours per year may be earned by serving in a leadership role of a professional organization. The required documentation shall be written verification by the governing body of the professional organization of the dates of service and clock hours earned.
  7. Serving on a visitation team for a school accreditation agency. A maximum of 60 clock hours per year may be earned by serving on a visitation team. The required documentation shall be written verification from the accreditation agency of the dates of service and clock hours earned.
- D.** An individual holding a Standard teaching certificate, a standard administrative certificate, or other professional certificate may renew the certificate for 12 years upon completion of 15 hours of continuing education credits each year of the certificate term which may be accumulated in various increments per year prior to renewal or with one of the following:
1. A valid professional license as a counselor, social worker, psychologist, or speech pathologist issued by the appropriate state agency in this state or in another state;
  2. A valid certificate issued by the National Board of Professional Teaching Standards; or
  3. A valid Certificate of Clinical Competence in Speech-Language Pathology issued by the American Speech-Language Hearing Association.
- E.** An individual who is employed by a school or school district at the time of renewal shall submit the required documentation of professional development to the district superintendent, director of personnel, or other designated administrator for verification. A certified individual who is not employed by a school or school district at the time of renewal shall submit the required documentation of professional development to a county school superintendent, the dean of a college of education, or the Department for verification. The school or district official, county school superintendent, or the dean of a college of education shall verify on forms provided by the Department the number of hours of professional development completed by the individual during the valid period of the certificate being renewed.
- F.** The Department shall issue a Standard teaching certificate of the same type.
- G.** Notwithstanding any other provision in this Section, an individual with a valid fingerprint clearance card who has had a certificate or certificates expire for at least two years but not more than 10 years may renew the expired certificate or certificates and any endorsements or approved areas if the individual had 10 or more years of verified full-time experience in this state in the area the individual is seeking renewed certification and is in good standing. Standard certificates issued to that individual pursuant to this subsection shall be identical to the expired certificate or certificates.

**Historical Note**

New Section made by exempt rulemaking at 8 A.A.R. 2396, effective May 10, 2002 (Supp. 02-2). Amended by exempt rulemaking at 15 A.A.R. 1225, effective December 5, 2006 (Supp. 09-1). Former R7-2-619 recodified to R7-2-620; new R7-2-619 recodified from R7-2-618 at 15 A.A.R. 2146, effective August 25, 2008 (Supp. 09-4). Former R7-2-619 recodified to R7-2-620; new R7-2-619 recodified from R7-2-618 at 16 A.A.R. 68, effective December 8, 2008 (Supp. 10-1). Amended by exempt rulemaking at 16 A.A.R. 242, effective December 7, 2009 (Supp. 10-1). Amended by exempt rulemaking at 16 A.A.R. 1249, effective May 24, 2010 (Supp. 10-4). Amended by final exempt rulemaking at 22 A.A.R. 648, effective January 25, 2016 (Supp. 16-1). Amended by final exempt rulemaking at 22 A.A.R. 2246, effective August 6, 2016 (Supp. 16-3). Amended by final exempt rulemaking at 24 A.A.R. 195, effective August 9, 2017; filed in the Office on January 2, 2018 (Supp. 18-1). Amended by final exempt rulemaking at 26 A.A.R. 214, effective January 27, 2020 (Supp. 20-1).

**R7-2-620. Certification Time-frames**

- A.** For certification by the State Board of Education ("Board"), Certification Division ("Division"), the time-frames required by A.R.S. § 41-1072 et seq are:
1. Overall time-frame: 165 days.
  2. Administrative review time-frame: 45 days.
  3. Substantive review time-frame: 120 days.
- B.** Administrative completeness review time-frame. The Division shall issue a written notice of administrative completeness or deficiency to an applicant for certification within 45 days of receipt of the application.
1. If the Division determines that an application for certification is not administratively complete, the Division shall include a comprehensive list of the specific deficiencies in the written notice.
  2. If the Division issues a written notice of deficiency, the administrative completeness review time-frame and the overall time-frame are suspended from the date the notice is issued until the date that the Division receives the missing information from the applicant.
  3. If the Division does not issue a notice of administrative completeness or deficiency within 45 days of receipt of the application, the application is deemed administratively complete.
- C.** Substantive review time-frame. Within 120 days after the administrative completeness review time-frame is complete, the Division shall determine whether an applicant for certification meets all substantive criteria required by statute or rule.
1. During the substantive review time-frame, the Division may make one comprehensive written request for additional information. If the Division issues a comprehensive written request for additional information, the

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substantive review time-frame and the overall time-frame are suspended from the date the request is issued until the date that the Division receives the additional information from the applicant.

2. The Division and the applicant may mutually agree in writing to allow the Division to submit supplemental requests for additional information. If the Division issues a supplemental request by mutual written agreement for additional information, the substantive review time-frame and the overall time-frame are suspended from the date the request is issued until the date that the Division receives the additional information from the applicant.
- D. Overall time-frame. The Division shall issue a written notice that the Board has granted or denied a certificate no later than 165 days after receipt of an application for certification, or no later than the time-frame extension allowed under subsection (E).
  1. Written notice denying an applicant certification shall include justification for the denial with references to the statutes or rules on which the denial is based and an explanation of the applicant's right to appeal the denial.
  2. The explanation of an applicant's right to appeal the denial shall include the number of days the applicant has to file an appeal challenging the denial and the name and telephone number of the Executive Director of the Board as the contact person who can answer questions regarding the appeals process.
- E. By mutual written agreement, the Division and an applicant for certification may extend the substantive review time-frame and the overall time-frame. An extension of the substantive review time-frame and the overall time-frame may not exceed 33 days.
- F. If the Division does not issue to an applicant written notice granting or denying a certificate within the overall time-frame or any extension mutually agreed upon in writing, the Division shall refund to the applicant all fees charged, excuse payment of any fees that have not yet been paid, and pay all penalties required by A.R.S. § 41-1077.
- G. The Division shall issue all written notices under this Section to the last known address of the applicant by regular, 1st-class mail. The written notices are deemed "issued" on the postmark date.
- H. By August 1 of each year, the Division shall report to the Executive Director of the Board the Division's compliance with the overall time-frames for the prior fiscal year. The Division shall include the number of certificates issued or denied within the time-frames specified in this Section and the dollar amount of all fees returned or excused. The Division shall also include the amount of all penalties paid to the state general fund due to the Division's failure to comply with the time-frames.

**Historical Note**

New Section made by final rulemaking at 10 A.A.R. 2399, effective July 23, 2004 (Supp. 04-2). Former R7-2-620 recodified to R7-2-621; new R7-2-620 recodified from R7-2-619 at 15 A.A.R. 2146, effective August 25, 2008 (Supp. 09-4). Former R7-2-620 recodified to R7-2-621; new R7-2-620 recodified from R7-2-619 at 16 A.A.R. 68, effective December 8, 2008 (Supp. 10-1).

**R7-2-621. Reciprocity**

- A. The Board shall issue a comparable standard Arizona certificate or endorsement as applicable, if one is established pursuant to this Article, to an applicant who holds a valid certificate or endorsement from another state and is in good standing with

that other state. These applicants are exempt from all provisions of the Arizona Teacher proficiency examinations.

- B. Standard certificates shall be valid for 12 years and are renewable.
- C. The applicant shall possess a valid fingerprint clearance card issued by the Arizona Department of Public Safety.
- D. The applicant shall have completed the required class or passed a satisfactory examination on the provisions and principles of the Constitutions of the United States and Arizona.
- E. Notwithstanding any other provision, the deficiencies allowed pursuant to Arizona Revised Statutes in Arizona Constitution and United States Constitution shall be satisfied prior to the issuance of the same type of certificate prescribed in this Article, but are subject to suspension as follows:
  1. An applicant's standard Arizona teaching certificate shall be suspended three years from the date of issuance if the applicant has not completed the required class or passed a satisfactory examination on the provisions and principles of the Constitutions of the United States and Arizona.
  2. An applicant's standard Arizona teaching certificate shall be suspended one year from the date of issuance if the applicant has not completed the required class or passed a satisfactory examination on the provisions and principles of the Constitutions of the United States and Arizona if the applicant applies for a certificate authorizing the person to teach an academic course that focuses predominantly on history, government, social studies, citizenship, law or civics.
  3. The suspension for a deficiency in the Constitutions of the United States and Arizona is not considered a disciplinary action and the applicant shall be allowed to correct that deficiency within the remaining time of the standard certification.

**Historical Note**

New Section recodified from R7-2-620 at 15 A.A.R. 2146, effective August 25, 2008 (Supp. 09-4). Former R7-2-621 recodified to R7-2-622; new R7-2-621 recodified from R7-2-620 at 16 A.A.R. 68, effective December 8, 2008 (Supp. 10-1). Amended by exempt rulemaking at 16 A.A.R. 135, effective September 21, 2009 (Supp. 10-1). Amended by final exempt rulemaking at 22 A.A.R. 227, effective June 23, 2014; filed in the Office January 20, 2016 (Supp. 16-2). Amended by final exempt rulemaking at 22 A.A.R. 219, effective June 5, 2015; filed in the Office January 20, 2016 (Supp. 16-4). Amended by final exempt rulemaking at 22 A.A.R. 2248, effective August 6, 2016 (Supp. 17-1). Amended by final exempt rulemaking at 24 A.A.R. 195, effective August 9, 2017; filed in the Office on January 2, 2018 (Supp. 18-1).

**R7-2-622. Qualification Requirements of Professional, Non-Teaching School Personnel****A. Definitions:**

1. "Educational Interpreter." For the purposes of this Section, "educational interpreter" means a person trained to translate in sign language for students identified to require such services through an Individualized Education Program (IEP) or a 504 accommodation plan in order to access academic instruction. This does not in any way restrict the provisions of R7-2-401(B)(14) which defines "interpreter" and provides that each student's IEP team determines the level of interpreter skill necessary for the provision of FAPE, nor does it restrict a school district's ability to develop a job description for someone in a position of "educational interpreter" that requires additional job responsibilities.



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2. "Accommodation plan developed to comply with Section 504 of the Rehabilitation Act of 1973, 29 USC 794, et seq. ("504 accommodation plan")." For the purposes of this Section, "504 accommodation plan" means a plan developed for the purpose of specifying accommodations and/or services that will be implemented by classroom teachers and other school personnel so that students will benefit from their educational program.
- B. Educational Interpreters for the Hearing Impaired.**
1. Persons employed by or contracting with schools and school districts to provide educational interpreting services for hearing impaired students must meet the following qualifications from and after January 1, 2005:
    - a. Have a high school diploma or GED;
    - b. Hold a valid fingerprint clearance card, and
    - c. Show proficiency in interpreting skills through one of the following:
      - i. A minimum passing score of 3.5 or higher on the Educational Interpreter Performance Assessment (EIPA), or
      - ii. Hold a valid Certificate of Interpretation (CI) and/or Certificate of Transliteration (CT) from the Registry of Interpreters for the Deaf (RID), or
      - iii. Hold a valid certificate from the National Association of the Deaf (NAD) at level 3 or higher.
  2. If a public education agency (PEA) is unable to find an individual meeting the above qualifications, the PEA may hire an individual with lesser qualifications, but the PEA is required to provide a professional development plan for the individual they employ to provide educational interpreting services. This professional development plan must include the following:
    - a. Proof of at least 24 hours of training in interpreting each year that a valid certification is not held or EIPA passing score is not attained, and
    - b. Documentation of a plan for the individual to meet the required qualifications within three years of employment. If the qualifications are not attained within three years, but progress toward attainment is demonstrated, the plan shall be modified to include an intensive program for up to one year to meet the provisions of subsection (B)(1).
  3. An individual employed under the provisions of subsection (B)(2) must also have the following:
    - a. A valid fingerprint clearance card, and
    - b. A high school diploma or GED.
- C. Compliance with these rules will be reviewed at the same time as a PEA is monitored for compliance with the requirements of the Individuals with Disabilities Education Act (IDEA), 20 U.S.C. § 1400, et seq.**

**Historical Note**

New Section recodified from R7-2-621 at 16 A.A.R. 68, effective December 8, 2008 (Supp. 10-1).

**R7-2-623. Certification Requirements in a Public Health Emergency**

- A.** As the result of a public health emergency declared by the governor, the Department may temporarily modify certification requirements established in this Article, subject to review and approval by the Board.
- B.** A modification made pursuant to this Section shall:
1. Not be more restrictive than requirements in effect at the time the public health emergency is declared.
  2. Comply with statutory requirements.

3. Be limited to requirements that cannot be feasibly completed as the result of the public health emergency.
4. Be in effect for no more than one year after Board approval.

**Historical Note**

New Section made by final exempt rulemaking at 26 A.A.R. 1311, effective May 18, 2020 (Supp. 20-2).

**ARTICLE 7. ADJUDICATIONS****R7-2-701. Definitions**

In this Article, unless the context otherwise specifies:

1. "Board" means the State Board of Education.
2. "Chairman" means the chairperson of the Professional Practices Advisory Committee, established pursuant to R7-2-205.
3. "Contested case" means any proceeding in which the legal rights, duties or privileges of a party are required by law to be determined by the State Board of Education after an opportunity for hearing.
4. "Department" means the Department of Education.
5. "Hearing body" means the Board or the Professional Practices Advisory Committee.
6. "Party" means each person or agency named or admitted as a party or properly seeking and entitled as of right to be admitted as a party.
7. "Person" means an individual, partnership, corporation, association, governmental subdivision or unit of a governmental subdivision, a public or private organization of any character, or another agency.
8. "PPAC" means the Professional Practices Advisory Committee, established pursuant to R7-2-205 to conduct hearings related to certification or recertification matters regarding immoral conduct, unprofessional conduct, unfitness to teach and revocation, suspension or surrender of certificates.
9. "Presiding officer" means a hearing officer, with either a minimum of three years of verified experience in the practice of law or a minimum of one year of verified experience in conducting hearings, who shall oversee hearings in regard to certification or recertification matters related to immoral conduct, unprofessional conduct, unfitness to teach, and revocation, suspension, or surrender of certificates.
10. "Pupil" means any student enrolled in an Arizona public or private school. "Pupil" also means any student who was enrolled in an Arizona public or private school at the time of the events which are the subject of a proceeding and who is still of minor age.
11. "Victim" means any person who has been previously identified pursuant to state law as a victim in a criminal proceeding which is the basis for a contested case.

**Historical Note**

Adopted effective May 25, 1978 (Supp. 78-3). Former Section R7-2-701 repealed, new Section R7-2-701 adopted effective December 4, 1978 (Supp. 78-6). Amended effective June 27, 1979 (Supp. 79-3). Amended subsection (A) effective October 7, 1980 (Supp. 80-5). Amended by adding subsection (A)(6) effective April 6, 1984 (Supp. 84-2). Amended effective October 19, 1984 (Supp. 84-5). Section R7-2-701 repealed as an emergency, new Section R7-2-701 adopted as an emergency effective January 2, 1985 pursuant to A.R.S. § 41-1003, valid for only 90 days (Supp. 85-1). Emergency expired. Repealed effective December 17, 1987 (Supp. 87-4). New Section adopted by final rulemaking at 7 A.A.R. 48,

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effective December 15, 2000 (Supp. 00-4). Amended by final exempt rulemaking at 21 A.A.R. 1775, effective May 20, 2013 (Supp. 15-3). Amended by final exempt rulemaking at 23 A.A.R. 725, effective January 23, 2017 (Supp. 17-1).

**R7-2-702. Filing; computation of time; extension of time**

- A. All papers concerning a contested case shall be filed within the time limit, if any, for such filing.
- B. All papers filed in any contested case shall be typewritten or legibly written on paper 8 1/2 by 11 inches in size, shall contain the name and address of the party or other correspondent, shall be properly captioned and designate the title and case number, shall state the name and address of each party served with a copy, and shall be signed by the party or, if represented, by the party's attorney. The signature certifies that the signer has read the paper, that to the best of the signer's knowledge, information, and belief there are good grounds to support its contents, and that it is not interposed for delay.
- C. In computing any period of time prescribed or allowed by this Article, or any notice or order concerning a contested case, the day of the act, event, or default from which the designated period of time begins to run shall not be included. When the period of time prescribed or allowed is less than 11 days, intermediate Saturdays, Sundays and legal holidays shall not be included in the computation. When that period to time is 11 days or more, intermediate Saturdays, Sundays and legal holidays shall be included in the computation. The last day of the period so computed shall be included, unless it is a Saturday, Sunday or legal holiday, in which event the period runs until the end of the next day which is not a Saturday, Sunday or a legal holiday.
- D. Whenever a party has the right or is required to do some act within a prescribed period after the service of a notice or other paper upon the party by another party, and the notice or other paper is served by mail, five days shall be added to the prescribed period. This subsection has no application to notices, orders, or other papers issued by the hearing body.
- E. For good cause shown, the presiding officer may grant continuances and extensions of time for filing notices or other papers.

**Historical Note**

New Section adopted by final rulemaking at 7 A.A.R. 48, effective December 15, 2000 (Supp. 00-4).

**R7-2-703. Contested cases; notice; hearing records**

- A. In a contested case, the parties shall be afforded an opportunity for hearing after reasonable notice. The notice shall be given at least 20 days prior to the date set for the hearing.
- B. The notice shall include:
  - 1. A statement of the time, place and nature of the hearing.
  - 2. A statement of the legal authority and jurisdiction under which the hearing is to be held.
  - 3. A reference to the particular sections of the statutes and rules involved.
  - 4. A short and plain statement of the matters asserted. If a party is unable to state the matters in detail at the time the notice is served, the initial notice may be limited to a statement of the issues involved. Thereafter upon application a more definite and detailed statement shall be furnished.
- C. A reasonable effort shall be made to notify a victim of the time, place and nature of the hearing, and that the victim may submit a victim impact statement to be included as part of the record in a contested case.
- D. Opportunity shall be afforded all parties to respond and present evidence and argument on the issues involved.

- E. The Board may dispose of any contested case by decision or approved stipulation, agreed settlement, consent agreement or by default.
- F. A hearing before a hearing body in a contested case or any part thereof shall be recorded manually or by a recording device and shall be transcribed on request of any party, unless otherwise provided by law. The cost of such transcript shall be paid by the party making the request, unless otherwise provided by law or unless assessment of the cost is waived by the Board.
- G. The hearing body may reschedule the hearing, maintaining due regard for the interests of justice and the orderly and prompt conduct of the proceedings.
- H. The record in a contested case shall include:
  - 1. All pleadings, motions and interlocutory rulings.
  - 2. Evidence received or considered.
  - 3. A statement of matters officially noticed.
  - 4. Objections and offers of proof and rulings thereon.
  - 5. Proposed findings of fact and conclusions of law and exceptions thereto.
  - 6. Any decision, opinion, recommendation or report of the hearing body.
  - 7. All staff memoranda, other than privileged communications, or data submitted to the hearing body in connection with its consideration of the case.
  - 8. A victim impact statement, if submitted by the victim.
- I. Findings of fact shall be based exclusively on the evidence and on matters officially noticed.

**Historical Note**

New Section adopted by final rulemaking at 7 A.A.R. 48, effective December 15, 2000 (Supp. 00-4). Amended by final exempt rulemaking at 21 A.A.R. 1775, effective May 20, 2013 (Supp. 15-3).

**R7-2-704. Service; proof of service**

- A. The Board shall serve notices of hearing, findings of fact, conclusions of law, and recommendations of the hearing body, and decisions and final orders of the Board, either by personal service or by certified mail. All other papers required to be served may be served by regular or certified mail or may be personally served.
- B. After service of a notice of hearing in a contested case, a copy of every paper filed by a party, or individual seeking to intervene, shall be served on all parties to the contested case, or their lawyers if represented, at the same time the paper is filed.
- C. The following evidences completed service:
  - 1. If personally served, an affidavit of personal service, sworn to by the individual serving the paper and stating the name of the individual upon whom it was served, where service was made, and the date of such service; or
  - 2. If served by certified mail, the return receipt signed by the party served or someone authorized to act on behalf of the party served; or
  - 3. If served by regular or certified mail, either a statement subscribed on the paper filed, or an affidavit indicating the date mailed and listing those to whom it was mailed.
- D. When a party is represented by an attorney, service shall be made on the attorney. If a notice of hearing shows service on the Attorney General, all papers served thereafter shall be served on the Assistant Attorney General named on the notice of hearing or who later appears on behalf of the Attorney General, or if no Assistant Attorney General is named, then on the Attorney General, Education and Health Section, Education Unit.

**Historical Note**

New Section adopted by final rulemaking at 7 A.A.R. 48,

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effective December 15, 2000 (Supp. 00-4).

**R7-2-705. Hearings and Evidence**

- A. Parties may participate in the hearing in person or through an attorney.
- B. The presiding officer may schedule a prehearing conference. The purpose of a prehearing conference shall be to narrow issues, attempt settlement, address evidentiary issues or for any other purpose deemed necessary by the presiding officer. The presiding officer or hearing body may require that the parties submit proposed findings of fact and conclusions of law prior to the hearing or at the close of evidence.
- C. A hearing in a contested case shall be conducted in an informal manner and without adherence to the rules of evidence required in judicial proceedings. Irrelevant, immaterial or unduly repetitious evidence shall be excluded. A party to such proceedings may be represented by counsel and shall have the right to submit evidence in open hearing and conduct cross examination. Hearings may be held in any location determined by the hearing body.
- D. Copies of documentary evidence may be received in the discretion of the presiding officer. Upon request, the parties shall be given an opportunity to compare the copy with the original.
- E. Notice may be taken of judicially cognizable facts. In addition, notice may be taken of generally recognized technical or scientific facts within the specialized knowledge of the hearing body. Parties shall be notified either before or during the hearing or by reference in preliminary reports or otherwise of the material noticed including any staff memoranda or data and they shall be afforded an opportunity to contest the material so noticed. The hearing body's experience, technical competence and specialized knowledge may be utilized in the evaluation of the evidence.

**Historical Note**

New Section adopted by final rulemaking at 7 A.A.R. 48, effective December 15, 2000 (Supp. 00-4). Amended by final exempt rulemaking at 23 A.A.R. 725, effective January 23, 2017 (Supp. 17-1).

**R7-2-706. Request for hearing**

When a request for a hearing is filed with the Board, the request shall be in writing and shall state the specific grounds which are the basis of the hearing request and the statute, rule or other legal basis entitling the person to a hearing.

**Historical Note**

New Section adopted by final rulemaking at 7 A.A.R. 48, effective December 15, 2000 (Supp. 00-4).

**R7-2-707. Denial of request for hearing**

If the Board denies the request for a hearing, the denial shall be in writing and shall state the reasons therefor. A denial of a request for hearing is final and not subject to further administrative review.

**Historical Note**

New Section adopted by final rulemaking at 7 A.A.R. 48, effective December 15, 2000 (Supp. 00-4).

**R7-2-708. Repealed****Historical Note**

New Section adopted by final rulemaking at 7 A.A.R. 48, effective December 15, 2000 (Supp. 00-4). Section repealed by final rulemaking at 11 A.A.R. 696, effective March 29, 2005 (Supp. 05-1).

**R7-2-709. Rehearing and review of decisions**

- A. After a hearing is held, a party in a contested case who is aggrieved by a decision rendered by the Board may file with

the Board, not later than 30 days after such decision has been made, a written motion for rehearing specifying the particular grounds therefor. A motion for rehearing under this Section may be amended at any time before it is ruled upon by the Board. A response may be filed within 15 days after service of such motion by any other party. The Board may require the filing of written briefs on the issues raised in the motion or response and may provide for oral argument.

- B. A rehearing of a decision by the Board may be granted for any of the following causes materially affecting the moving party's rights:
  - 1. Irregularity in the administrative proceedings of the hearing body, or abuse of discretion, whereby the moving party was deprived of a fair hearing.
  - 2. Misconduct of the hearing body or the prevailing party.
  - 3. Accident or surprise which could not have been prevented by ordinary prudence.
  - 4. Newly discovered material evidence which could not with reasonable diligence have been discovered and produced at the hearing.
  - 5. Excessive or insufficient penalties.
  - 6. Error in the admission or rejection of evidence or other errors of law occurring at the administrative hearing.
  - 7. That the decision is not justified by the evidence or is contrary to the law.
- C. The Board may affirm or modify the decision or grant a rehearing to all or any of the parties, on all or part of the issues, for any of the reasons set forth in subsection (B) herein. An order granting a rehearing shall specify with particularity the ground or grounds on which the rehearing is granted, and the rehearing shall cover only those matters so specified.
- D. After giving the parties or their counsel notice and an opportunity to be heard on the matter, the Board may grant a motion for rehearing for a reason not stated in the motion. The order granting such a rehearing shall specify the grounds therefor.
- E. Not later than 20 days after a decision is rendered, the Board may, on its own initiative, order a rehearing of its decision for any reasons for which it might have granted a rehearing on motion of a party. The order granting such a rehearing shall specify the grounds therefor.
- F. When a motion for rehearing is based upon affidavits they shall be served with the motion. An opposing party may, within ten days after service of such motion, serve opposing affidavits and this period may be extended for an additional period not exceeding 20 days, by the Board for good cause shown or by written stipulation of the parties. Reply affidavits may be permitted.
- G. After a hearing has been held and a final administrative decision has been entered, a party is not required to file a motion for rehearing or review of the decision in order to exhaust the party's administrative remedies.
- H. Any party in a contested case who is aggrieved by a decision rendered by the Board may file with the Board, not later than 20 days after such decision has been made, a written request for review of the decision. If a review of the decision is granted, the Board may affirm or modify the previous decision.

**Historical Note**

New Section adopted by final rulemaking at 7 A.A.R. 48, effective December 15, 2000 (Supp. 00-4).

**R7-2-710. Intervention**

- A. Any person seeking to intervene in any contested case shall file a written request to intervene. Intervention shall be granted only if the hearing body determines that:

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1. The legal interests of the person requesting to intervene may be substantially affected by the outcome of the contested case;
  2. Intervention will not unduly delay or bias the hearing;
  3. The interest of the person requesting to intervene is not adequately represented by another party to the contested case; and
  4. The proposed intervention is in the interests of justice.
- B.** The request shall state the claims or defenses for which intervention is sought, briefly describing the interests that may be affected by the outcome of the case and including such facts as demonstrate those interests.
- C.** The request shall be filed and served upon all parties at least 15 days prior to hearing.
- D.** Any party may file a response to the request to intervene within five days of service of the request upon the party.
- E.** The hearing body shall decide on the request to intervene at least five days prior to the hearing date and shall, prior to the end of the following business day, notify the persons requesting to intervene and all parties of the decision. The hearing body may reschedule a hearing or prehearing conference to provide sufficient time for the parties to respond to a request to intervene or to prepare for the hearing or prehearing conference.
- F.** The hearing body may limit the intervenor's participation to issues in which the intervenor has a particular interest.

**Historical Note**

New Section adopted by final rulemaking at 7 A.A.R. 48, effective December 15, 2000 (Supp. 00-4).

**R7-2-711. Consolidation and severance**

- A.** When proceedings involving a common question of law or fact or common parties are pending before the hearing body, it may, upon its own volition or upon request of any party, order a joint hearing on any or all the matters at issue.
- B.** In furtherance of convenience, to avoid prejudice, or when separate hearings will be conducive to expedition and economy, the hearing body may, upon its own volition or upon request of any party, order any proceeding severed with respect to some or all issues or parties.

**Historical Note**

New Section adopted by final rulemaking at 7 A.A.R. 48, effective December 15, 2000 (Supp. 00-4).

**R7-2-712. Subpoenas**

- A.** The Department may issue subpoenas for the attendance of witnesses and for the production of books, records, documents and other evidence on its own volition or at the request of a party.
- B.** A request for a hearing subpoena shall be in writing and served on each party at least seven days prior to the date set for hearing and shall state:
1. The name of the contested case, the case number, and the time and place where the witness is expected to appear and testify;
  2. The name and address of the witness subpoenaed; and
  3. The documents, if any, sought to be provided.
- C.** On application of a party or the agency and for use as evidence, the hearing body may permit a deposition to be taken, in the manner and upon the terms designated by the hearing body, of a witness who cannot be subpoenaed or is unable to attend the hearing.
- D.** The individual to whom a subpoena is directed shall comply with its provisions unless, prior to the date set for appearance, the hearing body grants a written request to quash or modify the subpoena. The request shall state the reasons why it should

be granted. The hearing body shall grant or deny such request by order.

- E.** The party requesting the subpoena shall prepare it and cause it to be served upon the individual to whom it is directed in the same manner as provided for service of subpoenas in civil matters before the superior court. The return of service shall be filed with the hearing body.

**Historical Note**

New Section adopted by final rulemaking at 7 A.A.R. 48, effective December 15, 2000 (Supp. 00-4).

**R7-2-713. Conduct of hearing**

- A.** The presiding officer may conduct all or part of the hearing by telephone, television, or other electronic means, as long as each party has an opportunity to participate in the entire proceeding as it takes place.
- B.** Except for those hearings which may involve presentation of evidence protected by A.R.S. § 15-350, or which are otherwise closed pursuant to an express provision of law, all hearings are open to public observation.
- C.** Conduct at any hearing that is disruptive or shows contempt for the proceedings shall be grounds for exclusion from further participation or observation.

**Historical Note**

New Section adopted by final rulemaking at 7 A.A.R. 48, effective December 15, 2000 (Supp. 00-4).

**R7-2-714. Testimony of pupils**

- A.** All individuals present at a hearing regarding an action against a certificate shall:
1. Keep confidential the name of any pupil involved in the hearing, unless disclosure is with the consent of the pupil's parent or guardian or by order of the superior court. This action does not prevent disclosure of the pupil's name to any party to the hearing.
  2. Keep confidential the testimony of any pupil, all of which shall be taken in executive session, except that the Board office shall be furnished a confidential copy of the pupil's testimony as part of the complete transcript of the hearing. The individuals present during the executive session shall be determined by the presiding officer in consultation with the Attorney General's office except that the respondent and counsel shall always be permitted to be present. The transcripts of testimony taken during executive session shall be maintained by the Board.
- B.** The Board of Education or its designee shall:
1. Make available a consent form which requires the signature of the pupil's parent or guardian prior to disclosure of the pupil's name;
  2. Assign a fictitious name to all witnesses identified as pupils on the witness lists provided by the complainant and respondent if not in receipt of written parental or guardian consent for disclosure;
  3. Notify hearing participants, prior to and during the hearing, of any fictitious names to be used.
- C.** The presiding officer shall instruct all individuals present at the hearing of the confidentiality requirements of A.R.S. § 15-551 and this Section.

**Historical Note**

New Section adopted by final rulemaking at 7 A.A.R. 48, effective December 15, 2000 (Supp. 00-4).

**R7-2-715. Evidence**

- A.** All witnesses shall testify under oath or affirmation.
- B.** The hearing body shall have the power to administer oaths and affirmations.

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- C. All parties shall have the right to present such oral or documentary evidence and to conduct such cross-examination as may be required for a full and fair disclosure of the facts.
- D. The hearing body shall receive evidence, rule upon offers of proof, and exclude evidence the hearing body has determined to be irrelevant, immaterial, or unduly repetitious.
- E. Unless otherwise ordered by the hearing body, documentary evidence shall be limited in size when folded to 8 1/2 by 11 inches. The submitting party shall identify documentary exhibits by number or letter and party and furnish a copy of each exhibit to each party present. One additional copy shall be furnished to the hearing body unless the hearing body otherwise directs. When evidence offered by any party appears in a larger work, containing other information, the party shall plainly designate the portion offered. If the evidence offered is so voluminous as would unnecessarily encumber the record, the book, paper, or document shall not be received in evidence but may be marked for identification and, if properly authenticated, the designated portion may be read into or photocopied for the record. All documentary evidence offered shall be subject to appropriate and timely objection.
- C. Within 30 days after receipt of any recommended decision from the PPAC, the Board shall render a decision to affirm, reverse, adopt, modify, supplement, amend or reject the findings of fact, conclusions of law and recommendations in whole or in part, may remand the matter to the hearing body with instructions, or may convene itself as the hearing body.
- D. If no request for rehearing or review has been timely filed by a party, a decision in a contested case is effective and final ten days from the date served on that party.

**Historical Note**

New Section adopted by final rulemaking at 7 A.A.R. 48, effective December 15, 2000 (Supp. 00-4).

**ARTICLE 8. COMPLIANCE****R7-2-801. Compliance**

- A. Procedures governing noncompliance with laws and rules by school districts.
  - 1. Scope. Except as may be otherwise directed by federal or state statute or by rules adopted by the State Board of Education, this rule shall govern the procedure for determining noncompliance by school districts with laws and rules concerning school districts, the enforcement of which is the statutory responsibility of the State Board of Education or the Department of Education.
  - 2. Preliminary notice of noncompliance and response:
    - a. The Department of Education, upon its own initiative or at the direction of the State Board of Education, shall inform school districts by written notice that the district is in possible noncompliance with laws or rules, the enforcement of which is the statutory responsibility of the Board or the Department.
    - b. A preliminary notice of possible noncompliance shall detail in writing the nature of the possible noncompliance and shall identify:
      - i. The law or rule which the school district may be violating; and
      - ii. The manner in which the school district may be in noncompliance with the identified law or rule.
    - c. A school district may submit a written response to the Department of Education within 20 days of receipt of a preliminary notice of noncompliance.
    - d. Nothing contained in this rule is intended to preclude a reasonable attempt between Department of Education personnel and school district personnel to resolve administratively possible noncompliance prior to sending a written preliminary notice of noncompliance.
  - 3. Scheduling a formal hearing
    - a. Recommendation by the Department of Education
      - i. After giving a school district preliminary notice as provided in this rule, the Department of Education shall submit a written recommendation to the State Board of Education. This recommendation shall be submitted within 10 days after receipt of a written response from the school district or if no response is received within 30 days of the issuance of the preliminary notice. The Department shall recommend one of the following courses of action to be taken by the Board.
        - (1) A formal hearing should be scheduled before noncompliance is probable and achieving voluntary compliance within a reasonable period of time under the circumstances is unlikely; or

**Historical Note**

New Section adopted by final rulemaking at 7 A.A.R. 48, effective December 15, 2000 (Supp. 00-4).

**R7-2-716. Stipulations**

Parties to any contested case may stipulate, in writing, agreement upon any matter involved in the proceeding. If approved by the presiding officer, agreement on matters of procedure shall be binding upon the parties to the stipulation. The hearing body may require presentation of evidence for proof of stipulated facts for the hearing body's consideration. No substantive matter agreed to by the parties shall be binding upon the Board unless incorporated into the decision of the Board.

**Historical Note**

New Section adopted by final rulemaking at 7 A.A.R. 48, effective December 15, 2000 (Supp. 00-4).

**R7-2-717. Recommended Decisions**

- A. A recommended decision shall be prepared for the Board by the PPAC.
- B. A recommended decision shall be delivered to the Board within 30 days after the close of the hearing or the date ordered for submission of proposed findings or legal memoranda, whichever comes last, unless the Board extends the period for good cause.

**Historical Note**

New Section adopted by final rulemaking at 7 A.A.R. 48, effective December 15, 2000 (Supp. 00-4).

**R7-2-718. Decisions and Orders**

- A. Any final decision or order adverse to a party in a contested case shall be in writing or stated in the record. Any final decision shall include findings of fact and conclusions of law, separately stated. Findings of fact, if set forth in statutory language, shall be accompanied by a concise and explicit statement of the underlying facts supporting the findings. Parties shall be notified either personally or by mail to their last known address of any decision or order. Upon request, a copy of the decision or order shall be delivered or mailed forthwith to each party and to the party's attorney of record.
- B. When the Board is the hearing body, the decision shall be rendered within 60 days following the final day of the hearing or the date ordered for submission of proposed findings of fact and conclusions of law or legal memoranda, whichever comes last.

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- (2) A formal hearing should not be scheduled at this time because, although noncompliance is probable, achieving voluntary compliance within a reasonable period of time is likely; or
      - (3) A formal hearing should not be scheduled because the school district is in compliance with the law or rule in question.
    - ii. Any written response of the school district to the preliminary notice of noncompliance shall accompany the written recommendation of the Department of Education.
  - b. Within 30 days of receipt of the recommendation of the Department of Education, the State Board of Education shall either:
    - i. Schedule formal hearing;
    - ii. Postpone the decision to schedule a hearing for a stated time period not to exceed six months, or
    - iii. Dismiss the matter.
  - c. When the State Board of Education determines that a formal hearing is necessary, it shall be scheduled within 30 days after such determination, unless an extension of time is granted by the Board.
  - d. When a formal hearing is scheduled, the Board or its designee shall give notice of the hearing as provided in A.R.S. § 41-1009(A) and (B).
  - e. When the Board decides to postpone scheduling a formal hearing, the Board shall specify the extent of the postponement and the Department of Education shall report periodically, at least every 30 days, unless otherwise directed, with respect to progress by the school district toward compliance with the law or rule in question. At the end of the postponement period, the Board shall again make a determination whether to schedule a hearing, further postpone the determination, or dismiss the matter.
  - f. The Board may order further investigation by the Department of Education at any time, and admit into evidence any such report at any subsequent formal hearing.
4. Hearings held pursuant to this rule shall be conducted as provided in A.R.S. § 41-1010.
5. The Board's decision
  - a. A decision by the State Board of Education shall be determined by a majority of the members of the Board and shall be based upon substantial evidence.
  - b. A decision shall be rendered within 30 days after the hearing.
  - c. Within 30 days after a decision is reached, copies of the written decision shall be delivered to the parties personally or by certified mail.
  - d. The parties shall have the opportunity to provide proposed findings of fact and conclusions of law to the Board no later than five days after the decision of the Board is received.
6. Rehearing procedure
  - a. Any party aggrieved by a decision rendered by the Board may file with the Board, not later than 15 days after service of the decision, a written motion for rehearing or review of the decision, specifying the particular grounds therefor.
  - b. A motion to alter or amend a decision or order shall be filed not later than 15 days after service of the decision.
    - c. A motion for rehearing under this rule may be amended at any time before it is ruled upon by the Board.
    - d. A response may be filed within 10 days after service of such motion by any other party or by the Attorney General.
    - e. The Board may require the filing of written memoranda upon the issues raised in the motion and may provide for oral argument.
    - f. The Board may consolidate the hearing to consider the motion for rehearing with the requested rehearing.
    - g. A rehearing or review of the decision may be granted for any of the following causes materially affecting the moving party's rights:
      - i. Irregularity in the administrative proceedings of the agency or its hearing officer or the prevailing party, or any order, or abuse of discretion, whereby the moving party was deprived of a fair hearing;
      - ii. Misconduct of the Board of the prevailing party.
      - iii. Accident or surprise which could not have been prevented by ordinary prudence;
      - iv. Newly discovered material evidence which could not with reasonable diligence have been discovered and produced at the original hearing;
      - v. Excessive or insufficient penalty;
      - vi. Error in the admission or rejection of evidence or other errors of law occurring in the administrative hearing;
      - vii. The decision is not justified by the evidence or is contrary to law.
    - h. The Board may affirm or modify the decision or grant a rehearing to all or any of the parties and on all or part of the issues for any of the reasons set forth in subsection (A)(6). An order granting a rehearing shall specify with particularity the ground or grounds on which the rehearing is granted, and the rehearing shall cover only those matters so specified.
    - i. Not later than 15 days after a decision is rendered, the Board may on its own initiative order a rehearing or a review of its decision for any reason for which it might have granted a rehearing on motion of a party. After giving the parties or their counsel notice and an opportunity to be heard on the matter, the Board may grant a motion for rehearing for a reason not stated in the motion. In either case, the order granting such a rehearing shall specify the grounds on which the order is based.
    - j. When a motion for rehearing is based upon affidavits, they shall be served with the motion. An opposing party may, within 10 days after such service, serve opposing affidavits, which period may be extended for an additional period not exceeding 20 days, by the Board for good cause shown, or by the parties by written stipulation. The Board may permit a reply affidavit by the moving party.
- B. Waiver from administrative rules. Upon request of a school district acting either on its own behalf or on behalf of a school within the district's jurisdiction, the State Board of Education may grant a waiver exempting such district or school from specific administrative rules.
  - 1. Requests

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- a. Requests for exemption from any State Board of Education rule shall include:
  - i. Evidence that the school or school district is currently in compliance with all state laws and State Board of Education rules;
  - ii. A statement identifying goals that will be accomplished and how the waiver will assist in enhancing school improvement;
  - iii. A three-year plan for school improvement;
  - iv. Identification of the specific rules for which the waiver is requested;
  - v. Evidence of a public hearing held by the school or school district which provided for parental and public involvement and input into the proposed three-year plan.
- b. Requests for waiver may be granted by the State Board of Education for a period not to exceed three years. The State Board of Education may at any time rescind approved waivers at its discretion.
- c. Requests for waiver may be submitted by a local governing board and shall be made through the State Superintendent of Public Instruction for consideration by the State Board of Education.
- d. Local governing boards shall adopt policies and procedures which will allow their schools to request waivers from the State Board of Education and shall submit those policies and procedures to the Superintendent of Public Instruction prior to October 1, 1993. Those policies shall be consistent with the criteria specified in subsections (B)(1)(a) and (B)(3). Additionally, those policies shall provide that:
  - i. Requests for such waivers by schools be forwarded within 30 days of receipt by the governing board to the Superintendent of Public Instruction. Requests may include additional information as the governing board deems appropriate.
  - ii. Schools not be required to meet criteria other than those specified in subsection (B)(1)(a).
- 2. Reporting
  - a. Schools or school districts with State Board-approved waivers shall document progress obtained as a result of the waiver and report on or before June 30 of each year to the State Superintendent of Public Instruction.
  - b. A school district having a school with an approved waiver may report the effects that such waiver has had on the operation of the school district. Reports shall be submitted on or before June 30 of each year to the State Superintendent of Public Instruction.
  - c. The State Superintendent of Public Instruction shall report to the State Board of Education, on or before September 30 of each year, the status of those schools and school districts with approved waivers and, as a minimum, include the following:
    - i. The status of meeting the goals as stated in the three-year plan;
    - ii. Recommendations regarding approved continuance of the waiver, conditions for continuance of the waiver, revision of the three-year plan or rescission of the waiver.
- 3. Renewal. Upon request from a school district, on behalf of itself or a school within its jurisdiction, waivers may be approved by the State Board of Education for additional three-year periods. Requests shall be made through the State Superintendent of Public Instruction and

requests from schools shall be forwarded by the local governing board to the State Superintendent of Public Instruction within 30 days from receipt.

**Historical Note**

Adopted effective February 27, 1980 (Supp. 80-1).

Amended effective April 9, 1993 (Supp. 93-2).

**R7-2-802. School and School District Compliance with the Uniform System of Financial Records and the Uniform System of Financial Records for Charter Schools**

- A. Upon receipt of a report from the Auditor General that a school or school district has failed to comply with the Uniform System of Financial Records ("USFR") or the Uniform System of Financial Records for Charter Schools ("USFRCS") within 90 days after having received a notice of noncompliance from the Auditor General, the State Board of Education ("Board") shall review the Auditor General's report to determine whether the school or school district is in noncompliance.
- B. When the Board determines that a school or school district is in noncompliance with the USFR or USFRCS, it shall give written notice to the school or district of its determination. The written notice shall advise the school or district of the following:
  - 1. The Superintendent of Public Instruction shall withhold distribution of state funds to the school or district until such time as the Auditor General reports compliance with the USFR or USFRCS unless a hearing is requested by the school or district.
  - 2. The school or district has 10 days from the receipt of the written notice of noncompliance by the Board to submit a written request for a hearing.
  - 3. If the school or district makes a timely request for a hearing, the hearing will be held pursuant to the hearing procedures specified in R7-2-701 et seq.
- C. The Board's decision
  - 1. The Board shall determine whether the school or school district was in compliance with the USFR or USFRCS within 90 days after having been informed of noncompliance by the Auditor General, and whether the district is in compliance with the USFR or USFRCS at the time of the hearing.
  - 2. A decision by the Board shall be determined by a majority of the members of the Board and shall be based upon substantial evidence.

**Historical Note**

Adopted effective February 27, 1980 (Supp. 80-1).

Amended subsections (A) and (E)(1) and (5) effective

December 17, 1981 (Supp. 81-6). Amended effective

December 31, 1998 (Supp. 98-4).

**R7-2-803. Implementation of the Uniform System of Financial Records**

All school districts shall implement the current version of the Uniform System of Financial Records, as prescribed by the Auditor General, in conjunction with the Department of Education. The Uniform System of Financial Records shall include standards to ensure that enrollment is determined by all school districts on a uniform basis.

**Historical Note**

Adopted effective November 10, 1980 (Supp. 80-6).

Amended effective February 20, 1997 (Supp. 97-1).

**R7-2-804. Compliance with federal statutes or regulations**

- A. This rule prescribes procedures to be used in filing and processing written complaints alleging the failure of a public

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agency or school district to comply with federal statutes or regulations applicable to federal education programs conducted and subject to Title 34, Code of Federal Regulations, § 76.780.

- B. The Arizona Department of Education (Department) shall accept and investigate complaints provided that the complaint:
  1. Is written and signed by the complaining party or his or her designated representative;
  2. Sets forth the facts forming the basis of the complaint; the facts set forth in the complaint, if true, could constitute noncompliance by a public agency or school district;
- C. Upon receipt of a complaint setting forth the criteria contained in (B), the Department shall immediately begin an impartial review which may include onsite investigations. If in the course of the review it is determined that the nature of the complaint is not a matter of noncompliance, the complainant will be so informed and advised of appropriate means of resolving the complaint.
- D. A written decision with specific findings shall be issued by the Department within 60 calendar days of receipt of the written complaint. If corrective action is required, such action shall be designated in the decision and shall include the time line for correction and possible consequences for continued noncompliance. A copy of the written decision shall be sent to the complaining party and the agency involved on or before the expiration of the 60-day period. An extension of this timeline will be permitted only if exceptional circumstances exist with respect to a particular complaint.
- E. If there appears to be a failure or refusal to comply with the applicable law or regulations, and if the noncompliance or refusal to comply cannot be corrected or avoided by informal means, compliance shall be effected by the Superintendent and the State Board of Education by any means authorized by law or by rule and regulation. The Superintendent shall retain jurisdiction over the issue of noncompliance with the law or regulations and shall retain jurisdiction over the implementation of any corrective action required. However, nothing herein shall preclude the availability of an informal resolution between the complainant and the agency or school district involved, nor shall this rule preclude the availability of any administrative hearing remedies to resolve such disputes or judicial review of such administrative remedies.
- F. If, pursuant to an investigation by the Department, the Superintendent finds a failure to comply with applicable law or regulations, he or she shall so inform the agency or school district and compliance shall be obtained by informal means whenever possible. If corrective action is required, such action shall be designated in this decision and shall include the time lines for correction and the possible consequences for continued noncompliance.
- G. A summary of each complaint received and investigated by the Department and the decision of the Superintendent shall be submitted annually to the State Board of Education for informational purposes only. Any personally identifiable information shall be deleted from the report to the State Board of Education.
- H. The complainant may request the U.S. Department of Education to review the final decision of the Superintendent. The Department shall inform a complainant of the procedures for requesting a review by the U.S. Department of Education.

**Historical Note**

Adopted effective February 11, 1983 (Supp. 83-1).  
 Amended subsection (B) effective March 13, 1986 (Supp. 86-2).

**R7-2-805. Education division general administrative regu-**

**lations**

- A. This rule prescribes procedures to be used for appealing a decision by the Arizona Department of Education (Department) relating to federal programs administered by the Department and subject to the Education Division General Administrative Regulations (EDGAR) Title 34, Code of Federal Regulations § 75 and 76.
- B. A school district or public agency may request a hearing if it alleges that the Department violated a federal statute or regulation by:
  1. Terminating further assistance for an approved project;
  2. Ordering, in accordance with a final state audit resolution determination, the repayment of misspent or misapplied federal funds;
  3. Disapproving or failing to approve the application or project in whole or in part; or
  4. Failing to provide funds in amounts in accordance with the requirements of statutes and regulations.
  5. Not approving the school district or public agency's proposal for funding.
- C. When a school district or public agency requests a hearing, the Superintendent of Public Instruction (Superintendent) shall select a hearings appeals panel from Department staff other than those within the same division as the federal program area under which the appeal rose.
- D. Hearing procedures
  1. An applicant must request a hearing by notifying the Superintendent by certified mail of its decision to appeal a decision as set forth in subsection (B) of this rule. If the applicant is or represents a school district, authorization to seek a hearing must come from the Governing Board of that school district.
  2. The request for hearing must set forth the nature of the complaint and the facts on which the complaint is based.
  3. The applicant shall request a hearing within 30 days of the date notice of the Department action was sent. For purposes of this rule, the date of notice by the Department is the date of sending notice of the Department action.
  4. A hearing shall be scheduled before the appeal panel within 30 days from the receipt of the request.
  5. The appeals panel chairperson shall give at least 10 days' notice of the hearing date to the complainant.
  6. The parties may submit written materials no later than five days prior to the hearing, such materials to consist of six copies.
  7. At the hearing the parties may present evidence in writing and through witnesses and may be represented by counsel.
  8. The length and order of the presentation may be determined by the appeals panel chairperson.
  9. If the complainant or authorized representative fails to appear at the designated time, place and date of the hearing, the appeal shall be considered closed and the process terminated.
- E. Decision. No later than five days after the hearing, the appeals panel shall forward to the Superintendent its recommendation relating to the school district or agency's request for review. Within 10 days after the hearing, the Superintendent shall issue his or her written ruling, including findings of fact and reasons for the ruling. If the Superintendent determines that the Department's action was contrary to the statutes and regulations that govern the applicable program, the Superintendent shall rescind the action.
- F. Appeal. If the Superintendent does not rescind the Department action, the applicant may appeal to the U.S. Department of Education. The applicant shall file a notice of appeal with the



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U.S. Department of Education within 20 days after the applicant has been notified by the Superintendent of his or her decision by certified mail.

- G.** State Board of Education submission. The Superintendent shall annually submit to the State Board of Education as an informational item summaries of all decisions including the findings of fact of hearing procedures conducted pursuant to this rule for State Board of Education review.

**Historical Note**

Adopted effective June 24, 1983 (Supp. 83-3).

**R7-2-806. Repealed**

**Historical Note**

Adopted effective February 6, 1984 (Supp. 84-1). Section repealed by final rulemaking at 7 A.A.R. 182, effective December 15, 2000 (Supp. 00-4).

**R7-2-807. Repealed**

**Historical Note**

Adopted as an emergency effective August 2, 1984 pursuant to A.R.S. § 41-1003, valid for only 90 days (Supp. 84-4). Emergency expired. Permanent rule adopted effective November 27, 1984 (Supp. 84-6). Amended effective May 3, 1993 (Supp. 93-2). Repealed effective February 20, 1997 (Supp. 97-1).

**R7-2-808. Pupil Participation in Extracurricular Activities**

The following standards are effective for students in grade 6, if part of a middle school, and grades 7 through 12.

1. Definition Extracurricular activities are:
  - a. All interscholastic activities which are of a competitive nature and involve more than one school where a championship, winner, or rating is determined; and all those endeavors of a continuous and ongoing nature for which no credit is earned in meeting graduation or promotional requirements and are organized, planned, and sponsored by the district consistent with district policy.
  - b. Activities which are an integral part of a credit class shall be excepted from the rule.
2. Eligibility requirements and ineligibility.
  - a. Eligibility. To be eligible to participate in extracurricular activities, a student shall be required to:
    - i. Earn a passing grade in each course in which the student is enrolled; and
    - ii. Maintain satisfactory progress toward promotion or graduation.
  - b. Ineligibility. When it is determined that a student has failed to meet the requirements specified for eligibility, the student shall be declared ineligible to participate in extracurricular activities and shall remain ineligible until the requirements of eligibility are met.
    - i. The governing board shall establish the criteria for a passing grade and satisfactory progress toward promotion or graduation, taking into account the needs of children placed in special education programs pursuant to R7-2-401 et seq. Passing grades shall be determined on a cumulative basis, from the beginning of instruction to the recording of a final grade for the course.
    - ii. Every nine weeks or less, as determined by the governing board, district personnel shall review the progress of students to determine their eligibility status. If a student is declared ineligible,

the student shall remain ineligible until a subsequent check is performed and it is determined that the student meets the eligibility requirements specified in subsection (2)(a).

3. Each governing board shall adopt a policy and implement a program pursuant to that policy to provide:
  - a. Oral or written preliminary notice to all district students and their parents or guardian of pending ineligibility;
  - b. Written notice to students and their parents or guardians when ineligibility has been determined;
  - c. Educational support services to students declared ineligible because of this rule, as well as those notified of pending ineligibility.

**Historical Note**

Adopted effective December 31, 1986 (Supp. 86-6). Amended subsection (B) and added a new subsection (D) effective February 17, 1988 (Supp. 88-1). Amended subsection (A) effective August 15, 1988 (Supp. 88-3). Amended effective April 28, 1989 (Supp. 89-2). Amended effective December 20, 1991 (Supp. 91-4). Section R7-2-808 repealed, new Section adopted effective July 10, 1992 (Supp. 92-3). Amended effective September 20, 1996 (Supp. 96-3). Amended effective December 22, 1997 (Supp. 97-4).

**R7-2-809. Emergency Administration of Auto-Injectable Epinephrine**

- A.** Applicability. This rule applies to:
  1. Any school district or charter school that voluntarily chooses to stock auto-injectable epinephrine pursuant to A.R.S. § 15-157.
  2. All school districts and charter schools when required to stock auto-injectable epinephrine pursuant to A.R.S. § 15-157.
- B.** Definitions. The following definitions are applicable to this rule:
  1. "Anaphylactic shock" is a severe systemic allergic reaction, resulting from exposure to an allergen, which may result in death.
  2. "Auto-injectable epinephrine" means a disposable drug delivery device that is easily transportable and contains a premeasured single dose of epinephrine used to treat anaphylactic shock.
  3. "Standing order" means a prescription protocol or instructions issued by the chief medical officer of the department of health services, the chief medical officer of a county health department, a doctor of medicine licensed pursuant to Title 32, Chapter 13, or a doctor of osteopathic medicine licensed pursuant to Title 32, Chapter 17, a nurse practitioner licensed pursuant to Title 32, Chapter 15 or a physician assistant licensed pursuant to Title 32, Chapter 25 for non-individual specific epinephrine.
- C.** Annual training in the administration of auto-injectable epinephrine.
  1. Each school district and charter school shall designate at least two school personnel, in addition to any school nurse or athletic trainer, for each school site who shall be required to receive annual training in the proper administration of auto-injectable epinephrine in cases of anaphylactic shock pursuant to standing order.
  2. Training in the administration of auto-injectable epinephrine shall be conducted in accordance with minimum standards and curriculum developed by the Arizona Department of Health Services in consultation with the Arizona Department of Education.

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3. At a minimum, training shall include procedures to follow when responding to anaphylactic shock, including direction regarding summoning appropriate emergency care, and documenting, tracking and reporting of the event.
  4. Training shall also include standards and procedures for acquiring a supply of at least two juvenile doses and two adult doses of auto-injectable epinephrine, restocking auto-injectable epinephrine upon use or expiration, and storing all auto-injectable epinephrine at room temperature and in secure, easily accessible locations on school sites.
  5. Training shall be conducted by a regulated health care professional, whose competencies include the administration of auto-injectable epinephrine, including but not limited to a licensed school nurse, certified emergency medical technician or licensed athletic trainer.
  6. School districts and charter schools shall maintain and make available upon request a list of those school personnel authorized and trained to administer auto-injectable epinephrine pursuant to a standing order.
- D.** Annual training on the recognition of anaphylactic shock symptoms and procedures to follow when anaphylactic shock occurs.
1. Each school district and charter school shall require all school site personnel to receive an annual training on the recognition of anaphylactic shock symptoms and procedures to follow when anaphylactic shock occurs.
  2. Training shall be conducted in accordance with minimum training standards developed by the Arizona Department of Health Services in consultation with the Arizona Department of Education and shall follow the most current guidelines issued by the American Academy of Pediatrics.
  3. Training shall be conducted by a regulated health care professional whose competencies include the recognition of anaphylactic shock symptoms and procedures to follow when anaphylactic shock occurs, including but not limited to a licensed school nurse, certified emergency medical technician or licensed athletic trainer.
- E.** Procedures for annually requesting a standing order for auto-injectable epinephrine.
1. Each school district or charter school shall obtain a standing order from its designated district or charter school physician licensed pursuant to Title 32, Chapter 13, 17, 15, or 25 and if no such physician is available to provide a standing order, from the chief medical officer of the Department of Health Services or the chief medical officer of a county health department.
  2. Standing orders shall be renewed annually and upon the change of any designated school district or charter school physician.
  3. Standing orders shall identify the appropriate dosage of auto-injectable epinephrine to administer based upon weight and the frequency at which auto-injectable epinephrine may be administered if symptoms persist or return.
- F.** Procedures for the administration of auto-injectable epinephrine in emergency situations.
1. All school districts and charter schools shall adopt procedures for the emergency administration of auto-injectable epinephrine by designated trained personnel.
  2. Procedures shall address, at a minimum, the following requirements:
    - a. Determining if symptoms indicate possible anaphylactic shock.
    - b. Selecting the appropriate dosage of auto-injectable epinephrine to administer pursuant to a standing order.
    - c. Injecting epinephrine via auto-injector pursuant to a standing order, noting the time and dose given.
    - d. Calling 911 to advise that anaphylactic shock is suspected and epinephrine was administered.
    - e. Keeping the person stable until emergency responders arrive.
    - f. Advising school medical personnel and administration of the incident.
    - g. Repeating dose pursuant to a standing order when symptoms persist and emergency responders have not arrived.
    - h. Providing emergency responders with used epinephrine auto-injector labeled with name, date and time administered.
    - i. Assuring that parents/guardians have been notified and advised to promptly alert student's primary care physician of the incident.
    - j. Completing written documentation of the incident, detailing who administered the injection, the rationale for administering the injection, the approximate time of the injection(s), and notifications made to school administration, emergency responders, the student's parents/guardians, and the doctor or chief medical officer who issued the standing order.
    - k. Ordering replacement dose(s) of auto-injectable epinephrine.
    - l. Reviewing any incident involving emergency administration of epinephrine to determine the adequacy of response.
- G.** All school districts and charter schools shall report to the Arizona Department of Health Services all incidents of use of auto-injectable epinephrine pursuant to this rule in the format prescribed by the Arizona Department of Health Services.

**Historical Note**

Adopted effective July 30, 1992 (Supp. 92-3). Amended effective April 9, 1993 (Supp. 93-2). Repealed effective February 20, 1997 (Supp. 97-1). Amended by final exempt rulemaking at 21 A.A.R. 1784, effective February 24, 2014 (Supp. 15-3). Amended by final exempt rulemaking at 24 A.A.R. 3279, effective October 22, 2018 (Supp. 18-4).

**R7-2-810. Emergency Administration of Inhalers**

- A.** Applicability. This rule applies to:
1. Any school district or charter school that voluntarily chooses to stock inhalers pursuant to A.R.S. § 15-158.
  2. All school districts when required to stock inhalers pursuant to A.R.S. § 15-158.
- B.** Definitions. The following definitions are applicable to this rule:
1. "Authorized Entity" refers to any school district or charter school.
  2. "Bronchodilator" means Albuterol or another short-acting bronchodilator that is approved by the United States Food and Drug Administration for the treatment of respiratory distress.
  3. "Inhaler" means a device that delivers a bronchodilator to alleviate symptoms of respiratory distress that is manufactured in the form of a metered-dose inhaler or dry-powder inhaler that includes a spacer or holding chamber that attaches to the inhaler to improve the delivery of the bronchodilator.

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4. "Personnel" means employees at a school district or charter school or nurses who are under contract with the school district or charter school.
  5. "Respiratory distress" includes the perceived or actual presence of coughing, wheezing or shortness of breath.
  6. "Standing order" means a prescription protocol or instructions issued by the chief medical officer of a county health department, physicians licensed pursuant to Title 32, Chapter 13 or 17, or nurse practitioners licensed pursuant to Title 32, Chapter 15.
- C.** Annual training on recognition of symptoms of respiratory distress and administration of inhalers:
1. Each school district and charter school that elects to administer inhalers shall designate at least two personnel at each school site who shall be required to be trained in the recognition of respiratory distress symptoms, the procedures to follow when respiratory distress occurs, and the administration of inhalers, as directed on the prescription protocol. While each school is required to have two trained personnel in order to implement the stock inhaler policies, schools may train as many personnel as they feel necessary.
  2. Training in the administration of inhalers shall be conducted by a nationally recognized organization or professionally certified medical professionals that are experienced in training laypersons in emergency health treatment.
  3. Training may be conducted online or in person and at a minimum shall include:
    - a. How to recognize signs and symptoms of respiratory distress in accordance with good clinical practice.
    - b. Standards and procedures for the storage of inhalers.
    - c. Standards and procedures for the administration of an inhaler, as directed on the prescription protocol.
    - d. If necessary, emergency follow-up procedures after the administration of an inhaler.
  4. The organization that conducts the training shall issue a certificate to each person who successfully completes the training. The personnel shall submit this certificate to the school.
  5. Annual training is required for all designated personnel of the school.
  6. School districts and charter schools shall maintain and make available on request a list of school personnel who are authorized to administer inhalers pursuant to a standing order.
- D.** Procedures for annually requesting a standing order and the prescription for the inhaler and holding chamber
1. Each participating school district or charter school shall obtain a standing order and prescription for inhalers and spacers or holding chambers pursuant to A.R.S. § 15-158 from the chief medical officer of a county health department, a physician licensed pursuant to Title 32, Chapter 13 or 17, or a nurse practitioner pursuant to Title 32, Chapter 15.
  2. Standing orders and prescriptions shall be requested and renewed annually.
- E.** Procedures for the administration of inhalers in emergency situations:
1. School districts and charter schools that elect to administer inhalers shall:
    - a. Prescribe and enforce policies and procedures for the emergency administration of inhalers by designated and trained medical and non-medical personnel.
    - b. Designate at least two personnel at each school to be trained to recognize respiratory distress and administer inhalers.
    - c. Require designated personnel to participate in annual training and provide a certificate of successful completion to the school.
    - d. Designate personnel who have completed the required training to be responsible for the storage, maintenance, control and general oversight of the inhalers and spacers or holding chambers acquired by the school.
    - e. Acquire and stock a supply of inhalers and spacers or holding chambers pursuant to a standing order prescription.
    - f. Store medication in a secure, temperature appropriate location, unlocked and readily accessible to designated personnel.
  2. Pursuant to a standing order, school district or charter school personnel who are trained in the administration of inhalers may administer or assist in the administration of an inhaler to a pupil or adult whom the personnel believes in good faith to be exhibiting symptoms of respiratory distress while at school or a school-sponsored activity.
  3. Procedures adopted by school districts and charter schools shall address at a minimum, the following requirements:
    - a. Determine if symptoms indicate possible respiratory distress or emergency and determine if the use of an inhaler will properly address the respiratory distress or emergency.
    - b. Administer the correct dose of inhaler medication, as directed by the prescription protocol, regardless of whether the individual who is believed to be experiencing respiratory distress has a prescription for an inhaler and spacer or holding chamber or has been previously diagnosed with a condition requiring an inhaler.
    - c. Restrict physical activity, encourage slow breaths and allow the individual to rest.
    - d. Assure that trained personnel stay with the subject who has been administered inhaler medication until it is determined whether the medication alleviates symptoms.
    - e. If applicable, instruct office staff to notify the school nurse if the inhaler is administered by a trained but non-licensed person.
    - f. Instruct school staff to notify the parent or guardian.
    - g. Call 911 if severe respiratory distress continues. Advise that inhaler medication was administered and stay with the person until emergency medical responders arrive.
    - h. If the individual shows improvement, keep the individual under supervision until breathing returns to normal, with no more chest tightness or shortness of breath, and the individual can walk and talk easily.
    - i. Allow a student to return to class if breathing has returned to normal and all symptoms have resolved.
    - j. Notify a parent or guardian once the inhaler has been administered and the student has returned to class.
    - k. Document the incident detailing who administered the inhaler, the approximate time of the incident, notifications made to the school administration, emergency responders, and parents/guardians.
    - l. Retain the incident data on file at the school pursuant to the general records retention schedule regarding health records for school districts and charter

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- schools established by the Arizona State Library, Archives and Public Records.
- m. Order replacement inhalers, spacers and holding chambers as needed.

4. A school district or charter school may accept monetary donations for or apply for grants for the purchase of inhalers and spacers or holding chamber or may accept donations of inhalers and spacers or holding chambers directly from the product manufacturers.

- F. Immunity from civil liability is prescribed in A.R.S. § 15-158.

**Historical Note**

New Section made by final exempt rulemaking at 24 A.A.R. 146, effective August 9, 2018; filed in the Office on January 2, 2018 (Supp. 18-1). Amended by final exempt rulemaking at 24 A.A.R. 3279, effective October 22, 2018 (Supp. 18-4).

**ARTICLE 9. SCHOOL DISTRICT BUDGET AND ACCOUNTING****R7-2-901. Teacher Experience Index Provisions**

- A. General purpose. These guidelines are provided for local governing boards to assist in development of policies identifying activities which contribute to the instructional programs at the local school level. The policies will define what constitutes a full-time vs. a part-time teacher position for the purpose of developing a school district's Teacher Experience Index.
- B. Local governing boards may include the following activities in their policies as those which contribute toward an instructional program. This listing is not intended to be exclusive, and districts may utilize additional activities:

1. Classroom related:
  - a. Classroom instruction,
  - b. Preparation time,
  - c. Supervision,
  - d. Evaluation,
  - e. Curriculum development,
  - f. Housekeeping chores, i.e., daily reports, blackboard preparation, etc.
2. School related:
  - a. Teacher conferences,
  - b. Parent conferences,
  - c. Professional association activities,
  - d. Professional days,
  - e. District directed reports,
  - f. Participation in activities related to education scheduled by county, state, or federal agencies.

Professional association activities must be, in the opinion of the local governing board, for a public purpose and must not be for the sole benefit of the professional association.

3. Other district related:
  - a. Special assignments,
  - b. School board approved leave,
  - c. Home visitation,
  - d. Home instruction,
  - e. Off-site instruction,
  - f. Research,
  - g. In-service training.

In-service training activities are those approved by the local governing board and intended to promote the educational advancement of the youth of the district. These activities may be conducted either during the regular school day or at other times.

- C. A local governing board may exercise its option to contract with certified personnel on a less than full-time basis in order to meet local district needs.

- D. In those instances where a district may contract with certificated personnel, and the responsibilities specified within the contract include activities not related to instruction, then the district must define in terms of "full-time equivalencies" that portion which is instruction-related.

**Historical Note**

Adopted as an emergency effective May 21, 1980, pursuant to A.R.S. § 41-1003, valid for only 90 days (Supp. 80-3). Former emergency adoption now adopted without change effective October 7, 1980 (Supp. 80-5).

**R7-2-902. Independent Accounting Responsibilities**

The governing board of a school district applying to operate with full independence from the county school superintendent as provided in Laws 1987, Chapter 132, shall submit a plan for accounting responsibility to the State Board of Education no later than January 1, 1988, which documents the following:

1. Administrative and internal accounting controls designed to achieve compliance with the Uniform System of Financial Records and the following objectives:
  - a. Procedures for approving, preparing and signing vouchers and warrants;
  - b. Procedures to ensure verification of administrators' and teachers' certification records with the Department of Education for all classroom and administrative personnel required to hold a certificate by the State Board pursuant to A.R.S. § 15-203, before issuing warrants for their services;
  - c. Procedures to account for all revenues, including allocation of certain revenues to funds as provided in Section III-C of the February 1986 Uniform Accounting Manual for Arizona County School Superintendents, incorporated herein by reference and on file with the Office of the Secretary of State;
  - d. Procedures for reconciling the accounting records monthly to the county treasurer as provided in Section III-G of the February 1986 Uniform Accounting Manual for Arizona County School Superintendents, incorporated herein by reference and on file with the Office of the Secretary of State.
2. No amendments or additions to Sections III-C and G of the February 1986 Uniform Accounting Manual for Arizona County School Superintendents made after the effective date of this rule are included in these procedures. Copies of Sections III-C and G are available at the State Board office and from the Arizona Auditor General.
3. A compilation of resources required to implement accounting responsibility, including personnel, training and equipment, and a comprehensive analysis of the budgetary implications of accounting responsibility for the school district and the county treasurer.

**Historical Note**

Adopted effective February 4, 1988 (Supp. 88-1).

**ARTICLE 10. SCHOOL DISTRICT PROCUREMENT IN GENERAL****R7-2-1001. Definitions**

In Articles 10 and 11, unless the context otherwise requires:

1. "Acceptance period" means the period of time specified in the solicitation that a bid or proposal is irrevocable, except as specified in R7-2-1030.
2. "Actual energy production" means the actual amount of energy that flows from the energy production measure on an annual basis as measured by a meter in kilowatt hours alternating current.

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3. "Advantageous to the school district" means in the best interest of the school district, but does not necessarily mean lowest bid/cost.
4. "Affiliate" means any person whose governing instruments require it to be bound by the decision of another person or whose governing board includes enough voting representatives of the other person to cause or prevent action, whether or not the power is exercised. It also may include persons doing business under a variety of names, or where there is a parent-subsidiary relationship between persons.
5. "Alternative project delivery methods for construction" means construction-manager-at-risk, design-build, and job-order-contracting construction services.
6. "Architect services," "engineer services," "land surveying services," "geologist services" and "landscape architect services" mean those professional services within the scope of the practice of those services as provided in A.R.S. Title 32, Chapter 1, Article 1.
7. "Award" means a determination by the school district that it is entering into a contract with one or more bidders or offerors.
8. "Bid" means a response to an invitation for bids and includes an offer to contract with the school district.
9. "Bidder" means a person submitting a bid in response to an invitation for bids.
10. "Brand name or equal specification" means a written description that uses one or more manufacturers' names or catalog numbers to describe the standard of quality, performance, and other characteristics needed to meet the school district's requirements, and that provides for the submission of equivalent products.
11. "Brand name specification" means a written description limited to one or more items by manufacturers' names or catalog numbers.
12. "Business" means any corporation, partnership, individual, sole proprietorship, joint stock company, joint venture or any other private legal entity.
13. "Change order" means a written order that is approved by the governing board and that directs the contractor to make changes that the changes clause of the contract authorizes the governing board to order.
14. "Clergy" means a minister of a religion.
15. "Coefficient" means the contractor's price adjustment to the unit price in a job order contract. Several coefficients may apply to the unit price book.
16. Construction:
  - a. Means the process of building, altering, repairing, improving or demolishing any school district structure or building, or other public improvements of any kind to any public real property.
  - b. Construction does not include:
    - i. The routine operation, routine repair or routine maintenance of existing facilities, structures, buildings or real property.
    - ii. The investigation, characterization, restoration or remediation due to an environmental issue of existing facilities, structures, buildings or real property.
17. "Construction-manager-at-risk" means a project delivery method in which:
  - a. There is a separate contract for design services and a separate contract for construction services, except that instead of a single contract for construction services, the school district may elect separate contracts for preconstruction services during the design phase, for construction during the construction phase and for any other construction services.
- b. The contract for construction services may be entered into at the same time as the contract for design services or at a later time.
- c. Design and construction of the project may be either:
  - i. Sequential with the entire design complete before construction commences.
  - ii. Concurrent with the design produced in two or more phases and construction of some phases commencing before the entire design is complete.
- d. Finance services, maintenance services, operations services, preconstruction services and other related services may be included.
18. "Construction services" means either of the following for construction-manager-at-risk, design-build and job-order-contracting project delivery methods:
  - a. Construction, excluding services, through the construction-manager-at-risk or job-order-contracting project delivery methods.
  - b. A combination of construction and, as elected by the school district, one or more related services, such as finance services, maintenance services, operations services, design services and preconstruction services, as those services are authorized in the definitions of construction-manager-at-risk, design-build or job-order-contracting in this Section.
19. "Contract" means all types of agreements, including purchase orders, regardless of what they may be called, for the procurement of materials, services, construction or construction services, or the disposal of materials.
20. "Contract modification" means any written alteration in the terms and conditions of any contract accomplished by mutual action of the parties to the contract.
21. "Contractor" means any person who has a contract with a school district.
22. "Cooperative purchasing" means procurement conducted by, or on behalf of, more than one public procurement unit.
23. "Cost" means the aggregate cost of all materials and services, including labor performed by school district employees.
24. "Cost data" means information concerning the actual or estimated cost of labor, material, overhead and other cost elements that have been actually incurred or that are expected to be incurred by the offeror or contractor in performing the contract.
25. "Cost-plus-a-percentage-of-cost contract" means a contract that, prior to completion of the work, the parties agree that the fee will be a predetermined percentage of the cost of the work.
26. "Data" means documented information, regardless of form or characteristic.
27. "Days" means calendar days and shall be computed pursuant to A.R.S. § 1-243.
28. "Defective data" means data that is inaccurate, incomplete or outdated.
29. "Dentist" means a person licensed pursuant to A.R.S. Title 32, Chapter 11.
30. "Descriptive literature" means information available in the ordinary course of business that shows the characteristics, construction or operation of an item offered in a bid or proposal.

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31. "Design-bid-build" means a project delivery method in which:
  - a. There is a sequential award of two separate contracts.
  - b. The first contract is for design services.
  - c. The second contract is for construction.
  - d. Design and construction of the project are in sequential phases.
  - e. Finance services, maintenance services and operations services are not included.
32. "Design-build" means a project delivery method in which:
  - a. There is a single contract for design services and construction services, except that instead of a single contract for design services and construction services, the school district may elect separate contracts for preconstruction services and design services during the design phase, for construction and design services during the construction phase and for any other construction services.
  - b. Design and construction of the project may be either:
    - i. Sequential with the entire design complete before construction commences.
    - ii. Concurrent with the design produced in two or more phases and construction of some phases commencing before the entire design is complete.
  - c. Finance services, maintenance services, operations services, preconstruction services and other related services may be included.
33. "Design professional" means an individual or firm that is registered by the state board of technical registration pursuant to A.R.S. Title 32, Chapter 1 to practice architecture, engineering, geology, landscape architecture or land surveying or any combination of those professions and any person employed by the registered individual or firm.
34. "Design professional service contract" means a written agreement relating to the planning, design, construction administration, study, evaluation, consulting, inspection, surveying, mapping, material sampling, testing or other professional, scientific or technical services furnished in connection with any actual or proposed study, planning, survey, environmental remediation, construction, improvement, alteration, repair, maintenance, relocation, moving, demolition or excavation of a structure, street or roadway, appurtenance, facility or development or other improvement to land.
35. "Design professional services" means architect services, engineer services, land surveying services, geologist services or landscape architect services or any combination of those services performed by or under the supervision of a design professional or an employee or subconsultant of the design professional.
36. "Design requirements" means at a minimum:
  - a. The school district's written description of the project or service to be procured, including:
    - i. The required features, functions, characteristics, qualities and properties.
    - ii. The anticipated schedule, including start, duration and completion.
    - iii. The estimated budgets applicable to the specific procurement for design and construction and, if applicable, for operation and maintenance.
  - b. May include:
    - i. Drawings and other documents illustrating the scale and relationship of the features, functions and characteristics of the project, which shall all be prepared by a design professional who is registered pursuant to A.R.S. § 32-121.
    - ii. Additional design information or documents that the school district elects to include.
37. "Design services" means architect services, engineer services or landscape architect services.
38. "Designee" means the governing board member or school district employee who has been delegated procurement authority by the governing board as specified by board action.
39. "Detailed record" means minutes, that shall include the date, time, place, persons in attendance and a summary of what was said by whom and the decisions made. The minutes may be made either in writing or by a recording.
40. "Discussions" means an exchange or series of exchanges between the school district and a person who has submitted an unpriced technical offer or a proposal, resulting in an opportunity for the person to revise the unpriced technical offer or proposal prior to final evaluation by the school district.
41. "District representative" means a district employee or the governing board acting within the limits of the district representative's authority. There may be more than one appointed for different purposes and different procurements.
42. "Earth-moving, material-handling, road maintenance and construction equipment" means a track-type tractor, motor grader, excavator, landfill compactor, wheel tractor scraper, off-highway truck, wheel loader or track loader, having a published manufacturer's minimum unit list price of \$50,000 or more and a minimum expected life cycle of three years.
43. "Effective utility rate" means the average price per kilowatt hour that a school district paid to its utility provider for electricity service to the facility that is the subject of the guaranteed energy production contract over the previous twelve months.
44. "Eligible procurement unit" means a public procurement unit, a nonprofit corporation, or an external procurement activity.
45. "Employee" means an individual drawing a salary from a school district and any noncompensated individual performing personal services for any school district.
46. "Energy baseline" means a calculation of the amount of energy used in an existing facility before the installation or implementation of the energy cost savings measures.
47. "Energy cost savings measure" means a training program or facility alteration designed to reduce energy consumption, which may include one or more of the measures authorized in A.R.S. § 15-213.01, and any related meters or other measuring devices.
48. "Energy production measure" means renewable and alternative energy projects or renewable energy power service agreements.
49. "Established catalog price" means the price included in a catalog, price list, schedule or other form that:
  - a. Is regularly maintained by a manufacturer, distributor or contractor.
  - b. Is either published or otherwise available for inspection by customers.
  - c. States prices at which sales are currently or were last made to a significant number of any category of

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- buyers or buyers constituting the general buying public for the materials or services involved.
50. "Excess materials" means any materials which have a remaining useful life but which are no longer required by the using school district in possession of the materials.
  51. "External procurement activity" means any buying organization not located in this state that would qualify as a public procurement unit.
  52. "Fair market value" means the price at which sales have been consummated for materials of like type, quality, and quantity in a particular market at the time of acquisition.
  53. "Filed" means delivery to the district representative, school district or its hearing officer, whichever is applicable. A time/date stamp affixed to a document by the school district shall be determinative of the time or delivery for purposes of filing.
  54. "Finance services" means financing for a construction services project.
  55. "General Services Administration contract" means contracts awarded by the United States government General Services Administration.
  56. "Gift or benefit" means a payment, distribution, expenditure, advance, deposit or donation of monies, any intangible personal property or any kind of tangible personal or real property that is not of nominal value such as a greeting card, t-shirt, mug or pen. Gift or benefit does not include either:
    - a. Food or beverage.
    - b. Expenses or sponsorships relating to a special event or function to which individuals involved in procurement and purchasing are invited.
  57. "Governing board" has the meaning defined in A.R.S. § 15-101.
  58. "Governing instruments" means legal documents that establish the existence of an organization and define its powers, including articles of incorporation or association, constitution, charter, by-laws, or similar documents.
  59. "Guaranteed energy cost savings contract" means a contract for implementing one or more energy cost savings measures.
  60. "Guaranteed energy price" means the agreed on price to be charged to the school district for each kilowatt hour alternating current of actual energy production as such may change on an annual basis as set forth in the guaranteed energy production contract.
  61. "Guaranteed energy production" means the amount of energy, measured in kilowatt hours alternating current, that the qualified provider guarantees for each year of the guaranteed energy production contract.
  62. "Guaranteed energy production contract" means a contract for implementing one or more energy production measures between one or more qualified providers and a school district.
  63. "Guaranteed energy production shortfall" means the amount, if any, that the actual energy production is less than the guaranteed energy production in any given year.
  64. "Incremental award" means an award of portions of a definite quantity requirement to more than one contractor. Each portion is for a definite quantity and the sum of the portions is the total definite quantity required.
  65. "Interested party" means an actual or prospective bidder or offeror whose economic interest may be affected substantially and directly by the issuance of a solicitation, the award of a contract or by the failure to award a contract. Whether an actual or prospective bidder or offeror has an economic interest will depend upon the circumstances of each case.
  66. "Internet" means the international computer network of both federal and nonfederal interoperable packet switched data networks, including the graphical subnetwork called the world wide web.
  67. "Invitation for bids" means all documents, whether attached or incorporated by reference, which are used for soliciting bids in accordance with the procedures prescribed in R7-2-1024.
  68. "In writing" has the same meaning as "written" or "writing" in A.R.S. § 47-1201, which includes printing, typewriting, electronic transmission, facsimile, or any other intentional reduction to tangible form.
  69. "Job-order-contracting" means a project delivery method in which:
    - a. The contract is a requirements contract for indefinite quantities of construction.
    - b. The construction to be performed is specified in job orders issued during the contract.
    - c. Finance services, maintenance services, operations services, preconstruction services, design services and other related services may be included.
  70. "Legal counsel" means a person licensed as an attorney by the Arizona Supreme Court.
  71. "Life cycle" means the useful life of the earth-moving, material-handling, road maintenance and construction equipment to the original using school district.
  72. "Local public procurement unit" means any political subdivision, any agency, board, department or other instrumentality of such political subdivision, and any nonprofit corporation created solely for the purpose of administering a cooperative purchase under Articles 10 and 11.
  73. "Maintenance services" means routine maintenance, repair and replacement of existing facilities, structures, buildings or real property.
  74. "Materials" means all property, including equipment, supplies, printing, insurance and leases of property, but does not include land, a permanent interest in land or real property or leasing space.
  75. "May" denotes the permissive.
  76. "Minor" means mistakes, excluding judgmental errors, that have negligible effect on price, quantity, quality, delivery or other contractual terms and the waiver or correction of such mistake does not prejudice other bidders or offerors.
  77. "Multiple award" means award of multiple contracts for identical or similar materials or services to more than one bidder or offeror.
  78. "Multistep sealed bidding" means a 2-phase process consisting of a technical first phase composed of one or more steps in which bidders submit unpriced technical offers to be evaluated by the school district and a second phase in which those bidders whose technical offers are determined to be acceptable during the first phase have their price bids considered.
  79. "Negotiation" means an exchange or series of exchanges between the school district and a person with a goal of establishing the terms, conditions and prices in a contract between the school district and the person, where such negotiation is authorized in Articles 10 and 11.
  80. "Nonexpendable materials" means all tangible materials which have an original acquisition cost over an amount set by regulation and a probable useful life of more than one year.

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81. "Nonprofit corporation" means any nonprofit corporation as designated by the Internal Revenue Service under section 501(c)(3) through 501(c)(6) or under section 115, if created by two or more local public procurement units, and includes certified nonprofit agencies that serve individuals with disabilities as defined in A.R.S. § 41-2636.
82. "Offeror" means a person submitting a proposal in response to a request for proposals.
83. "Operations services" means routine operation of existing facilities, structures, buildings or real property.
84. "Outright purchase" means the initial cost to the school district for the earth-moving, material-handling, road maintenance and construction equipment, including all vendor charges and financing costs.
85. "Owner" means the school district.
86. "Paper" means newspaper, high-grade office paper, fine paper, bond paper, offset paper, xerographic paper, duplicator paper and related types of cellulosic material containing not more than ten percent by weight or volume of noncellulosic material such as laminates, binders, coatings or saturants.
87. "Paper product" means paper items or commodities, including paper napkins, towels, corrugated paper and related types of cellulosic products containing not more than ten percent by weight or volume of noncellulosic material such as laminates, binders, coatings or saturates.
88. "Person" means any corporation, business, individual, union, committee, club, other organization or group of individuals.
89. "Physician" means a person licensed pursuant to A.R.S. Title 32, Chapters 7, 8, 13, 14, 15.1, 16, or 17.
90. "Post-consumer material" means a discard generated by a business or residence that has fulfilled its useful life. Post-consumer material does not include discards from industrial or manufacturing processes.
91. "Posted prices" means the sale price determined by the school district to be fair market value.
92. "Preconstruction services" means services and other activities during the design phase.
93. "Pricing data" means information concerning prices, including profit, for materials, services or construction substantially similar to those being procured under a contract or subcontract. In this definition, "prices" refers to offered selling prices, historical selling prices or current selling prices of the items being purchased.
94. "Prime contractor" means a general contractor, who contracts with a property owner and, in turn, employs a subcontractor, or subcontractors, to perform some or all of the work.
95. "Procurement" means buying, purchasing, renting, leasing or otherwise acquiring any materials, services, construction or construction services. Procurement also includes all functions that pertain to the obtaining of any material, service, construction, or construction services, including description of requirements, selection and solicitation of sources, preparation and award of contract, and all phases of contract administration.
96. "Procurement file" means the official procurement records of the school district containing the following:
  - a. List of notified vendors.
  - b. Procurement disclosure statements.
  - c. Final solicitation.
  - d. Solicitation amendments.
  - e. Bids and offers.
  - f. Offer revisions and best and final offers.
  - g. Discussions.
  - h. Clarifications.
  - i. Final evaluation reports.
  - j. Additional information, as necessary.
97. "Proposal" means a response to a request for proposals and includes an offer to contract with the school district.
98. "Proprietary specification" means a specification that describes a material made and marketed by a person having the exclusive right to manufacture and sell such material and excludes other material with similar quality, performance or functional characteristics from being responsive to the solicitation.
99. "Public procurement unit" means either a local public procurement unit, the Arizona Department of Administration, any other state or an agency of the United States.
100. "Public service corporation" means all corporations other than municipal engaged in furnishing gas, electricity, or water and subject to regulation as a utility by the Arizona Corporation Commission.
101. "Purchase description" means the words used in a solicitation to describe the materials, services or construction for purchase and includes specifications attached to, or made a part of, the solicitation.
102. "Purchase requisition" means that document, or electronic transmission, whereby a school district requests that a contract be entered into for a specific need, and may include, but is not limited to, the description of the requested item, delivery schedule, transportation data, criteria for evaluation, suggested source of supply and information supplied for the making of any written determination required by Articles 10 and 11.
103. "Qualified products list" means an approved list of materials or construction items described by model or catalog numbers that, prior to competitive solicitation, the governing board has determined will meet the applicable specification requirement.
104. "Qualified select bidders list" means a selection process for establishing a list of best-qualified prime contractors or construction material suppliers for a specific, single project. The selection process is based upon listed evaluation criteria and conducted through a request for qualifications. Once the selection process is complete, the qualified bidders are invited to submit a sealed competitive bid based upon architectural/engineering plans and specifications or material specifications.
105. "Reasonably susceptible of being awarded a contract" means those proposals that the school district determines are subject to award after the initial review of all original proposals.
106. "Recycled paper" means paper products which have been manufactured from materials otherwise destined for the waste stream and which contain at least forty percent recovered wastepaper with ten percent of that being post-consumer material.
107. "Regional award" means an award of portions of the total requirement by geographic region.
108. "Request for information" means all documents issued to vendors for the sole purpose of seeking information about the availability in the commercial marketplace of materials or services.
109. "Request for proposals" means all documents, whether attached or incorporated by reference, which are used for soliciting proposals in accordance with procedures prescribed in R7-2-1042.
110. "Request for qualifications" means all documents, whether attached or incorporated by reference, which are used for soliciting statements of qualifications in accordance with procedures prescribed in R7-2-1042.



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- dance with procedures prescribed in R7-2-1101, R7-2-1106, R7-2-1108 or R7-2-1117.
111. "Residual value" means the guaranteed minimum market value of the earth-moving, material-handling, road maintenance and construction equipment at the end of the life cycle of the equipment being procured, as determined by a guaranteed minimum value offered by the vendor or other parties in its bid.
  112. "Responsible bidder or offeror" means a person who at the time of contract award has the capability to perform the contract requirements and the integrity and reliability which will assure good faith performance.
  113. "Responsive bidder or offeror" means a person who submits a bid or proposal which conforms in all material respects to the invitation for bids or request for proposals.
  114. "Reverse auction" means a procurement method in which bidders are invited to bid on supplying specified materials over the Internet in a real-time competitive bidding event.
  115. "School district" has the meaning defined in A.R.S. § 15-101, whose authority is exercised by the governing board or its designee.
  116. "Services" means the furnishing of labor, time or effort by a contractor or subcontractor that does not involve the delivery of a specific end product other than required reports and performance. Services does not include employment agreements or collective bargaining agreements.
  117. "Shall" denotes the imperative.
  118. "Solicitation" means an invitation for bids, an invitation to submit technical offers, a request for proposals, a request for qualification, or any other invitation or request by which the school district invites a person to participate in a procurement.
  119. "Specification" means any description of the physical or functional characteristics, or of the nature of a material, service or construction item. Specification may include a description of any requirement for inspecting, testing or preparing a material, service or construction item for delivery.
  120. "Specified professional services" means services of an architect, engineer, land surveyor, assayer, geologist and landscape architect and any combination of those services.
  121. "Standard commercial material" means material that, in the normal course of business, is customarily maintained in stock or readily available by a manufacturer, distributor or dealer for the marketing of such material.
  122. "Statement of qualifications" means a response to a request for qualifications issued pursuant to R7-2-1101, R7-2-1106, R7-2-1108 or R7-2-1117, or unsolicited qualifications submitted pursuant to R7-2-1062 or R7-2-1122, and does not include an offer to contract with the school district.
  123. "Subcontractor" means a person who contracts to perform work or render service to a contractor or to another subcontractor as a part of a contract with a school district.
  124. "Subconsultant" means any person, firm, partnership, corporation, association or other organization or a combination of any of them, that has a direct contract with a design professional or another subconsultant to perform a portion of the work under a design professional service contract.
  125. "Surplus materials" means any materials that no longer have any use to the school district or materials acquired from the United States government. This includes obsolete materials, scrap materials and nonexpendable materials that have completed their useful life.
  126. "Suspension" means an action taken by the governing board under R7-2-1168 temporarily disqualifying a person from participating in school district procurements.
  127. "Technical offer" means unpriced written information from a prospective contractor stating the manner in which the prospective contractor intends to perform certain work, its qualifications and its terms and conditions.
  128. "Total life cycle cost" means total school district costs and financing costs throughout the life cycle of the earth-moving, material-handling, road maintenance and construction equipment being purchased less residual value.
  129. "Total school district costs" means costs to the school district for the earth-moving, material-handling, road maintenance and construction equipment, including repair costs, present value of monies, vendor charges, and all other identifiable school district costs that may be incurred.
  130. "Unit price" means the price published in the unit price book for a specific construction or construction related task. Each unit price is comprised of labor, equipment, or material costs to accomplish a specific task, and shall be defined in the contract.
  131. "Unit price book" means a comprehensive listing of specific construction related tasks together with a specific unit of measurement and a unit price.
  132. "Vendor charges" means the costs of all vendor support, materials, transportation, and all other identifiable costs associated with the vendor's proposal or bid.
  133. "Vendor support" means services provided by the vendor for items such as consulting, education and training.
  134. "Wastepaper" means recyclable paper and paperboard, including high-grade office paper, computer paper, fine paper, bond paper, offset paper, xerographic paper, duplicator paper and corrugated paper.
- Historical Note**
- Adopted effective December 17, 1987 (Supp. 87-4).  
Amended effective March 21, 1991 (Supp. 91-1).  
Amended effective October 22, 1992 (Supp. 92-4).  
Amended by final exempt rulemaking at 21 A.A.R. 1525, effective July 1, 2014 (Supp. 15-3); effective year corrected in Supp. 18-2. Amended by final exempt rulemaking at 26 A.A.R. 597, effective July 1, 2020 (Supp. 20-1).
- R7-2-1002. Applicability**
- A. Articles 10 and 11 apply to every expenditure of public monies, including federal assistance monies and grants, by a school district as specified in A.R.S. § 15-213(A) for the procurement of all construction, materials and services when the total procurement cost exceeds the aggregate dollar amount specified in A.R.S. § 41-2535(A). If procurement involves the expenditure of federal assistance or contract monies, the school district shall comply with federal law and authorized regulations which are mandatorily applicable and which are not presently reflected in Articles 10 and 11.
  - B. Articles 10 and 11 apply to the disposal of school district materials regardless of value.
  - C. Articles 10 and 11 do not apply to:
    1. Agreements for providing career and technological education and vocational education pursuant to A.R.S. § 15-789;
    2. Contracts between a school district and other governments, including intergovernmental agreements and contracts pursuant to A.R.S. § 11-952, except as provided by R7-2-1191 through R7-2-1196. This exemption also

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includes the purchase of a fee or license from a local, state or federal public entity required by law to collect said fees;

3. Purchases for amounts not exceeding the aggregate dollar amount specified in A.R.S. § 41-2535(A). Such procurements shall comply with the guidelines prescribed by the Auditor General in the Uniform System of Financial Records pursuant to A.R.S. § 15-271;
  4. Contracts for professional witnesses if the purpose of such contracts is to provide for professional services or testimony relating to an existing or probable judicial or administrative proceeding in which the school district is or may become a party;
  5. Agreements negotiated by legal counsel representing the school district in settlement of litigation or threatened litigation;
  6. Expenditures from student activity monies as defined in A.R.S. § 15-1121, if no district funds are involved;
  7. Expenditures for governing board adopted textbooks as defined in A.R.S. § 15-721 and A.R.S. § 15-722, if purchased from the publisher;
  8. The placement of a pupil in a private school that provides special education services if such placement is prescribed in the pupil's individualized education program and the private school has been approved by the Department of Education Division of Special Education pursuant to A.R.S. § 15-765;
  9. Purchases of any products, materials and services directly from certified nonprofit agencies that serve individuals with disabilities as defined in A.R.S. § 41-2636, and Arizona Correctional Industries if the delivery and quality of the products, materials or services meet the school district's reasonable requirements;
  10. The decision to participate in programs pursuant to A.R.S. § 15-382. A program authorized by A.R.S. § 15-382 is not required to engage in competitive bidding for the services necessary to administer the program or for the purchase of insurance or reinsurance;
  11. The purchase of water, gas or electric utilities from a public service corporation. This exemption expressly does not apply to guaranteed energy cost savings contracts and guaranteed energy production contracts subject to A.R.S. § 15-213.01 and A.R.S. § 15-213.03;
  12. Purchases of professional certifications, professional memberships, conference registrations, conference hotels and airfare that meets Arizona Department of Administration General Travel Principles and Policies;
  13. Purchases, sales or leases of real estate. This exemption expressly does not apply to the services of a real estate broker as defined in A.R.S. § 32-2101;
  14. Purchases of surplus property from the state or United States Federal Government in accordance with R7-2-1132;
  15. Purchases in compliance with the terms and conditions of any grant, gift, bequest or cooperative agreement; and
  16. The cost of special elections, including the preparation of ballots in accordance with A.R.S. § 15-406.
- D.** Unless displaced by the particular provisions of Articles 10 and 11, the principles of law and equity, including the Uniform Commercial Code of this state, the common law of contracts as applied in this state and law relative to agency, fraud, misrepresentation, duress, coercion, and mistake supplement the provisions of Articles 10 and 11.

**Historical Note**

Adopted effective December 17, 1987 (Supp. 87-4).

Amended effective March 21, 1991 (Supp. 91-1).

Amended effective March 6, 1997 (Supp. 97-1).

Amended effective December 4, 1998 (Supp. 98-4).

Amended by final exempt rulemaking at 21 A.A.R. 1491, effective October 28, 2013 (Supp. 15-3). Amended by final exempt rulemaking at 21 A.A.R. 1525, effective July 1, 2014 (Supp. 15-3); effective year corrected in Supp. 18-2. Amended by final exempt rulemaking at 26 A.A.R. 597, effective July 1, 2020 (Supp. 20-1).

**R7-2-1003. General Provisions**

- A.** The school district shall not award a contract or incur an obligation on behalf of the school district unless it is reasonable to believe sufficient funds will be available for the procurement. If sufficient funds are not available when a solicitation is issued, the solicitation shall include a statement that funds are not currently available and that any contract awarded will be conditioned upon the availability of funds.
- B.** Projects and purchases shall not be divided or sequenced into separate projects or purchases in order to avoid the limits prescribed in Articles 10 and 11.
- C.** Any bid or proposal that is conditioned upon award to the bidder or offeror of both the particular contract being solicited and another school district contract shall be deemed nonresponsive or unacceptable.
- D.** Except by mutual consent of the parties to the contract, rules in Articles 10 and 11 shall not change any commitment, right or obligation of a school district or of a contractor under a contract in existence on the effective date of the rule.
- E.** If a contractor requests to change the name in which it holds a school district contract, the school district may, upon receipt of a document indicating the name change, enter into a contract modification with the contractor to effect the name change. The contract modification shall provide that no other terms and conditions of the contract are changed.
- F.** The school district may allow electronic media transactions, including an electronic record or electronic signature, if consistent with state law and advantageous to the school district.
- G.** Rights and duties arising from a school district contract may only be transferred, waived or assigned upon the express written consent of both parties.
- H.** School district employees and public officers shall not purchase construction, materials or services for their own personal or business use from contracts entered into by the school district.
- I.** A person who supervises or participates in contracts, purchases, payments, claims or other financial transactions, or who supervises or participates in the planning, recommending, selecting or contracting for materials, services, goods, construction, or construction services of a school district or school purchasing cooperative is subject to the penalties prescribed in A.R.S. § 15-213(N) if the person solicits, accepts or agrees to accept any personal gift or benefit from a person or vendor that has secured or has taken steps to secure a contract, purchase, payment, claim or financial transaction with a school district or school purchasing cooperative.
- J.** Any person or vendor that has secured or has taken steps to secure a contract, purchase, payment, claim or financial transaction with a school district or school purchasing cooperative that offers, confers or agrees to confer any personal gift or benefit on a person who supervises or participates in contracts, purchases, payments, claims or other financial transactions, or on a person who supervises or participates in planning, recommending, selecting or contracting for materials, services, goods, construction or construction services of a school district or school purchasing cooperative is subject to the penalties prescribed in A.R.S. § 15-213(O).

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- K. A person who serves on an evaluation committee for a procurement is subject to A.R.S. § 41-2616(C).
- L. A person who contracts for or purchases materials, services, goods, construction or construction services shall be subject to the penalties prescribed in A.R.S. § 15-213 and A.R.S. § 41-2616 for violations of and attempts to avoid Articles 10 and 11.
- M. Pursuant to A.R.S. § 15-213 and A.R.S. Title 41, Chapter 23, the Attorney General shall enforce the provisions of Articles 10 and 11 and may take action prescribed therein.

**Historical Note**

Adopted effective December 17, 1987 (Supp. 87-4).

Amended effective March 21, 1991 (Supp. 91-1).

Amended by final exempt rulemaking at 21 A.A.R. 1525, effective July 1, 2014 (Supp. 15-3); effective year corrected in Supp. 18-2. Amended by final exempt rulemaking at 24 A.A.R. 3283, effective October 22, 2018 (Supp. 18-4). Amended by final exempt rulemaking at 26 A.A.R. 597, effective July 1, 2020 (Supp. 20-1).

**R7-2-1004. Written Determinations**

- A. Written determinations required by Articles 10 and 11, including for any specified professional services, construction, construction services or materials to an entity selected from a qualified select bidders list or through a school purchasing cooperative, shall specify the reasons for the determination, including how the determination was made.
- B. The school district is authorized to prescribe methods and operational procedures to be used in preparing written determinations.
- C. The school district shall place the written determination into the school district's procurement file.

**Historical Note**

Adopted effective December 17, 1987 (Supp. 87-4).

Amended by final exempt rulemaking at 21 A.A.R. 1525, effective July 1, 2014 (Supp. 15-3); effective year corrected in Supp. 18-2. Amended by final exempt rulemaking at 24 A.A.R. 3283, effective October 22, 2018 (Supp. 18-4).

**R7-2-1005. Change orders and contract modifications**

Any change order or contract modification that exceeds \$100,000 or five percent, whichever is greater, may be executed only if the governing board determines in writing that the change order or contract modification is advantageous to the school district and the price is determined to be fair and reasonable.

**Historical Note**

Adopted effective December 17, 1987 (Supp. 87-4). Section repealed; new Section made by final exempt rulemaking at 21 A.A.R. 1525, effective July 1, 2014 (Supp. 15-3); effective year corrected in Supp. 18-2.

**R7-2-1006. Confidential Information**

- A. If a person believes that a bid, proposal, response to a request for information, technical offer, statement of qualifications, specification, or protest contains confidential trade secrets or other proprietary data not to be disclosed as otherwise required by A.R.S. § 39-121, a statement advising the school district of this fact shall accompany the submission and the information shall be so identified wherever it appears. Contract terms and conditions, pricing, and information generally available to the public are not considered confidential information under this Section.
- B. Until a determination is made under subsection (C), the school district shall not disclose information designated as confidential under subsection (A) except to school district personnel

having a legitimate interest in, or persons assisting the school district in evaluation of, the bid, proposal, response to a request for information, technical offer, statement of qualifications, specification, or protest.

- C. Upon receipt of a submission designating information as confidential, the school district shall make one of the following written determinations:
  1. The designated information is confidential and the school district shall not disclose the information except to school district personnel having a legitimate interest in, or persons assisting the school district in evaluation of, the bid, proposal, response to a request for information, technical offer, statement of qualifications, specification, or protest.
  2. The designated information is not confidential.
- D. The school district may request additional information, if necessary to make the determination required by subsection (C).
- E. If the school district determines that information submitted is not confidential, the person who made the submission shall be notified in writing. The notice shall specify that a request for review of the district representative's determination may be filed within 10 days of the date of the district representative's determination.
- F. A request for review of the district representative's determination shall be filed in writing with the district representative. The request for review shall state the precise legal or factual errors in the district representative's decision. If a request for review is received:
  1. The district representative shall consider the alleged legal or factual errors in the request for review of the district representative's determination and issue a final written determination to the person filing the request.
  2. Until the final determination is made under subsection (C)(2), the school district shall not disclose information designated as confidential under subsection (A) except to school district personnel having a legitimate interest in, or persons assisting the school district in evaluation of, the bid, proposal, response to a request for information, technical offer, statement of qualifications, specification, or protest.
- G. The school district may release information determined to not be confidential under subsection (C)(2) if:
  1. A request for review is not received by the district representative within the time period specified in the notice; or
  2. The district representative issues a final written determination under subsection (F)(1) that the designated information is not confidential.

**Historical Note**

Adopted effective December 17, 1987 (Supp. 87-4). Amended effective March 21, 1991 (Supp. 91-1). Section repealed; new Section made by final exempt rulemaking at 21 A.A.R. 1525, effective July 1, 2014 (Supp. 15-3); effective year corrected in Supp. 18-2.

**R7-2-1007. Delegation of Procurement Authority**

- A. The governing board may, in a public meeting held in conformity with A.R.S. Title 38, Chapter 3, Article 3.1, delegate procurement authority to a designee. Any delegation shall be accomplished by adopting a governing board policy for this purpose.
  1. Delegated procurement authority may include, but is not limited to the following:
    - a. Authority to make determinations required by Articles 10 and 11;
    - b. Authority to award contracts;
    - c. Authority to make sole source and emergency procurements; and

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- d. Authority to approve change orders and contract modifications.
- 2. Delegated activities and functions shall be adequately separated among individuals so that one individual does not have complete authority over an entire procurement.
- B. Any delegation shall specify:
  - 1. The title of the school district employee or employees to whom authority is delegated;
  - 2. The activity or function authorized;
  - 3. Any limits or restrictions on the exercise of the delegated authority, including the maximum cost of any procurement;
  - 4. Whether the authority may be further delegated;
  - 5. The duration of the delegation; and
  - 6. The conditions and procedures for revocation and modification of the delegation.
- C. No person delegated such authority may participate in any aspect of a specific procurement if the person would receive any benefit directly or indirectly from a contract for such procurement. Violation of this prohibition may result in termination or other disciplinary action.
- D. Delegation of procurement authority does not abrogate the responsibility of the governing board to ensure compliance with Articles 10 and 11 notwithstanding the fact that school district personnel were authorized to make procurement decisions.

**Historical Note**

Adopted effective December 17, 1987 (Supp. 87-4). Section repealed; new Section made by final exempt rulemaking at 21 A.A.R. 1525, effective July 1, 2014 (Supp. 15-3); effective year corrected in Supp. 18-2.

**R7-2-1008. Procurement Consultants and Procurement Advisory Groups**

- A. The school district may contract with a procurement consultant to assist in drafting specifications, in the development of solicitations, or in the management of the procurement process. A procurement consultant may provide guidance or advice to a procurement evaluation committee, but shall not serve as a voting member of such committee. For the purposes of this Section, a school district employee or a contracted business manager or purchasing director for the school district is not a procurement consultant.
- B. The school district may appoint procurement advisory groups or evaluation committees to assist with respect to specifications, solicitation evaluations or procurement in specific areas. Members of such procurement advisory groups or evaluation committees are not procurement consultants as set forth in this Section. Non-school district employees serving on such procurement advisory groups or evaluation committees are not eligible to receive compensation but are eligible for reimbursement of expenses consistent with the school district's travel policy adopted pursuant to A.R.S. § 15-342(5).
- C. A procurement consultant, a member of a procurement advisory group, or a member of an evaluation committee who participates in any aspect of a specific procurement shall be prohibited from receiving any benefit directly or indirectly from a contract for such procurement, and shall sign a procurement disclosure statement that the person has no interest in the procurement other than that of a disclosed remote interest, as defined in A.R.S. § 38-502, will have no contact with any representative of a competing vendor related to the particular procurement except those contacts specifically authorized by these rules, and has not accepted any personal gift or benefit from a person or vendor that has secured or has taken steps to secure a contract, purchase, payment, claim or financial trans-

action with the school district or school purchasing cooperative. The procurement disclosure statements shall be retained in the procurement file.

- D. Specifications prepared by a procurement consultant or a procurement advisory group shall comply with R7-2-1010 through R7-2-1016.
- E. The school district shall not delegate to a procurement consultant, a procurement advisory group, or an evaluation committee the authority for the award or administration of any particular contract, or over any dispute, claim or litigation pertaining thereto, and a procurement consultant or a procurement advisory group shall not be authorized to obligate the school district in any manner.

**Historical Note**

Adopted effective December 17, 1987 (Supp. 87-4). Section repealed; new Section made by final exempt rulemaking at 21 A.A.R. 1525, effective July 1, 2014 (Supp. 15-3); effective year corrected in Supp. 18-2. Amended by final exempt rulemaking at 26 A.A.R. 597, effective July 1, 2020 (Supp. 20-1).

**R7-2-1009. Repealed****Historical Note**

Adopted effective December 17, 1987 (Supp. 87-4). Section repealed by final exempt rulemaking at 21 A.A.R. 1525, effective July 1, 2014 (Supp. 15-3); effective year corrected in Supp. 18-2.

**SPECIFICATIONS****R7-2-1010. Preparation of Specifications**

- A. Specifications shall be prepared only by the school district or by contract pursuant to R7-2-1014 and R7-2-1015. Regardless of who prepares the specifications, the governing board retains the authority to disapprove all specifications.
- B. In an emergency under R7-2-1055, any necessary specifications may be utilized by the person designated in R7-2-1055 (C) without regard to the provisions of this Section.
- C. Content of specifications.
  - 1. A specification may provide alternate descriptions of materials, services, or construction items where two or more design, functional, or performance criteria will satisfactorily meet the school district's requirements.
  - 2. To the extent practicable, a specification shall not include any solicitation term or condition or any contract term or condition.
  - 3. If a specification for a common or general use item has been developed in accordance with R7-2-1011(A) or a qualified products list has been developed in accordance with R7-2-1011(D) for a particular material, service, or construction item, it shall be used unless the school district makes a written determination that its use is not advantageous to the school district and that another specification shall be used.
  - 4. To the extent practicable, specifications shall emphasize functional or performance criteria. To facilitate the use of such criteria, the school district shall use reasonable efforts to include the principle functional or performance requirements as a part of their purchase requisitions.
  - 5. All procurement solicitations for volatile organic compound containing commodities shall include a request for substitute commodities with lower or no volatile organic content. Substitute products shall not have increased toxicity compared to the original commodity.

**Historical Note**

Adopted effective October 22, 1992 (Supp. 92-4). Section

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repealed; new Section made by final exempt rulemaking at 21 A.A.R. 1525, effective July 1, 2014 (Supp. 15-3); effective year corrected in Supp. 18-2.

**R7-2-1011. Types of Specifications**

- A.** Specification for common or general use items. To the extent practicable, a specification for common or general use item shall be prepared and utilized when:
1. A material, service or construction item is used repeatedly by the school district, and the characteristics of the material, service, or construction item, as commercially produced or provided, remain relatively stable while the frequency or volume of procurements is significant;
  2. The school district's recurring needs require uniquely designed or specially produced items; or
  3. The school district finds it to be advantageous to the school district.
- B.** Brand name or equal specification. A brand name or equal specification may be used when the school district determines that use of a brand name or equal specification is advantageous to the school district.
- C.** Brand name specification. A brand name specification may be prepared and utilized only if the school district makes a determination that only the identified brand name item will satisfy the school district's needs. If only one source can supply the requirement, the procurement shall be made pursuant to R7-2-1053.
- D.** Qualified products list. A qualified products list may be prepared and utilized when:
1. The school district determines that testing or examination of the materials or construction items prior to issuance of the solicitation is desirable or necessary in order to best satisfy the school district's requirements.
  2. The school district shall solicit as many potential suppliers as practicable to submit products for testing and examination to determine acceptability for inclusion on a qualified products list. Any potential supplier, even though not solicited, may offer its products for consideration in accordance with the schedule or procedure established for this purpose. The qualified products list shall not be modified after the solicitation is issued.
  3. Inclusion on a qualified products list shall be based on results of tests or examinations conducted in accordance with requirements established by the school district.

**Historical Note**

New Section made by final exempt rulemaking at 21 A.A.R. 1525, effective July 1, 2014 (Supp. 15-3); effective year corrected in Supp. 18-2.

**R7-2-1012. Proprietary Specifications**

The school district shall not use specifications in any way proprietary to one supplier unless the specification includes a statement of the reasons why no other specification is practicable, a description of the essential characteristics of the specified product and a statement specifically permitting an acceptable alternative product to be supplied.

**Historical Note**

New Section made by final exempt rulemaking at 21 A.A.R. 1525, effective July 1, 2014 (Supp. 15-3); effective year corrected in Supp. 18-2.

**R7-2-1013. Recycled Products Use**

- A.** If the price of a recycled paper product that conforms to specifications is within five percent of a low bid product that is not recycled and the recycled product bidder is otherwise the lowest responsible and responsive bidder, the award shall be made

to the bidder offering the recycled product. The governing board may adopt rules requiring a five percent preference for other products made from recycled materials.

- B.** Specifications shall emphasize functional or performance criteria which, to the extent practicable, do not discriminate against the use of recycled materials.

**Historical Note**

New Section made by final exempt rulemaking at 21 A.A.R. 1525, effective July 1, 2014 (Supp. 15-3); effective year corrected in Supp. 18-2.

**R7-2-1014. Maximum Practicable Competition**

- A.** Procurement of any materials, services, goods, construction or construction services pursuant to Article 10 or Article 11, shall seek to achieve maximum practicable competition.
- B.** All specifications, including those prepared by architects, engineers, consultants and others for public contracts, shall seek to promote overall economy for the purposes intended and encourage competition in satisfying the school district's needs and shall not be unduly restrictive.
- C.** Unless otherwise permitted by R7-2-1010 through R7-2-1016, all specifications shall describe the school district's requirements in a manner that does not unreasonably exclude a material, service, or construction item. Proprietary specifications shall be used only as provided in R7-2-1012.
- D.** To the extent practicable, the school district shall use accepted commercial specifications and shall procure standard commercial materials.
- E.** Contracts for the preparation of specifications by persons other than the school district shall require the specification writer to adhere to R7-2-1010 through R7-2-1016.

**Historical Note**

New Section made by final exempt rulemaking at 21 A.A.R. 1525, effective July 1, 2014 (Supp. 15-3); effective year corrected in Supp. 18-2. Amended by final exempt rulemaking at 24 A.A.R. 3283, effective October 22, 2018 (Supp. 18-4).

**R7-2-1015. Conflict of Interest**

- A.** No person preparing specifications pursuant to R7-2-1014 shall receive any direct or indirect benefit from the utilization of such specifications.
- B.** The governing board may contract for the preparation of specifications with persons, including, but not limited to, consultants, architects, engineers, designers, and other draftsmen of specifications.
- C.** If a person prepares a specification pursuant to subsection (B) of this Section, such person shall comply with the requirements of R7-2-1010 through R7-2-1016.

**Historical Note**

New Section made by final exempt rulemaking at 21 A.A.R. 1525, effective July 1, 2014 (Supp. 15-3); effective year corrected in Supp. 18-2.

**R7-2-1016. Confidentiality**

- A.** Specifications and any written determination or other document generated or used in the development of a specification shall be available for public inspection pursuant to A.R.S. § 39-121, except to the extent that the withholding of such information is permitted or required by law.
- B.** If the supplier believes that the specifications contain confidential trade secrets, test data, or similar information, a statement advising the school district of this fact shall accompany the specification in accordance with R7-2-1006.
- C.** Qualified products lists test results shall be made available in a manner to protect the identity of the supplier.

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**Historical Note**

New Section made by final exempt rulemaking at 21 A.A.R. 1525, effective July 1, 2014 (Supp. 15-3); effective year corrected in Supp. 18-2.

**R7-2-1017. Reserved****REVERSE AUCTIONS****R7-2-1018. Reverse Auctions****A. Using reverse auctions**

1. If a governing board determines in writing that use of reverse auctions is more advantageous to the school district than other procurement methods prescribed by Articles 10 and 11, the school district may use reverse auctions for the purchase of materials.
2. The written determination shall include, but is not limited to the following information:
  - a. An estimate of the number of prospective bidders;
  - b. An explanation of how reverse auctions will foster competition;
  - c. An explanation of why reverse auctions is more advantageous to the school district than other prescribed procurement methods; and
  - d. The scope and estimated total dollar value of the proposed procurement.

**B. Reverse auction procedures**

1. The school district shall develop and implement procedures prior to conducting procurement via reverse auctions. The procedures shall include:
  - a. The method or methods to ensure the integrity and security of the reverse auctions;
  - b. The method or methods for registering bidders for reverse auctions;
  - c. The method or methods for notifying vendors of reverse auction opportunities;
  - d. The method or methods for receiving reverse auction bids; and
  - e. The school district official or officials authorized to conduct reverse auctions.
2. School districts may require bidders to register before the date and time for opening the reverse auction for submission of bids and, as part of that registration, require bidders to agree to any terms, conditions or other requirements of the invitation for bids.
3. Notice of a reverse auction shall be issued at least 14 days before the date and time for opening the reverse auction for submission of bids, unless a shorter time is determined necessary by the school district. If a shorter time is necessary, the school district shall document the specific reasons in the procurement file. The reverse auction notice shall include:
  - a. The school district's requirements for registering prior to the opening date and time, if any;
  - b. The designated site on the Internet for bidder registration and bid submission;
  - c. A link to the designated site on the Internet;
  - d. The scheduled date and time for opening the reverse auction for bid submission; and
  - e. The scheduled date and time for closing the reverse auction for bid submission.
4. The school district shall issue the notice of reverse auction as follows:
  - a. Mail or otherwise furnish the notice of reverse auctions to all prospective bidders registered with the school district for the specific material being solicited.

- b. Notice of reverse auction shall be given by the school district pursuant to R7-2-1022.
  - c. In addition to the notice provided in subsections (B)(4)(a) and (b), the school district may give such additional notice as the school district deems appropriate, including posting on a designated site on the Internet.
5. The school district shall prepare an invitation for bids that includes:
    - a. Notice that all information submitted by bidders will be made available for public inspection following the award of the contract, except for bid prices which will be made available to other bidders and the public when submitted by the bidder;
    - b. Information for submitting bids, including:
      - i. The date and time for opening the reverse auction for bid submission;
      - ii. The date and time for closing the reverse auction for bid submission;
      - iii. The provisions for extending the period for bid submission, if any;
      - iv. Instructions for submitting bids and other required information, including the designated site on the Internet for submitting bids;
      - v. Notice that bids shall be accepted electronically at the time and in the manner designated in the invitation for bids;
      - vi. Notice that bidders' prices shall be disclosed electronically to other bidders and the public on a real time basis;
      - vii. Notice that bidders may submit multiple prices and may reduce their bid prices until the reverse auction bidding is closed;
      - viii. Notice that the lowest price offered shall become the official bid price;
      - ix. Notice that the bidder is required to certify that submission of the bid did not involve collusion or other anticompetitive practices;
      - x. Notice that the bidder is required to declare whether the bidder has been debarred, suspended, or otherwise lawfully prohibited from participating in any public procurement activity, including, but not limited to, being disapproved as a subcontractor of any public procurement unit or other governmental body;
    - c. The purchase description, specifications, delivery or performance schedule, and inspection and acceptance requirements, as applicable. If a brand name or equal specification is used, instructions that use of a brand name is for the purpose of describing the standard of quality, performance, and characteristics needed to meet the school district's requirements and is not intended to limit or restrict competition. The invitation for bids shall state that products substantially equivalent to the brands designated qualify for consideration;
    - d. The factors to be used in bid evaluations, including criteria to determine acceptability such as inspection, testing, quality, workmanship, delivery and suitability for a particular purpose. Only objectively measurable evaluation criteria shall be included in the invitation for bids. Examples of such criteria include, but are not limited to, transportation cost, energy cost, ownership cost and other identifiable costs. Evaluation factors need not be precise predictors, but to the extent possible the evaluation factors

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- shall be reasonable estimates based upon information the school district has available concerning future use.
- e. The contract terms and conditions, including:
    - i. Warranty and bonding or other security requirements, as applicable;
    - ii. The length of the contract and whether the contract will include an option for extension; and
    - iii. Any other contract terms and conditions;
  - f. The name of the district representative or district representatives;
  - g. The manner by which the bidder is required to acknowledge amendments;
  - h. The minimum required information in the bid;
  - i. The specific requirements for designating trade secrets and other proprietary data as confidential;
  - j. Any specific responsibility criteria;
  - k. A statement specifying where documents incorporated by reference may be obtained;
  - l. A statement that the school district may cancel the solicitation or reject a bid in whole or in part if deemed advantageous to the school district;
  - m. The date, time and location of bid opening;
  - n. A description of all information that will be recorded and available for public inspection at bid opening; and
  - o. Procurement of earth-moving, material-handling, road maintenance and construction equipment shall include as price evaluation criteria the total life cycle cost including residual value of the earth-moving, material-handling, road maintenance and construction equipment and, to the extent practicable, outright purchase.
6. Amendments to invitations for bids shall be made in accordance with R7-2-1026.
- C. The school district shall accept reverse auction bids as follows:
1. At the date and time for opening the reverse auction for bid submission, the school district shall begin accepting on-line bids and shall continue accepting bids until the reverse auction is officially closed.
  2. Bids shall be accepted electronically in the manner designated in the invitation for bids.
  3. All reverse auction on-line bids shall be posted electronically and updated on a real-time basis. Bidders' prices shall be disclosed to other bidders and the public.
  4. The identity of competing bidders shall not be disclosed until the reverse auction bidding is closed.
  5. Bidders shall have the opportunity to submit multiple prices and to reduce their bid prices.
  6. The lowest price offered shall become the official bid price.
- D. Bids made through a reverse auction are considered to be opened when a computer generated record of the information contained in all bids that were received by the designated site on the Internet not later than the scheduled or final closing date and time are reviewed publicly by the school district in the presence of one or more witnesses at the time and place designated in the invitation for bids. Bid opening shall not be later than 24 hours after the scheduled or final closing date and time.
- E. The contract shall be awarded to the lowest responsible and responsive bidder whose bid conforms in all material respects to the requirements and evaluation criteria set forth in the invitation for bids. No criteria may be used in bid evaluation that are not set forth in the invitation for bids. The amount of any applicable transaction privilege or use tax of a political subdivision of this state is not a factor in determining the lowest bidder.
- F. The school district shall not modify evaluation criteria after the closing date and time.
- G. In the event that multiple bidders submit identical prices for the same materials, bids will be considered in the order received with the first being considered to be the lowest bid.
- H. If only one bid is received in response to an invitation for bids, the school district shall proceed according to R7-2-1032.
- I. The date and time for closing a reverse auction for bid submission may be fixed or remain open depending on the materials being bid.
- J. After the reverse auction bidding has closed, a bidder may withdraw a bid or correct a mistake in accordance with R7-2-1030. Withdrawal of bids shall also be permitted as provided in R7-2-1028.
- K. The school district shall notify all bidders of an award.
- L. A copy of the invitation for bids shall be made available for public inspection at the school district office.
- M. A record of the bid prices received and the name of each bidder shall be open to public inspection following bid opening.
- N. A record of the reverse auction shall be maintained by the school district that will include all prices offered by all bidders. This record will become part of the procurement file.
- O. Within 10 days after a contract is awarded, the school district shall make the procurement file, including all bids, available for public inspection.
  1. If the procurement file contains information that is confidential under R7-2-1006, a copy of the applicable documents with the confidential information redacted shall be placed in the procurement file for the purpose of public inspection.
  2. The unredacted original copy of the confidential information shall be placed in a sealed envelope or other appropriate container, identified as confidential information, and maintained in the procurement file.

**Historical Note**

New Section made by final exempt rulemaking at 21 A.A.R. 1525, effective July 1, 2014 (Supp. 15-3); effective year corrected in Supp. 18-2. Amended by final exempt rulemaking at 26 A.A.R. 597, effective July 1, 2020 (Supp. 20-1).

**R7-2-1019. Reserved**

**R7-2-1020. Reserved**

**COMPETITIVE SEALED BIDDING****R7-2-1021. Method of Source Selection**

- A. Unless otherwise authorized by law, all school district contracts shall be awarded by competitive sealed bidding as provided in R7-2-1021 through R7-2-1032, except as provided in R7-2-1018, R7-2-1033 through R7-2-1068, R7-2-1100 through R7-2-1123, and R7-2-1196.
- B. A school district may conduct competitive sealed bidding electronically, provided that the electronic competitive sealed bidding process complies with the requirements of R7-2-1021 through R7-2-1032. A determination that conducting competitive sealed bidding electronically is advantageous to the school district shall be in writing and retained in the procurement file.
- C. When using electronic competitive sealed bidding, the school district shall determine whether electronic submission of bids is required or optional and state the electronic submission requirements in the public notice and the invitation for bids.

**Historical Note**

Adopted effective December 17, 1987 (Supp. 87-4).

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Amended effective October 22, 1992 (Supp. 92-4).  
Amended by final exempt rulemaking at 21 A.A.R. 1525,  
effective July 1, 2014 (Supp. 15-3); effective year cor-  
rected in Supp. 18-2.

**R7-2-1022. Notice of Competitive Sealed Bidding**

- A. Adequate public notice of the invitation for bids shall be given as provided in R7-2-1024. Notice also may be given as provided in subsection (B). In the event there are four or fewer prospective bidders on the bidders list, then notice also shall be given as provided in subsection (B). If the invitation for bids is for the procurement of services other than those described in R7-2-1061 through R7-2-1068 and R7-2-1100 through R7-2-1123, notice also shall be given as provided in subsection (B).
- B. If required by subsection A, the notice shall include publication in the official newspaper of the county, within which the school district is located, as prescribed in A.R.S. § 11-255. The publication, shall occur in a reasonable time before bid opening, which shall not be less than 14 days before bid opening. The time of publication may be altered if deemed necessary pursuant to R7-2-1024(A).
- C. In addition to the notice provided in subsections (A) and (B), the school district may give such additional notice as the school district deems appropriate, including posting on a designated site on the Internet.

**Historical Note**

Adopted effective December 17, 1987 (Supp. 87-4).  
Amended by final exempt rulemaking at 21 A.A.R. 1525,  
effective July 1, 2014 (Supp. 15-3); effective year cor-  
rected in Supp. 18-2. Amended by final exempt rulemak-  
ing at 26 A.A.R. 597, effective July 1, 2020 (Supp. 20-1).

**R7-2-1023. Prospective Bidders Lists**

- A. The school district shall compile and maintain a prospective bidders list. Inclusion of the name of a person shall not indicate whether the person is responsible concerning a particular procurement or otherwise capable of successfully performing a school district contract.
- B. Persons desiring to be included on the prospective bidders list shall notify the school district. Upon notification, the school district shall mail or otherwise provide the person with the school district procedures for inclusion on the bidders list. Within 30 days after receiving the required information, the school district shall add the person to the prospective bidders list unless the school district makes a determination that inclusion is not advantageous to the school district.
- C. Persons who fail to respond to invitations for bids for two consecutive procurements of similar items may be removed from the applicable bidders list after notifying the person in writing. This notice shall not be required if the two invitations for bids which were not responded to both contained the notice that bidders' names may be removed from the bidders list if they fail to respond to invitations for bids for two consecutive procurements of similar items. Persons may be reinstated upon request.
- D. Prospective bidders lists shall be available for public inspection, unless the school district makes a written determination that it is advantageous to the school district that they be kept confidential or private and should not be open for inspection pursuant to A.R.S. § 39-121.

**Historical Note**

Adopted effective December 17, 1987 (Supp. 87-4).  
Amended by final exempt rulemaking at 21 A.A.R. 1525,  
effective July 1, 2014 (Supp. 15-3); effective year cor-

rected in Supp. 18-2.

**R7-2-1024. Invitation for Bids**

- A. Invitation for bids shall be issued at least 14 days before the due date and time in the invitation for bids unless a shorter time is deemed necessary for a particular procurement as determined by the school district. If a shorter time is necessary, the school district shall document the specific reasons in the procurement file.
- B. Content.
  1. The invitation for bids shall include the following:
    - a. Notice that all information and bids submitted by bidders will be made available for public inspection following the award of the contract;
    - b. Instructions and information to bidders concerning bid submission requirements, including the means for bid submission such as, hand delivery, U.S. mail, electronic mail, facsimile, or other acceptable means, the bid due date and time, the address of the office at which bids or other documents are to be received, the bid acceptance period, and any other special information or requirements;
    - c. Whether the school district will consider partial bids for award of a contract;
    - d. Notification of whether the school district may award multiple contracts and the school district's basis for determining whether to award multiple contracts. If multiple contracts may be awarded, the invitation for bids shall include the criteria the school district will use for selecting vendors for each contract under the multiple award, including, as applicable, whether contracts will be awarded by individual line items, groups of line items, or categories, whether contracts will be awarded incrementally, and whether contracts will be awarded by designated regions or locations;
    - e. The basis for determining the lowest bidder or bidders;
    - f. Procurement of earth-moving, material-handling, road maintenance and construction equipment shall include as price evaluation criteria the total life cycle cost including residual value of the earth-moving, material-handling, road maintenance and construction equipment and, to the extent practicable, the cost of outright purchase;
    - g. The purchase description, specifications, delivery or performance schedule, and inspection and acceptance requirements, as applicable. If a brand name or equal specification is used, instructions that use of a brand name is for the purpose of describing the standard of quality, performance, and other characteristics needed to meet the school district's requirements and is not intended to limit or restrict competition. The invitation for bids shall state that products substantially equivalent to the brands designated qualify for consideration;
    - h. The factors to be used in bid evaluations, including criteria to determine acceptability such as inspection, testing, quality, workmanship, delivery and suitability for a particular purpose. Only objectively measurable evaluation criteria shall be included in the invitation for bids. Examples of such criteria include, but are not limited to, transportation cost, energy cost, ownership cost and other identifiable costs. Evaluation factors need not be precise predictors, but to the extent possible the evaluation factors shall be reasonable estimates based upon informa-



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tion the school district has available concerning future use;

- i. The contract terms and conditions, including:
  - i. Warranty and bonding or other security requirements, as applicable;
  - ii. The length of the contract and whether the contract will include an option for extension; and
  - iii. Any other contract terms and conditions;
- j. The name of the district representative or district representatives;
- k. The manner by which the bidder is required to acknowledge amendments;
- l. The minimum information required in the bid;
- m. The specific requirements for designating trade secrets and other proprietary data as confidential;
- n. Any specific responsibility criteria;
- o. A statement specifying where documents incorporated by reference may be obtained;
- p. A statement that the school district may cancel the solicitation or reject a bid in whole or in part if deemed advantageous to the school district;
- q. Notice that the bidder is required to certify that submission of the bid did not involve collusion or other anticompetitive practices and that the bidder has taken steps and exercised due diligence to ensure that no violation of A.R.S. § 15-213(O) has occurred;
- r. Notice that the bidder is required to declare whether the bidder has been debarred, suspended, or otherwise lawfully prohibited from participating in any public procurement activity, including, but not limited to, being disapproved as a subcontractor of any public procurement unit or other governmental body;
- s. Any bid security required;
- t. A description of all information that will be recorded and available for public inspection at bid opening; and
- u. The date, time and location of any pre-bid conference.

- 2. When using electronic competitive sealed bidding, the invitation for bids shall specify whether electronic submission of bids is required or optional, the electronic submission requirements, and the electronic signature requirements.

- C. The school district shall mail or otherwise furnish invitation for bids or notices of the availability of invitation for bids to all prospective bidders registered with the school district for the specific material, service or construction being bid.
- D. A copy of the invitation for bids shall be made available for public inspection at the school district office.

#### Historical Note

Adopted effective December 17, 1987 (Supp. 87-4).  
 Amended effective October 22, 1992 (Supp. 92-4).  
 Amended by final exempt rulemaking at 21 A.A.R. 1525, effective July 1, 2014 (Supp. 15-3); effective year corrected in Supp. 18-2. Amended by final exempt rulemaking at 26 A.A.R. 597, effective July 1, 2020 (Supp. 20-1).

#### R7-2-1025. Pre-bid Conferences

- A. The school district may conduct a pre-bid conference to explain the procurement requirements.
- B. If a pre-bid conference is conducted, it shall be not less than seven days before the bid due date and time, unless the school district makes a written determination that the specific needs of the procurement justify a shorter time. Statements made

during a pre-bid conference are not amendments to the solicitation.

#### Historical Note

Adopted effective December 17, 1987 (Supp. 87-4).  
 Amended by final exempt rulemaking at 21 A.A.R. 1525, effective July 1, 2014 (Supp. 15-3); effective year corrected in Supp. 18-2.

#### R7-2-1026. Amendments to Invitation for Bids

- A. An amendment to an invitation for bids shall be issued if necessary to:
  - 1. Make changes in the invitation for bids;
  - 2. Correct defects or ambiguities;
  - 3. Furnish to other bidders information given to one bidder if the information will assist the other bidders in submitting bids or if the lack of the information will prejudice the other bidders;
  - 4. Provide additional information or instructions; or
  - 5. Set a later bid due date and time if the school district determines that an extension is advantageous to the school district.
- B. Amendments to an invitation for bids shall be so identified and the school district shall ensure that the amendments are distributed or made available to all persons to whom the original invitation for bids was distributed or made available. The school district shall make a copy of the amendments to an invitation for bids available for public inspection at the school district office. If the school district posted the invitation for bids or a notice of the availability of an invitation for bids on a designated site on the Internet, then the school district shall post any amendments to the invitation for bids on the same designated site on the Internet. The school district shall also do one or more of the following:
  - 1. Distribute the amendment, by any method reasonably calculated to ensure delivery, to all prospective bidders to whom the invitation for bids was distributed;
  - 2. Make the amendment available and issue a notice of amendment which contains instructions for obtaining copies of the amendment. The notice of amendment shall be distributed, by any method reasonably calculated to ensure delivery, to all prospective bidders to whom the invitation for bids was distributed. Upon receipt of such notice of amendment, it is the responsibility of the prospective bidder to obtain the amendment.
- C. Amendments to invitation for bids shall be issued within a reasonable time before bid opening to allow prospective bidders to consider them in preparing their bids. If the school district determines that the bid due date and time does not permit sufficient time for bid preparation, the bid due date and time shall be extended in the amendment or, if necessary, by telephone, facsimile, email, or other communications methods, and confirmed in the amendment.
- D. A bidder shall acknowledge receipt of an amendment in the manner specified in the invitation for bids or the amendment on or before the bid due date and time.

#### Historical Note

Adopted effective December 17, 1987 (Supp. 87-4).  
 Amended by final exempt rulemaking at 21 A.A.R. 1525, effective July 1, 2014 (Supp. 15-3); effective year corrected in Supp. 18-2.

#### R7-2-1027. Pre-opening Modification or Withdrawal of Bids

- A. A bidder may modify or withdraw a bid in writing at any time before bid opening if the modification or withdrawal is received before the bid due date and time at the location designated in the invitation for bids for receipt of bids.

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- B. All documents concerning a modification or withdrawal of a bid shall be retained in the procurement file.

**Historical Note**

Adopted effective December 17, 1987 (Supp. 87-4).  
Amended by final exempt rulemaking at 21 A.A.R. 1525,  
effective July 1, 2014 (Supp. 15-3); effective year corrected in Supp. 18-2.

**R7-2-1028. Late Bids, Late Withdrawals and Late Modifications**

- A. A bid, modification or withdrawal is late if it is received at the location designated in the invitation for bids for receipt of bids after the bid due date and time.
- B. A late bid, late modification, or late withdrawal shall be rejected, unless the late bid, late modification, or late withdrawal would have been timely received but for the action or inaction of school district personnel and is received before contract award.
- C. Upon receiving a late bid, late modification, or late withdrawal, the school district shall record the time and date of receipt and promptly send written notice of late receipt to the bidder. The school district may discard the document 30 days after the date on the notice unless the bidder requests and provides funding for the document to be returned.
- D. All documents concerning acceptance of a late bid, late modification, or late withdrawal shall be retained in the procurement file.

**Historical Note**

Adopted effective December 17, 1987 (Supp. 87-4).  
Amended by final exempt rulemaking at 21 A.A.R. 1525,  
effective July 1, 2014 (Supp. 15-3); effective year corrected in Supp. 18-2. Amended by final exempt rulemaking at 26 A.A.R. 597, effective July 1, 2020 (Supp. 20-1).

**R7-2-1029. Receipt, Opening and Recording of Bids**

- A. A school district shall maintain a record of bids and modifications received for each invitation for bids, shall record the time and date when each bid or modification is received, and shall store each unopened bid or modification in a secure place until the bid due date and time.
1. If required to confirm a vendor's inquiry regarding receipt of its bid prior to the due date and time, a school district may open a bid to identify the vendor. If this occurs, the school district shall record the reason for opening the bid, the date and time the bid was opened, and the solicitation number. The school district shall secure the bid and retain it for public opening.
  2. One or more witnesses shall be present for the opening of a bid under subsection (A)(1).
- B. Bids and modifications shall be opened publicly at the date, time and place designated in the invitation for bids in the presence of one or more witnesses. The name of each bidder, the amount of each bid, and other relevant information deemed appropriate by the school district shall be recorded. The person opening the bids and all witnesses shall sign the record.
1. The record created in subsection (B) shall be available for public inspection.
  2. The bids shall not be open for public inspection until after a contract is awarded.

**Historical Note**

Adopted effective December 17, 1987 (Supp. 87-4).  
Amended by final exempt rulemaking at 21 A.A.R. 1525,  
effective July 1, 2014 (Supp. 15-3); effective year corrected in Supp. 18-2.

**R7-2-1030. Mistakes in Bids**

- A. If an apparent mistake in a bid, relevant to the award determination, is discovered after opening and before award, a school district shall contact the bidder for written confirmation of the bid. If the bidder fails to act, the bidder is considered nonresponsive and the school district shall place a written determination that the bidder is nonresponsive in the procurement file. The school district shall designate a time-frame within which the bidder shall either:
1. Confirm that no mistake was made and assert that the bid stands as submitted; or
  2. Acknowledge that a mistake was made and include all of the following in a written response:
    - a. An explanation of the mistake and any other relevant information;
    - b. A request for correction including the corrected bid or a request for withdrawal; and
    - c. The reasons why correction or withdrawal is consistent with fair competition and advantageous to the school district.
- B. A bidder who discovers a mistake in its bid after bid opening and before award, may request correction or withdrawal in writing and shall include all of the following in the written request:
1. An explanation of the mistake and any other relevant information;
  2. A request for correction including the corrected bid or a request for withdrawal; and
  3. The reasons why correction or withdrawal is consistent with fair competition and advantageous to the school district.
- C. After bid opening and before award, a bid mistake based on an error in judgment may not be corrected or withdrawn. Other bid mistakes may be corrected or withdrawn pursuant to subsections (D) through (F).
- D. After bid opening and before award, the school district shall either waive minor informalities in a bid or allow the bidder to correct them if correction is advantageous to the school district.
- E. After bid opening and before award, the bid may not be withdrawn and shall be corrected to the intended bid if a bid mistake and the intended bid are evident on the face of the bid.
- F. After bid opening and before award, the school district may permit a bidder to withdraw a bid if:
1. A nonjudgmental mistake is evident on the face of the bid but the intended bid is not evident; or
  2. The bidder establishes by clear and convincing evidence that a nonjudgmental mistake was made.
- G. If correction or withdrawal of a bid after bid opening is permitted or denied under subsections (D), (F) and (J), the school district shall prepare a written determination showing that the relief was permitted or denied under this Section.
- H. Notwithstanding other provisions of this Section, after bid opening and before award, no corrections in bid prices or other provisions of bids prejudicial to the interest of the school district or fair competition shall be permitted.
- I. If a mistake in the bid is discovered after the award, the bidder may request withdrawal or correction in writing and shall include all of the following in the written request:
1. An explanation of the mistake and any other relevant information;
  2. A request for correction including the corrected bid or a request for withdrawal; and
  3. The reasons why correction or withdrawal is consistent with fair competition and advantageous to the school district.

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- J.** Based on the considerations of fair competition and the best interest of the school district, the school district may take one of the following actions regarding a bid mistake discovered after the award:
1. Allow correction of the mistake, if the corrected bid amount is less than the next lowest bid;
  2. Cancel all or part of the award; or
  3. Deny correction or withdrawal.
- K.** After cancellation of all or part of an award in accordance with subsection (J)(2), if the bid acceptance period has not expired, the school district may award all or part of the contract to the next lowest responsible and responsive bidder, based on the considerations of fair competition and the best interest of the school district.
- Historical Note**  
Adopted effective December 17, 1987 (Supp. 87-4).  
Amended by final exempt rulemaking at 21 A.A.R. 1525,  
effective July 1, 2014 (Supp. 15-3); effective year corrected in Supp. 18-2.
- R7-2-1031. Bid Evaluation and Award**
- A.** As provided in subsection (C), the contract or contracts shall be awarded to the lowest responsible and responsive bidder or bidders whose bid or bids conform in all material respects to the requirements and evaluation criteria set forth in the invitation for bids. No criteria may be used in bid evaluation that are not set forth in the invitation for bids. The amount of any applicable transaction privilege or use tax of a political subdivision of this state is not a factor in determining the lowest bidder.
- B.** A product acceptability evaluation shall be conducted solely to determine whether a bidder's product is acceptable as set forth in the invitation for bids and not whether one bidder's product is superior to another bidder's product. Any bidder's offering that does not meet the acceptability requirements shall be rejected as nonresponsive.
- C.** The school district shall award the contract to the single lowest responsible and responsive bidder for all materials or services, except that the school district may make a multiple award if the invitation for bids included notification that multiple contracts may be awarded, the school district's basis for determining whether to award multiple contracts, and the criteria for selecting vendors for the multiple contracts.
- D.** Before making a multiple award, the school district shall determine in writing that a multiple award is necessary and is advantageous to the school district and shall establish procedures for the use of the multiple awarded contracts to ensure that purchases are made from the contracts determined by the school district to offer the lowest cost in satisfying the school district's requirements. A multiple award shall be limited to the least number of suppliers the school district determines in writing to be necessary to meet the school district's requirements, and may include the following types of awards:
1. Awards to the lowest responsible and responsive bidder for individual line items, groups of line items, or categories.
  2. Awards to the lowest responsible and responsive bidders for similar or identical line items, groups of line items, or categories only if the school district determines in writing that such awards are necessary to obtain the required quantity or delivery, and the awards are limited to the least number of bidders necessary to meet the school district's requirements.
  3. An incremental award only if the school district determines in writing that such an award is necessary to obtain the required quantity or delivery. The award shall be made to the lowest responsible and responsive bidder, then the next lowest responsible and responsive bidder or bidders until the total definite quantity required is awarded.
- 4.** A regional award to the lowest responsible and responsive bidder in designated regions or locations only if the school district determines in writing that such an award is necessary to obtain the required quantity or delivery over widely scattered locations or a particular requirement is of a local nature.
- E.** The procurement file shall contain the basis on which the award or awards are made.
- F.** The school district shall not modify evaluation criteria after the bid due date and time.
- G.** A school district may appoint an evaluation committee to assist in the evaluation of bids. If bids are evaluated by an evaluation committee, the evaluation committee shall prepare an evaluation report for the school district. The school district may:
1. Accept the findings of the evaluation committee;
  2. Request additional information from the evaluation committee; or
  3. Reject the findings of the evaluation committee, in which case the school district shall appoint a new evaluation committee to evaluate the existing bids or cancel the solicitation.
- H.** The school district may contact a bidder to confirm the school district's understanding of the bid. Such contact shall be prior to award. The school district shall obtain written confirmation from the bidder and shall retain the confirmation in the procurement file.
- I.** The contract or contracts shall be awarded during the bid acceptance period. If the bid acceptance period expires prior to award of the contract or contracts, the procurement shall be canceled, unless the bid acceptance period is extended in accordance with subsection (J).
- J.** To extend the bid acceptance period, a school district shall notify all bidders in writing of an extension and request written concurrence from each bidder. To be eligible for a contract award, a bidder shall submit a written concurrence to the extension. The school district shall reject a bid as nonresponsive if written concurrence is not provided as requested.
- K.** A contract may not be awarded to a bidder submitting a higher quality item than that designated in the invitation for bids unless the bidder is also the lowest bidder as determined under subsection (A). This Section does not permit negotiations with any bidder, except as provided in subsection (L).
- L.** If all bids for a construction project exceed available monies as certified by the school district, and the lowest responsive bid from a responsible bidder does not exceed such monies by more than five percent, the school district may in situations in which time or economic considerations preclude resolicitation of work of a reduced scope, negotiate an adjustment of the bid price, including changes in the bid requirements, with the lowest responsible and responsive bidder, to bring the bid within the amount of available monies.
- M.** If there are two or more low responsive bids from responsible bidders that are identical in price and that meet all the requirements and criteria set forth in the invitation for bids, award shall be made by drawing lots in the presence of one or more witnesses.
- N.** A record showing the basis for determining the successful bidder shall be retained in the procurement file.
- O.** The school district shall notify all bidders of an award.
- P.** After a contract is awarded, the school district shall return any bid security provided by unsuccessful bidders.

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- Q.** Upon execution of the contract, if performance and payment bonds were not required, or upon receipt of the specified bonds, if performance and payment bonds were required, the school district shall return any bid security provided by the successful bidder.
- R.** Within 10 days after a contract is awarded, the school district shall make the procurement file, including all bids, available for public inspection.
1. If the procurement file contains information that is confidential under R7-2-1006, a copy of the applicable documents with the confidential information redacted shall be placed in the procurement file for the purpose of public inspection.
  2. The unredacted original copy of the confidential information shall be placed in a sealed envelope or other appropriate container, identified as confidential information, and maintained in the procurement file.

**Historical Note**

Adopted effective December 17, 1987 (Supp. 87-4).  
 Amended effective October 22, 1992 (Supp. 92-4).  
 Amended by final exempt rulemaking at 21 A.A.R. 1525, effective July 1, 2014 (Supp. 15-3); effective year corrected in Supp. 18-2. Amended by final exempt rulemaking at 26 A.A.R. 597, effective July 1, 2020 (Supp. 20-1).

**R7-2-1032. Only One Bid Received**

If only one responsive bid is received in response to an invitation for bids, an award may be made to the single bidder if the school district determines in writing that the bidder is responsible, that the price submitted is fair and reasonable, and that either other prospective bidders had reasonable opportunity to respond, or there is not adequate time for resolicitation. Otherwise the bid may be rejected in whole or in part as may be specified in the invitation for bids if it is advantageous to the school district. The reasons for cancellation or rejection shall be made part of the procurement file and:

1. New bids may be solicited;
2. The proposed procurement may be canceled; or
3. If the school district determines that the need for the material or service continues and the acceptance of the one bid is not advantageous to the school district, the procurement may then be conducted as follows:
  - a. The school district may follow the sole source procurement procedure if R7-2-1053 applies.
  - b. Notwithstanding any other provision of Articles 10 and 11, the school district may make emergency procurements pursuant to R7-2-1055 and R7-2-1056 if an emergency condition exists pursuant to R7-2-1055.

**Historical Note**

Adopted effective December 17, 1987 (Supp. 87-4).  
 Amended by final exempt rulemaking at 21 A.A.R. 1525, effective July 1, 2014 (Supp. 15-3); effective year corrected in Supp. 18-2.

**R7-2-1033. Simplified School Construction Procurement Program**

- A.** The simplified school construction procurement program is applicable to construction projects which do not exceed the maximum amount specified in A.R.S. § 15-213(A)(2).
- B.** To participate in the simplified school construction procurement program:
1. Each county school superintendent shall maintain a prospective bidders list of persons who desire to receive solicitations to bid on school district construction projects within that county. The prospective bidders list shall be maintained in accordance with R7-2-1023;

2. The prospective bidders list maintained pursuant to subsection (B)(1) shall be available for public inspection;
3. A performance bond and a payment bond, as required by A.R.S. § 34-222, shall be provided for contracts for construction by contractors;
4. All bids for construction shall be opened at a public opening and the bids shall remain confidential until the public opening;
5. All persons desiring to submit bids shall be treated equitably and the information related to each project shall be available to all eligible persons; and
6. Competition for construction projects under the simplified school construction procurement program shall be encouraged to the maximum extent possible. School districts shall submit information on each project to all persons listed on the prospective bidders list maintained by the county school superintendent pursuant to subsection (B)(1).

**Historical Note**

Adopted effective December 4, 1998 (Supp. 98-4).  
 Amended by final exempt rulemaking at 21 A.A.R. 1525, effective July 1, 2014 (Supp. 15-3); effective year corrected in Supp. 18-2.

**R7-2-1034. Reserved****MULTISTEP SEALED BIDDING****R7-2-1035. Multistep Sealed Bidding**

- A.** The multistep sealed bidding method may be used if:
1. Available specifications or purchase descriptions are not sufficiently complete to permit full competition without technical evaluations and discussions to ensure mutual understanding between each bidder and the school district;
  2. Definite criteria exist for evaluation of technical offers;
  3. More than one technically qualified source is expected to be available; and
  4. A fixed-price contract will be used.
- B.** The multistep sealed bidding method may not be used for construction contracts.

**Historical Note**

Adopted effective December 17, 1987 (Supp. 87-4).  
 Amended by final exempt rulemaking at 21 A.A.R. 1525, effective July 1, 2014 (Supp. 15-3); effective year corrected in Supp. 18-2.

**R7-2-1036. Phase 1 of Multistep Sealed Bidding**

- A.** Multistep sealed bidding shall be initiated by the issuance of an invitation to submit technical offers. The invitation to submit technical offers shall be issued according to R7-2-1022 and R7-2-1024(A).
- B.** The invitation to submit technical offers shall include the following information:
1. Notice that the procurement shall be conducted in two phases;
  2. The best description of the material or services desired;
  3. A statement that unpriced technical offers only shall be considered in phase 1;
  4. The requirements for the technical offers, such as drawings and descriptive literature;
  5. The criteria for evaluating technical offers;
  6. The due date and time for receipt of technical offers and the location where technical offers shall be delivered or mailed;
  7. A statement that discussions may be held;

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8. A statement that only bids based on technical offers determined to be acceptable in phase 1 shall be considered for award;
  9. The name of the district representative or district representatives;
  10. Notice that all technical offers submitted will be made available for public inspection following the award of the contract; and
  11. The date, time and location of any pre-technical offer conference.
- C.** A school district may conduct a pre-technical offer conference open to all persons. If a pre-technical offer conference is conducted, it shall be not less than seven days before the technical offer due date and time, unless the school district makes a written determination that the specific needs of the procurement justify a shorter time. Statements made during the pre-technical offer conference shall not be considered modifications to the invitation to submit technical offers.
- D.** The invitation to submit technical offers may be amended before or after the submission of the unpriced technical offers. Amendments to an invitation to submit technical offers shall be so identified and the school district shall ensure that the amendments are distributed or made available to all persons to whom the original invitation to submit technical offers was distributed or made available. The school district shall make a copy of the amendments to an invitation to submit technical offers available for public inspection at the school district office. If the school district posted the invitation to submit technical offers or a notice of the availability of an invitation to submit technical offers on a designated site on the Internet, then the school district shall post any amendments to the invitation to submit technical offers on the same designated site on the Internet. The school district shall also do one or more of the following:
- a. Distribute the amendment, by any method reasonably calculated to ensure delivery, to all persons to whom the invitation to submit technical offers was distributed;
  - b. Make the amendment available and issue a notice of amendment which contains instructions for obtaining copies of the amendment. The notice of amendment shall be distributed, by any method reasonably calculated to ensure delivery, to all persons to whom the invitation to submit technical offers was distributed. Upon receipt of such notice of amendment, it is the responsibility of the person to obtain the amendment.
2. Amendments shall be issued within a reasonable time before technical offer opening to allow persons to consider them in preparing their technical offers. If the school district determines that the technical offer due date and time does not permit sufficient time for technical offer preparation, the technical offer due date and time shall be extended in the amendment or, if necessary, telephone, facsimile, email, or other communications methods, and confirmed in the amendment.
3. A person shall acknowledge receipt of an amendment in the manner specified in the invitation to submit technical offers or the amendment on or before the technical offer due date and time.
- E.** Unpriced technical offers shall not be opened publicly, but shall be opened in the presence of two or more district officials designated by the school district. The contents of unpriced technical offers shall not be disclosed to unauthorized persons. Late technical offers shall not be considered except under the circumstances set forth in R7-2-1028(B).
- F.** Unpriced technical offers shall be evaluated solely in accordance with the criteria set forth in the invitation to submit technical offers and shall be determined to be either acceptable for further consideration or unacceptable. A determination that an unpriced technical offer is unacceptable shall be in writing, state the basis for the determination and be retained in the procurement file. If the school district determines a person's unpriced technical offer is unacceptable, the school district shall notify that person of the determination and that the person shall not be afforded an opportunity to amend the technical offer.
- G.** The school district may conduct discussions with any person who submits an acceptable or potentially acceptable technical offer. During discussions, the school district shall not disclose any information derived from one unpriced technical offer to any other person. After discussions, the school district shall establish a due date and time for receipt of final technical offers and shall notify, in writing, persons submitting acceptable or potentially acceptable technical offers of the due date and time. The school district shall keep a detailed record of all discussions.
- H.** At any time during phase 1, technical offers may be withdrawn.
- I.** A copy of the invitation to submit technical offers shall be made available for public inspection at the school district office.

**Historical Note**

Adopted effective December 17, 1987 (Supp. 87-4).  
 Amended by final exempt rulemaking at 21 A.A.R. 1525,  
 effective July 1, 2014 (Supp. 15-3); effective year corrected in Supp. 18-2.

**R7-2-1037. Phase 2 of Multistep Sealed Bidding**

- A.** Upon completion of phase 1, the school district shall issue an invitation for bids and conduct phase 2 under R7-2-1024 through R7-2-1032 as a competitive sealed bidding procurement, except that the invitation for bids shall be issued only to persons whose technical offers were determined to be acceptable in phase 1.
- B.** Unpriced technical offers of unsuccessful persons shall be open to public inspection after contract award, except to the extent set forth in R7-2-1006.

**Historical Note**

Adopted effective December 17, 1987 (Supp. 87-4).  
 Amended by final exempt rulemaking at 21 A.A.R. 1525,  
 effective July 1, 2014 (Supp. 15-3); effective year corrected in Supp. 18-2.

**R7-2-1038. Reserved****R7-2-1039. Reserved****R7-2-1040. Reserved****COMPETITIVE SEALED PROPOSALS****R7-2-1041. Competitive Sealed Proposals**

- A.** This Section does not apply to procurement of services of clergy, certified public accountants, physicians, dentists, and legal counsel, construction, construction services, or specified professional services. Services of clergy, certified public accountants, physicians, dentists and legal counsel shall be procured pursuant to R7-2-1061 through R7-2-1068. Construction and construction services shall be procured as provided in R7-2-1100. Specified professional services shall be procured pursuant to R7-2-1117 through R7-2-1123.
- B.** As an alternative to competitive sealed bidding, competitive sealed proposals may be used in order to:

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1. Use a contract other than a fixed-price type;
  2. Conduct oral or written discussions with offerors concerning technical and price aspects of their proposals;
  3. Afford offerors an opportunity to revise their proposals;
  4. Compare the different price, quality, and contractual factors of the proposals submitted; or
  5. Award a contract in which price is not the determining factor.
- C. A school district may conduct competitive sealed proposals electronically, provided that the electronic competitive sealed proposals process complies with the requirements of R7-2-1041 through R7-2-1050. A determination that conducting competitive sealed proposals electronically is advantageous to the school district shall be in writing and retained in the procurement file.
- D. When using electronic competitive sealed proposals, the school district shall determine whether electronic submission of proposals is required or optional and state the electronic submission requirements in the public notice and the request for proposals.

**Historical Note**

Adopted effective December 17, 1987 (Supp. 87-4).

Amended effective March 21, 1991 (Supp. 91-1).

Amended by final exempt rulemaking at 21 A.A.R. 1525, effective July 1, 2014 (Supp. 15-3); effective year corrected in Supp. 18-2.

**R7-2-1042. Request for Proposals**

- A. Competitive sealed proposals shall be solicited through a request for proposals. A request for proposals shall include the following:
1. Instructions to offerors, including:
    - a. Instructions and information to offerors concerning proposal submission requirements, including the means for proposal submission such as, hand delivery, U.S. mail, electronic mail, facsimile, or other acceptable means, the proposal due date and time, the address of the office at which proposals or other documents are to be received, the proposal acceptance period, and any other special information or requirements;
    - b. The manner by which the offeror is required to acknowledge amendments;
    - c. Notification of whether the school district may award multiple contracts and the school district's basis for determining whether to award multiple contracts. If multiple contracts may be awarded, the request for proposals shall include the criteria the school district will use for selecting vendors for each contract under the multiple award, including as applicable, whether contracts will be awarded by individual line items, groups of line items, or categories, whether contracts will be awarded incrementally, and whether contracts will be awarded by designated regions or locations;
    - d. The minimum information required in the proposal;
    - e. The specific requirements for designating trade secrets and other proprietary data as confidential;
    - f. Any specific responsibility criteria;
    - g. Whether the offeror is required to submit samples, descriptive literature, and technical data with the proposal;
    - h. Evaluation factors and the relative importance of price and other evaluation factors. Specific numerical weighting is not required;

- i. Procurement of earth-moving, material-handling, road maintenance and construction equipment shall include as evaluation factors the total life cycle cost including residual value of the earth-moving, material-handling, road maintenance and construction equipment and, to the extent practicable, the cost of outright purchase;
  - j. A statement specifying where documents incorporated by reference may be obtained;
  - k. A statement that the school district may cancel the solicitation or reject a proposal in whole or in part if deemed advantageous to the school district;
  - l. Notice that the offeror is required to certify that submission of the proposal did not involve collusion or other anticompetitive practices and that the offeror has taken steps and exercised due diligence to ensure that no violation of A.R.S. § 15-213(O) has occurred;
  - m. Notice that the offeror is required to declare whether the offeror has been debarred, suspended, or otherwise lawfully prohibited from participating in any public procurement activity, including, but not limited to, being disapproved as a subcontractor of any public procurement unit or other governmental body;
  - n. Any bid security required;
  - o. Any cost or pricing data required;
  - p. The type of contract to be used;
  - q. A statement that discussions may be conducted with offerors who submit proposals determined to be reasonably susceptible of being awarded a contract;
  - r. The date, time and location of any pre-proposal conference;
  - s. The name of the district representative or district representatives;
  - t. A description of all information that will be recorded and available for public inspection at proposal opening;
  - u. Notice that all information and proposals submitted by offerors will be made available for public inspection following the award of the contract; and
  - v. Whether the school district will consider partial proposals for award of a contract.
2. Specifications, including:
    - a. The purchase description, delivery or performance schedule, and inspection and acceptance requirements, as applicable;
    - b. If a brand name or equal specification is used, instructions that the use of a brand name is for the purpose of describing the standard of quality, performance, and other characteristics needed to meet the school district's requirements and is not intended to limit or restrict competition. The solicitation shall state that products substantially equivalent to those brands designated shall qualify for consideration; and
    - c. Any other specification requirements specific to the solicitation.
  3. Contract terms and conditions, including:
    - a. Warranty and bonding or other security requirements, as applicable;
    - b. The length of the contract and whether the contract will include an option for extension; and
    - c. Any other contract terms and conditions.
  4. When using electronic competitive sealed proposals, the request for proposals shall specify whether electronic

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submission of proposals is required or optional, the electronic submission requirements, and the electronic signature requirements.

- B. A request for proposals shall be issued at least 14 days before the due date and time for receipt of proposals unless a shorter time is determined necessary by the school district. If a shorter time is necessary, the school district shall document the specific reasons in the procurement file.
- C. Notice of the request for proposals shall be given by the school district pursuant to R7-2-1022 and R7-2-1024(C).
- D. Before submission of initial proposals, amendments to requests for proposals shall be made in accordance with R7-2-1026. After submission of proposals, amendments may be made in accordance with R7-2-1036(D).
- E. A copy of the request for proposals shall be made available for public inspection at the school district office.

**Historical Note**

Adopted effective December 17, 1987 (Supp. 87-4).  
 Amended effective October 22, 1992 (Supp. 92-4).  
 Amended by final exempt rulemaking at 21 A.A.R. 1525, effective July 1, 2014 (Supp. 15-3); effective year corrected in Supp. 18-2. Amended by final exempt rulemaking at 26 A.A.R. 597, effective July 1, 2020 (Supp. 20-1).

**R7-2-1043. Pre-proposal Conferences**

Pre-proposal conferences may be convened in accordance with R7-2-1025.

**Historical Note**

Adopted effective December 17, 1987 (Supp. 87-4).

**R7-2-1044. Late Proposals, Modifications or Withdrawals**

- A. An offeror may modify or withdraw a proposal in writing at any time before proposal opening if the modification or withdrawal is received before the proposal due date and time at the location designated in the request for proposals for receipt of proposals.
- B. Withdrawal of a proposal after proposal opening is permissible only in accordance with R7-2-1049.
- C. A proposal received after the due date and time for receipt of proposals is late and shall not be considered except under the circumstances set forth in R7-2-1028(B). A best and final offer received after the due date and time for receipt of best and final offers is late and shall not be considered except under the circumstances set forth in R7-2-1028(B).
- D. A modification of a proposal received after the due date and time for receipt of proposals is late and shall not be considered except under the circumstances set forth in R7-2-1028(B).
- E. A modification of a proposal resulting from an amendment issued after the due date and time for receipt of proposals or a modification of a proposal resulting from discussions shall be considered if received by the due date and time set forth in the amendment or by the due date and time for submission of best and final offers, whichever is applicable. If the modifications described in this subsection are received after the respective date and time described in this subsection, the modifications are late and shall not be considered except under the circumstances set forth in R7-2-1028(B).
- F. Upon receiving a late proposal, late modification, or late withdrawal, the school district shall record the time and date of receipt and promptly send written notice of late receipt to the offeror. The school district may discard the document 30 days after the date on the notice unless the offeror requests and provides funding for the document to be returned.
- G. All documents concerning acceptance of a late proposal, late modification, or late withdrawal shall be retained in the procurement file.

**Historical Note**

Adopted effective December 17, 1987 (Supp. 87-4).  
 Amended by final exempt rulemaking at 21 A.A.R. 1525, effective July 1, 2014 (Supp. 15-3); effective year corrected in Supp. 18-2. Amended by final exempt rulemaking at 26 A.A.R. 597, effective July 1, 2020 (Supp. 20-1).

**R7-2-1045. Receipt, Opening and Recording of Proposals**

- A. A school district shall maintain a record of proposals and modifications received for each solicitation, shall record the time and date when each proposal or modification is received, and shall store each unopened proposal or modification in a secure place until the proposal due date and time.
  - 1. If required to confirm a vendor's inquiry regarding receipt of its proposal prior to the due date and time, a school district may open a proposal to identify the vendor. If this occurs, the school district shall record the reason for opening the proposal, the date and time the proposal was opened, and the solicitation number. The school district shall secure the proposal and retain it for public opening.
  - 2. One or more witnesses shall be present for the opening of a proposal under subsection (A)(1).
- B. Proposals and modifications shall be opened publicly at the date, time and place designated in the request for proposals in the presence of one or more witnesses. The name of each offeror and other relevant information deemed appropriate by the school district shall be recorded. The person opening the proposals and all witnesses shall sign the record. All other information contained in the proposals shall be confidential so as to avoid disclosure of contents prejudicial to competing offerors during the evaluation of proposals. Proposals and modifications shall be shown only to school district personnel having a legitimate interest in them or persons assisting the school district in evaluation.
  - 1. The record created in subsection (B) shall be available for public inspection.
  - 2. The proposals shall not be open for public inspection until after a contract is awarded.

**Historical Note**

Adopted effective December 17, 1987 (Supp. 87-4).  
 Amended by final exempt rulemaking at 21 A.A.R. 1525, effective July 1, 2014 (Supp. 15-3); effective year corrected in Supp. 18-2.

**R7-2-1046. Evaluation of Proposals**

- A. Evaluation of proposals and best and final offers shall be based on the evaluation factors set forth in the request for proposals. Specific numerical weighting may be used.
  - 1. If only one proposal is received in response to a request for proposals, the school district shall proceed according to R7-2-1032.
  - 2. The school district shall not modify evaluation factors or the relative importance of price and other evaluation factors after the proposal due date and time.
  - 3. A school district may appoint an evaluation committee to assist in the evaluation of proposals. If proposals are evaluated by an evaluation committee, the evaluation committee shall prepare an evaluation report for the school district. The school district may:
    - a. Accept the findings of the evaluation committee;
    - b. Request additional information from the evaluation committee; or
    - c. Reject the findings of the evaluation committee, in which case the school district shall appoint a new evaluation committee to evaluate the existing proposals or cancel the solicitation.

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- B. As part of its initial evaluation, the school district may contact an offeror to confirm the school district's understanding of the proposal. Such contact shall be prior to the determination that a proposal is acceptable for further consideration. The school district shall obtain written confirmation from the offeror and shall retain the confirmation in the procurement file.
- C. The contract or contracts shall be awarded during the proposal acceptance period. If the proposal acceptance period expires prior to award of the contract or contracts, the procurement shall be canceled, unless the proposal acceptance period is extended in accordance with subsection (D).
- D. To extend the proposal acceptance period, a school district shall notify all offerors in writing of an extension and request written concurrence from each offeror. To be eligible for a contract award, an offeror shall submit a written concurrence to the extension. The school district shall reject a proposal as nonresponsive if written concurrence is not provided as requested.
- E. For the purpose of conducting discussions, the school district shall determine that proposals are either acceptable for further consideration or unacceptable.
- F. A proposal is acceptable if it is determined to be reasonably susceptible of being awarded a contract in accordance with the evaluation criteria and a comparison and ranking of original proposals. Proposals to be considered reasonably susceptible of being awarded a contract shall, at a minimum, demonstrate the following:
  1. Affirmative compliance with mandatory requirements designated in the solicitation.
  2. An ability to deliver goods or services on terms advantageous to the school district sufficient to be entitled to continue in the competition.
  3. That the proposal is technically acceptable as submitted.
- G. A proposal is unacceptable if it is determined to not be reasonably susceptible of being awarded a contract. Those proposals that have no reasonable chance for award when compared on a relative basis with more highly ranked proposals will not be reasonably susceptible of being awarded a contract. The determination shall be in writing, state the basis for the determination and be retained in the procurement file. When there is doubt as to whether a proposal is reasonably susceptible of being awarded a contract, the proposal shall be considered acceptable.
- H. If the school district determines an offeror's proposal is unacceptable, the school district shall notify that offeror of the determination and that the offeror shall not be afforded an opportunity to amend its proposal.
- C. Discussions may be conducted orally or in writing. If oral discussions are conducted, the offeror shall confirm the discussions in writing.
- D. If discussions are conducted, they shall be conducted with all offerors who submit proposals determined to be acceptable for further consideration. Proposals may not be revised during discussions.
- E. The school district shall keep a detailed record of all discussions in the procurement file.

**Historical Note**

Adopted effective December 17, 1987 (Supp. 87-4).  
Amended by final exempt rulemaking at 21 A.A.R. 1525,  
effective July 1, 2014 (Supp. 15-3); effective year corrected in Supp. 18-2.

**R7-2-1048. Best and Final Offers**

- A. Only if discussions are conducted pursuant to R7-2-1047, the school district shall issue a written request for best and final offers to all offerors who submitted proposals determined to be acceptable pursuant to R7-2-1046(E). The request shall set forth the date, time and place for the submission of best and final offers.
- B. Best and final offers shall be requested only once, unless the school district makes a determination that it is advantageous to the school district to conduct further discussions or change the school district's requirements.
- C. The request for best and final offers shall inform offerors that, if they do not submit a notice of withdrawal or a best and final offer, their immediate previous offer will be construed as their best and final offer.

**Historical Note**

Adopted effective December 17, 1987 (Supp. 87-4).  
Amended by final exempt rulemaking at 21 A.A.R. 1525,  
effective July 1, 2014 (Supp. 15-3); effective year corrected in Supp. 18-2.

**R7-2-1049. Mistakes in Proposals**

- A. Prior to the due date and time for receipt of best and final offers, any offeror may withdraw a proposal in writing or correct any mistake by modifying the proposal.
- B. After receipt of best and final offers, an offeror may withdraw a proposal or correct a mistake in accordance with R7-2-1030.
- C. The offeror shall withdraw or correct its proposal in writing. The school district shall retain the written withdrawal or correction in the procurement file.

**Historical Note**

Adopted effective December 17, 1987 (Supp. 87-4).  
Amended by final exempt rulemaking at 21 A.A.R. 1525,  
effective July 1, 2014 (Supp. 15-3); effective year corrected in Supp. 18-2.

**R7-2-1050. Contract Award**

- A. As provided in subsection (B), the school district shall award a contract or contracts to the responsible offeror or offerors whose proposal or proposals are determined in writing to be most advantageous to the school district based on the factors set forth in the request for proposals. No factors or criteria may be used in proposal evaluation that are not set forth in the request for proposals. The amount of any applicable transaction privilege or use tax of a political subdivision of this state is not a factor in determining the most advantageous proposal.
- B. The school district shall award the contract to the offeror whose proposal is deemed most advantageous to the school district for all materials or services, except that the school district may make a multiple award if the request for proposals included notification that multiple contracts may be awarded,

**Historical Note**

Adopted effective December 17, 1987 (Supp. 87-4).  
Amended by final exempt rulemaking at 21 A.A.R. 1525,  
effective July 1, 2014 (Supp. 15-3); effective year corrected in Supp. 18-2.

**R7-2-1047. Discussions with Individual Offerors**

- A. Discussions may be conducted with responsible offerors who submit proposals determined to be acceptable for further consideration. Discussions may be conducted to assure full understanding of the proposal in order to obtain the most advantageous contract for the school district based upon the requirements and evaluation factors in the request for proposals. Offerors shall be afforded fair treatment with respect to any opportunity for discussion and revision of proposals.
- B. A school district shall establish procedures and schedules for conducting discussions. The school district shall ensure there is no disclosure of one offeror's price or any information derived from competing proposals to another offeror.



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the school district's basis for determining whether to award multiple contracts, and the criteria for selecting vendors for the multiple contracts.

- C. Before making a multiple award, the school district shall determine in writing that a multiple award is necessary and is advantageous to the school district and shall establish procedures for the use of the multiple awarded contracts to ensure that purchases are made from the contracts determined by the school district to be most advantageous to the school district in satisfying the school district's requirements. A multiple award shall be limited to the least number of contracts the school district determines in writing to be necessary to meet the school district's requirements, and may include the following types of awards:
1. Awards to the offerors most advantageous to the school district for individual line items, groups of line items, or categories.
  2. Awards to the offerors most advantageous to the school district for similar or identical line items, groups of line items, or categories only if the school district determines in writing that such awards are necessary to obtain the required quantity or delivery, and the awards are limited to the least number of offerors necessary to meet the school district's requirements.
  3. An incremental award only if the school district determines in writing that such an award is necessary to obtain the required quantity or delivery. The award shall be made to the offeror whose proposal is determined to be the most advantageous to the school district, then to the offeror with the next most advantageous proposal, etc., until the total definite quantity required is reached.
  4. Regional awards to the offerors most advantageous to the school district in designated regions or locations only if the school district determines in writing that such awards are necessary to obtain the required quantity or delivery over widely scattered locations or a particular requirement is of a local nature.
- D. The school district shall notify all offerors of an award.
- E. The procurement file shall contain the basis on which the award or awards are made.
- F. After a contract is awarded, the school district shall return any bid security provided by the unsuccessful offerors.
- G. Upon execution of the contract, if performance and payment bonds were not required, or upon receipt of the specified bonds, if performance and payment bonds were required, the school district shall return any bid security provided by the successful offeror.
- H. Within 10 days after a contract is awarded, the school district shall make the procurement file, including all proposals, available for public inspection.
1. If the procurement file contains information that is confidential under R7-2-1006, a copy of the applicable documents with the confidential information redacted shall be placed in the procurement file for the purpose of public inspection.
  2. The unredacted original copy of the confidential information shall be placed in a sealed envelope or other appropriate container, identified as confidential information, and maintained in the procurement file.

**Historical Note**

Adopted effective December 17, 1987 (Supp. 87-4).  
 Amended effective October 22, 1992 (Supp. 92-4).  
 Amended by final exempt rulemaking at 21 A.A.R. 1525, effective July 1, 2014 (Supp. 15-3); effective year corrected in Supp. 18-2. Amended by final exempt rulemak-

ing at 26 A.A.R. 597, effective July 1, 2020 (Supp. 20-1).

**R7-2-1051. Reserved****R7-2-1052. Reserved****SOLE SOURCE PROCUREMENTS****R7-2-1053. Sole Source Procurements**

- A. A contract may be awarded for a material, service or construction item without competition if the governing board determines in writing that there is only one source for the required material, service or construction item. The school district may require the submission of cost or pricing data in connection with an award under this Section. Sole source procurement shall be avoided, except when no reasonable alternative source exists.
- B. The governing board's determination shall be made before entering the contract and shall include the following information:
1. A description of the procurement need and the reason why there is only a single source available or why no reasonable alternative exists;
  2. The name of the proposed supplier;
  3. The duration and estimated total dollar value of the proposed procurement;
  4. Documentation that the price submitted is fair and reasonable; and
  5. A description of efforts made to seek other sources.
- C. The school district shall, to the extent practicable, negotiate with the single supplier a contract advantageous to the school district.
- D. A copy of the written determination of the basis for the sole source procurement and any cost or pricing data shall be retained in the procurement file by the school district. The school district shall keep a record of all sole source procurements pursuant to R7-2-1086.

**Historical Note**

Adopted effective December 17, 1987 (Supp. 87-4).  
 Amended by final exempt rulemaking at 21 A.A.R. 1525, effective July 1, 2014 (Supp. 15-3); effective year corrected in Supp. 18-2.

**R7-2-1054. Reserved****EMERGENCY PROCUREMENTS****R7-2-1055. Emergency Procurement Procedure**

- A. An emergency condition creates an immediate and serious need for materials, services, or construction that cannot be met through normal procurement methods and seriously threatens the functioning of the school district, the preservation or protection of property or the public health, welfare or safety. Some examples of emergency conditions are floods, epidemics, or other natural disasters, riots, fire or equipment failures.
- B. An emergency procurement shall be limited to the materials, services, or construction necessary to satisfy the emergency need.
- C. The governing board shall designate a board member or members or school district official or officials authorized to make emergency procurements, and may prescribe limiting factors including maximum spending limits with regard to emergency procurements.
- D. The designated board member or district official shall:
1. Select the contractor to perform the emergency work with as much competition as practicable under the circumstances;
  2. Obtain a price that is fair and reasonable under the circumstances;

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3. Prepare a written statement documenting the basis for the emergency, the basis for the selection of the particular contractor, and why the price paid was fair and reasonable. The statement shall be signed by the designated governing board member or district official authorized to initiate emergency procurements; and
4. Convene a meeting of the governing board to approve the emergency procurement, unless the nature of the emergency requires that the procurement be made prior to governing board approval.

**Historical Note**

New Section made by final exempt rulemaking at 21 A.A.R. 1525, effective July 1, 2014 (Supp. 15-3); effective year corrected in Supp. 18-2.

**R7-2-1056. Emergency Procurement Reporting**

- A. If the nature of the emergency does not permit convening a meeting of the governing board to approve the emergency procurement, the designated board member or district official who makes an emergency procurement shall, at the first scheduled governing board meeting following the procurement, provide to the governing board a report concerning the emergency procurement including the following information:
  1. The written statement documenting the basis for the emergency, the basis for the selection of the particular contractor, and why the price paid was fair and reasonable; and
  2. Why it was impracticable to convene a meeting of the governing board.
- B. The information and documentation required in this Section shall be included in the procurement file.
- C. The school district shall keep a record of all emergency procurements pursuant to R7-2-1086.

**Historical Note**

Adopted effective December 17, 1987 (Supp. 87-4). Section amended by final exempt rulemaking at 21 A.A.R. 1525, effective July 1, 2014 (Supp. 15-3); effective year corrected in Supp. 18-2.

**R7-2-1057. Repealed****Historical Note**

Adopted effective December 17, 1987 (Supp. 87-4). Section repealed by final exempt rulemaking at 21 A.A.R. 1525, effective July 1, 2014 (Supp. 15-3); effective year corrected in Supp. 18-2.

## REQUEST FOR INFORMATION

**R7-2-1058. Request for Information**

- A. The school district may issue a request for information to obtain data about services or materials available to meet a specific need. Notice of the request for information shall be issued in accordance with R7-2-1024(A) and R7-2-1024(C).
- B. Responses to a request for information are not offers and cannot be accepted to form a binding contract.
- C. Information contained in a response to a request for information may be withheld from public inspection until the subsequent procurement is awarded or terminated, two years from the date of the vendor's response, or upon commencement of a new procurement, whichever occurs first.
- D. There is no required format to be used for requests for information.

**Historical Note**

New Section made by final exempt rulemaking at 21 A.A.R. 1525, effective July 1, 2014 (Supp. 15-3); effective year corrected in Supp. 18-2. Amended by final

exempt rulemaking at 26 A.A.R. 597, effective July 1, 2020 (Supp. 20-1).

**R7-2-1059. Reserved****R7-2-1060. Reserved**

**SERVICES OF CLERGY, CERTIFIED PUBLIC ACCOUNTANTS, PHYSICIANS, DENTISTS AND LEGAL COUNSEL**

**R7-2-1061. Competitive Selection Procedures for Clergy, Certified Public Accountants, Physicians, Dentists and Legal Counsel**

- A. The services of clergy, certified public accountants, physicians, dentists, or legal counsel shall be procured in accordance with R7-2-1061 through R7-2-1068, except as authorized pursuant to R7-2-1002, R7-2-1053, or R7-2-1055.
- B. Pursuant to A.R.S. § 15-914, contracts for financial and compliance audits and completed audits shall be approved by the Auditor General as provided in A.R.S. § 41-1279.21.

**Historical Note**

Adopted effective December 17, 1987 (Supp. 87-4). Section amended by final exempt rulemaking at 21 A.A.R. 1525, effective July 1, 2014 (Supp. 15-3); effective year corrected in Supp. 18-2.

**R7-2-1062. Statement of Qualifications**

- A. If the services specified in R7-2-1061(A) are needed, persons may submit and the school district may solicit persons engaged in providing the services to submit statements of qualifications on a prescribed form that shall include the following information:
  1. Technical education and training;
  2. General or special experience, certifications, licenses, and memberships in professional associations, societies, or boards;
  3. An expression of interest in providing a particular service; and
  4. Any other pertinent information requested by the school district.
- B. Persons who have submitted statements of qualifications may amend those statements at any time by filing a new statement.

**Historical Note**

Adopted effective December 17, 1987 (Supp. 87-4). Section amended by final exempt rulemaking at 21 A.A.R. 1525, effective July 1, 2014 (Supp. 15-3); effective year corrected in Supp. 18-2.

**R7-2-1063. Request for Proposals**

- A. Adequate notice of the need for services specified in R7-2-1061(A) shall be given by the school district through a request for proposals. The request for proposals shall be in accordance with R7-2-1042.
- B. In addition to providing notice of the request for proposals pursuant to R7-2-1022 and R7-2-1024(C), the school district shall provide notice to all persons who submitted statements of qualifications for the particular services solicited.
- C. If required to evaluate proposals, the request for proposals shall require all offerors who have not already done so to submit a statement of qualifications pursuant to R7-2-1062.
- D. Pre-proposal conferences may be convened in accordance with R7-2-1025.

**Historical Note**

Adopted effective December 17, 1987 (Supp. 87-4). Section amended by final exempt rulemaking at 21 A.A.R. 1525, effective July 1, 2014 (Supp. 15-3); effective year

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corrected in Supp. 18-2.

**R7-2-1064. Receipt of Proposals**

Proposals shall be received and opened in accordance with R7-2-1045. Late proposals, modifications, or withdrawals shall be considered in accordance with R7-2-1044.

**Historical Note**

Adopted effective December 17, 1987 (Supp. 87-4).

**R7-2-1065. Evaluation of Proposals**

Proposals shall be evaluated in accordance with R7-2-1046.

**Historical Note**

Adopted effective December 17, 1987 (Supp. 87-4).

**R7-2-1066. Discussions with Individual Offerors**

- A. As part of its initial evaluation, the school district may contact an offeror to confirm the school district's understanding of the proposal. Such contact shall be prior to the determination that a proposal is acceptable for further consideration. The school district shall obtain written confirmation from the offeror and shall retain the confirmation in the procurement file.
- B. The school district may conduct discussions with any offeror in accordance with R7-2-1047. If such discussions are conducted, the school shall issue a request for best and final offers pursuant to R7-2-1048.

**Historical Note**

Adopted effective December 17, 1987 (Supp. 87-4). Section amended by final exempt rulemaking at 21 A.A.R. 1525, effective July 1, 2014 (Supp. 15-3); effective year corrected in Supp. 18-2.

**R7-2-1067. Mistakes in Proposals**

Mistakes in proposals shall be addressed pursuant to R7-2-1049.

**Historical Note**

Adopted effective December 17, 1987 (Supp. 87-4). Section repealed; new Section made by final exempt rulemaking at 21 A.A.R. 1525, effective July 1, 2014 (Supp. 15-3); effective year corrected in Supp. 18-2.

**R7-2-1068. Contract Award**

- A. As provided in subsection (B), the school district shall award a contract or contracts to the responsible offeror or offerors best qualified based on the evaluation factors set forth in the request for proposal and after making a written determination that the price is fair and reasonable. The school district shall not award a contract based solely on price. No factors or criteria may be used in proposal evaluation that are not set forth in the request for proposals.
- B. The school district shall award the contract to the best qualified offeror whose price is determined to be fair and reasonable for all services, except that the school district may make a multiple award if the request for proposals included notification that multiple contracts may be awarded, the school district's basis for determining whether to award multiple contracts, and the criteria for selecting vendors for the multiple contracts.
- C. Before making a multiple award, the school district shall determine in writing that a multiple award is necessary and is advantageous to the school district and shall establish procedures for the use of the multiple awarded contracts to ensure that purchases are made from the contracts determined by the school district to be most advantageous to the school district in satisfying the school district's requirements. A multiple award shall be limited to the least number of contracts the school district determines in writing to be necessary to meet the school

district's requirements, and may include the following types of awards:

1. Award to the best qualified offeror whose price is determined to be fair and reasonable for individual line items, groups of line items, or categories.
  2. Awards to the best qualified offerors whose prices are determined to be fair and reasonable for similar or identical line items, groups of line items, or categories only if the school district determines in writing that such awards are necessary to obtain the required quantity or delivery, and the awards are limited to the least number of offerors necessary to meet the school district's requirements.
  3. An incremental award only if the school district determines in writing that such an award is necessary to obtain the required quantity or delivery. The award shall be made to the best qualified person whose price is determined to be fair and reasonable, then to the next best qualified person whose price is determined to be fair and reasonable, etc., until the total definite quantity required is reached.
  4. Regional awards to the best qualified offerors whose prices are determined to be fair and reasonable in designated regions or locations only if the school district determines in writing that such an award is necessary to obtain the required quantity or delivery over widely scattered locations or a particular requirement is of a local nature.
- D. The school district shall notify all offerors of an award.
  - E. The procurement file shall contain the basis on which the award or awards are made.
  - F. Within 10 days after a contract is awarded, the school district shall make the procurement file, including all proposals, available for public inspection.
    1. If the procurement file contains information that is confidential under R7-2-1066, a copy of the applicable documents with the confidential information redacted shall be placed in the procurement file for the purpose of public inspection.
    2. The unredacted original copy of the confidential information shall be placed in a sealed envelope or other appropriate container, identified as confidential information, and maintained in the procurement file.

**Historical Note**

Adopted effective December 17, 1987 (Supp. 87-4). Section repealed; new Section made by final exempt rulemaking at 21 A.A.R. 1525, effective July 1, 2014 (Supp. 15-3); effective year corrected in Supp. 18-2. Amended by final exempt rulemaking at 26 A.A.R. 597, effective July 1, 2020 (Supp. 20-1).

**GUARANTEED ENERGY CONTRACTS****R7-2-1069. Guaranteed Energy Cost Savings Contracts**

- A. A school district may procure a guaranteed energy cost savings contract with a qualified provider through competitive sealed proposals in accordance with R7-2-1041 through R7-2-1050.
  1. The request for proposal evaluation factors required by R7-2-1042(A)(1)(h) shall include objective criteria for selecting the qualified provider, including the cost of the contract, the energy cost savings, the net projected energy savings, the quality of the technical approach, the quality of the project management plan, the financial solvency of the qualified provider and the experience of the qualified provider with projects of similar size and scope.
  2. Notwithstanding R7-2-1042(A)(1)(h), the request for proposals shall set forth the respective numerical weighting for each evaluation criterion.

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3. At the qualified provider's expense, the proposal shall include an independent third-party validation of cost savings calculations associated with each proposed energy cost savings measure by a licensed, registered professional engineer, with credentials from the national association of energy engineers, who has demonstrated experience in energy analysis. The school district shall approve the selection of the independent third party.
  4. A school district may enter into a guaranteed energy cost savings contract with a qualified provider if the school district determines that the energy savings project will pay for itself within the expected life of the energy cost savings measures implemented (according to the manufacturer's equipment standards), the term of the financial agreement or 25 years, whichever is shortest, if the recommendations in the proposal are followed. The school district shall retain the cost savings achieved by a guaranteed energy cost savings contract, and these cost savings may be used to pay for the contract and project implementation.
  5. A qualified provider is a person that is experienced in designing, implementing or installing energy cost savings measures, that has a record of established projects or measures of similar size and scope, that has demonstrated technical, operational, financial and managerial capabilities to design and operate cost savings measures and projects and that has the financial ability to satisfy guarantees for energy cost savings.
- B.** In selecting a contractor to perform any construction work related to performing the guaranteed energy cost savings contract, the qualified provider may:
1. Develop and use a prequalification process for contractors.
  2. Require the contractor to demonstrate that the contractor is adequately bonded to perform the work and that the contractor has not failed to perform on a prior job.
- C.** At the selected qualified provider's expense, a study shall be performed by the selected qualified provider in order to establish the exact scope of the guaranteed energy cost savings contract, the fixed cost savings guarantee amount and the methodology for determining actual savings. The selected qualified provider will provide the school district with a final study report which validates that the fixed cost savings guarantee amount will meet or exceed the cost savings calculations contained within the original proposal. The study report shall be reviewed and approved by the school district before the actual installation of any equipment. The qualified provider shall transmit a copy of the approved study report to the school facilities board and the governor's office of energy policy.
- D.** The information to develop the energy baseline shall be derived from historical energy costs or actual energy measurements or shall be calculated from energy measurements at the facility where energy cost savings measures are to be installed or implemented. The baseline shall be established before the installation or implementation of energy cost savings measures.
- E.** One or more school districts may enter into a financing agreement with a qualified provider or a financial institution, trustee or paying agent for the purchase and installation or implementation of energy cost savings measures. Any required financing may be obtained as part of the original competitive sealed proposal process from the qualified provider, or from a third-party financing institution that is procured separately in accordance with Articles 10 and 11.
- F.** The selected qualified provider shall provide a performance bond in accordance with R7-2-1103(A)(1)(c).
- G.** The selected qualified provider shall make public information in the subcontractor's bids.
- H.** The guaranteed energy cost savings contract shall include the following:
1. A requirement that, in determining whether the projected energy savings calculations have been met, the energy savings shall be computed by comparing the energy baseline before installation or implementation of the energy cost savings measures with the energy consumed after installation or implementation of the energy cost savings measures. The qualified provider and the school district may agree to make modifications to the energy baseline only for any of the following:
    - a. Changes in utility rates.
    - b. Changes in the number of days in the utility billing cycle.
    - c. Changes in the square footage of the facility.
    - d. Changes in the operational schedule of the facility.
    - e. Changes in facility temperature.
    - f. Significant changes in the weather.
    - g. Significant changes in the amount of equipment or lighting utilized in the facility.
    - h. Significant changes in the nature or intensity of energy use such as the change of classroom space to laboratory space.
  2. A payment schedule, with payments over a period of not more than the expected life of the energy cost savings measures implemented (according to the manufacturer's equipment standards), the term of the financial agreement or 25 years, whichever is shortest.
  3. A requirement that all payments, except obligations on termination of the contract before its expiration, be made pursuant to the terms of the financing agreement.
  4. A written guarantee from the qualified provider that the energy savings will meet or exceed the costs of the energy cost savings measures over the expected life of the energy cost savings measures implemented (according to the manufacturer's equipment standards), the term of the financial agreement or 25 years, whichever is shortest. The school district shall ensure that the contractor:
    - a. For the term of the guaranteed energy cost savings contract, prepares a measurement and verification report on an annual basis in addition to an annual reconciliation of savings.
    - b. Reimburses the school district for any shortfall of guaranteed energy cost savings on an annual basis.
    - c. Uses the international performance and measurement and verification protocol standards or the federal energy management program standards to validate the savings guarantee.
- I.** A school district may utilize a simplified energy performance contract for projects less than \$500,000. Simplified energy performance contracts are not required to include an energy savings guarantee and shall comply with all requirements in this Section except for subsections (D), (H)(1)(a) through (h) and (H)(4)(a) through (c).
- J.** This Section does not apply to the construction of new buildings.
- K.** For all projects under this Section, the school district shall report to the governor's office of energy policy:
1. The name of the project.
  2. The qualified provider.
  3. The total cost of the project.
  4. The expected energy cost savings and relevant escalators.
  5. The agreed on baseline in the measurement and verification agreement in both kilowatt hours and dollars.

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**Historical Note**

New Section made by final exempt rulemaking at 21 A.A.R. 1525, effective July 1, 2014 (Supp. 15-3); effective year corrected in Supp. 18-2. Amended by final exempt rulemaking at 26 A.A.R. 597, effective July 1, 2020 (Supp. 20-1).

**R7-2-1070. Guaranteed Energy Production Contracts**

- A.** A school district may procure a guaranteed energy production contract with a qualified provider through competitive sealed proposals in accordance with R7-2-1041 through R7-2-1050.
1. The request for proposals evaluation factors required by R7-2-1042(A)(1)(h) shall include objective criteria for selecting the qualified provider, including the guaranteed energy price, the guaranteed energy production, the quality of the technical approach, the quality of the project management plan, the financial solvency of the qualified provider and the experience of the qualified provider with projects of similar size and scope.
  2. Notwithstanding R7-2-1042(A)(1)(h), the request for proposals shall set forth the respective numerical weighting for each evaluation criterion.
  3. The school district may obtain any required financing as part of the original competitive sealed proposal process from the qualified provider, or from a third-party financing institution procured separately in accordance with Articles 10 and 11.
  4. When submitting a proposal for the installation of equipment, the qualified provider shall include information containing the guaranteed energy production associated with each proposed energy production measure. The school district shall review and approve this guarantee before the actual installation of any equipment. The qualified provider shall transmit a copy of the approved guarantee to the school facilities board and the governor's office of energy policy.
  5. A qualified provider is a person that is experienced in designing, implementing or installing energy cost savings measures, that has demonstrated technical, operational, financial and managerial capabilities to design and operate cost savings measures and projects and that has the financial ability to satisfy guarantees for guaranteed energy production, financial solvency and experience for projects of similar size and scope.
- B.** In selecting a contractor to perform any construction work related to performing the guaranteed energy production contract, the qualified provider may:
1. Develop and use a prequalification process for contractors.
  2. Require the contractor to demonstrate that the contractor is adequately bonded to perform the work and that the contractor has not failed to perform on a prior job.
- C.** A guaranteed energy production contract shall include a guaranteed energy price, and a written guaranteed energy production as measured on an annual basis over the expected life of the energy production measures implemented or within twenty-five years, whichever is shorter. The school district shall ensure that the contractor:
1. Prepares a measurement and verification report on an annual basis in addition to an annual reconciliation of any guaranteed energy production shortfall.
  2. Reimburses the school district for any guaranteed energy production shortfall on an annual basis by multiplying any energy production shortfall by either the difference between the guaranteed energy price and the effective utility rate, or an alternative method as mutually agreed on by the school district and the provider.

- D.** The selected qualified provider shall provide a performance bond in accordance with R7-2-1103(A)(1)(c).
- E.** The selected qualified provider shall make public information in the subcontractor's bids.
- F.** For all projects under this Section, the school district shall report to the governor's office of energy policy and the school facilities board:
1. The name of the project.
  2. The qualified provider.
  3. The total cost of the project.
  4. The expected guaranteed energy production and guaranteed energy price, including relevant escalators, if applicable, over the term of the guaranteed energy production contract.
- G.** For all projects under this Section, the school district shall annually report the actual energy production and guaranteed energy price to the school facilities board no later than October 15.

**Historical Note**

New Section made by final exempt rulemaking at 21 A.A.R. 1525, effective July 1, 2014 (Supp. 15-3); effective year corrected in Supp. 18-2.

**GENERAL CONTRACT REQUIREMENTS****R7-2-1071. Reserved****R7-2-1072. Cancellation of Solicitations; Rejection of Bids and Proposals**

Each solicitation issued by the school district shall state that the solicitation may be canceled or bids or proposals rejected if it is advantageous to the school district.

**Historical Note**

Adopted effective December 17, 1987 (Supp. 87-4).

**R7-2-1073. Cancellation of Solicitation Before the Due Date and Time**

- A.** Before the due date and time, a solicitation may be canceled in whole or in part if the school district determines that cancellation is advantageous to the school district. The reasons for the cancellation shall be made part of the procurement file.
- B.** The school district shall notify in writing all persons to whom the original notice or solicitation was distributed by the school district. Notice shall be in the same manner as the original notice or solicitation, including posting on a designated site on the Internet, as applicable.
- C.** The school district shall not open bids or proposals after cancellation. The school district may discard the bid or proposal 30 days after notice is given in accordance with subsection (B), unless the bidder or offeror requests the bid or proposal be returned.

**Historical Note**

Adopted effective December 17, 1987 (Supp. 87-4).  
Amended by final exempt rulemaking at 21 A.A.R. 1525, effective July 1, 2014 (Supp. 15-3); effective year corrected in Supp. 18-2.

**R7-2-1074. Cancellation of Solicitation After Bid or Proposal Opening and Before Award**

- A.** After opening of bids or proposals but before award, a solicitation may be canceled in whole or in part if the school district determines that cancellation is advantageous to the school district. The reasons for the cancellation shall be made part of the procurement file.
- B.** The school district shall notify bidders or offerors of the cancellation in writing.

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- C. The school district shall retain bids or proposals received under the canceled solicitation in the procurement file. If the school district intends to issue another solicitation within six months after cancellation of the procurement, the school district shall withhold the bids or proposals from public inspection. After award of a contract under the subsequent solicitation, the school district shall make bids or proposals submitted in response to the canceled solicitation available for public inspection except for information determined to be confidential pursuant to R7-2-1006.
- D. In the event of cancellation, the school district shall promptly return any bid security provided by a bidder or offeror.

**Historical Note**

Adopted effective December 17, 1987 (Supp. 87-4).  
Amended by final exempt rulemaking at 21 A.A.R. 1525, effective July 1, 2014 (Supp. 15-3); effective year corrected in Supp. 18-2.

**R7-2-1075. Rejection of Individual Bids and Proposals**

- A. A bid or proposal may be rejected in whole or in part if:
1. The person responding to the solicitation is determined to be nonresponsive pursuant to R7-2-1076;
  2. It is nonresponsive or unacceptable;
  3. The proposed price is unreasonable; or
  4. It is otherwise not advantageous to the school district.
- B. Bidders or offerors whose bids or proposals are rejected shall be notified. A record of the rejection shall be retained in the procurement file.

**Historical Note**

Adopted effective December 17, 1987 (Supp. 87-4).  
Amended by final exempt rulemaking at 21 A.A.R. 1525, effective July 1, 2014 (Supp. 15-3); effective year corrected in Supp. 18-2.

**R7-2-1076. Responsibility of Bidders and Offerors**

- A. The school district shall make a written determination that a bidder or offeror is responsible before awarding a contract to that bidder or offeror.
- B. If the school district determines a bidder or offeror is nonresponsive, the school district shall promptly send a determination to the bidder or offeror stating the basis for the determination. The school district shall file a copy of the determination in the procurement file.
- C. A finding of nonresponsibility shall not be construed as a violation of the rights of any person.
- D. If the school district included specific responsibility criteria in the solicitation, such criteria shall be considered in determining if a bidder or offeror is responsible.
- E. Factors to be considered in determining if a bidder or offeror is responsible may include:
1. The bidder or offeror's financial, material, personnel or other resources, including subcontracts;
  2. The bidder or offeror's record of performance and integrity;
  3. Whether the bidder or offeror has been debarred or suspended; and
  4. Whether the bidder or offeror is qualified legally to contract with the school district.
- F. The unreasonable failure of a bidder or offeror to promptly supply information in connection with an inquiry with respect to responsibility shall be grounds for a determination of nonresponsibility with respect to the bidder or offeror.
- G. As required by A.R.S. § 41-2540(B), information furnished by a bidder or offeror pursuant to this Section shall not be disclosed outside of the school district without prior written con-

sent by the bidder or offeror except to law enforcement agencies.

**Historical Note**

Adopted effective December 17, 1987 (Supp. 87-4).  
Amended by final exempt rulemaking at 21 A.A.R. 1525, effective July 1, 2014 (Supp. 15-3); effective year corrected in Supp. 18-2.

**R7-2-1077. Prequalification of Contractors for Materials, Services and Construction**

- A. Prospective contractors may be prequalified for particular types of materials, services and construction. Prospective contractors have a continuing duty to provide the school district with information on any material change affecting the basis of prequalification. Solicitation mailing lists of prospective contractors shall include the prequalified contractors.
- B. A prospective contractor need not be prequalified to be awarded a contract. Prequalification does not represent a determination of responsibility.
- C. The existence of a qualified product list pursuant to R7-2-1011(D) does not constitute prequalification of any prospective supplier of that product.

**Historical Note**

Adopted effective December 17, 1987 (Supp. 87-4).  
Amended by final exempt rulemaking at 21 A.A.R. 1525, effective July 1, 2014 (Supp. 15-3); effective year corrected in Supp. 18-2.

**R7-2-1078. Bid and Contract Security**

- A. Bid and performance bonds or other security may be required for material or service contracts to guarantee faithful bid and contract performance if the governing board determines that such requirement is advantageous to the school district. In determining the amount and type of security required for each contract, the governing board shall consider the nature of the performance and the need for future protection to the school district. The requirement for bonds or other security shall be included in the solicitation.
- B. Bid or performance bonds shall not be used as a substitute for a determination of bidder or offeror responsibility.
- C. If a bid or proposal is withdrawn at any time before bid or proposal opening, any bid security shall be returned to the bidder or offeror.
- D. After the contract is awarded, any bid security shall be returned to the unsuccessful bidders or offerors. Upon execution of the contract, if performance bonds or other security were not required, or upon receipt of the specified bonds, if performance bonds or other security were required, the school district shall return any bid security provided by the successful bidder or offeror.

**Historical Note**

Adopted effective December 17, 1987 (Supp. 87-4).  
Amended by final exempt rulemaking at 21 A.A.R. 1525, effective July 1, 2014 (Supp. 15-3); effective year corrected in Supp. 18-2.

**R7-2-1079. Cost or Pricing Data**

- A. The submission of current cost or pricing data may be required in connection with an award in situations in which analysis of the proposed price is essential to determine that the price is fair and reasonable. A contractor shall, except as provided in subsection (C), submit current cost or pricing data and shall certify that, to the best of the contractor's knowledge and belief, the cost or pricing data submitted is accurate, complete and current as of a mutually determined specified date before the date of either:

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1. The pricing of any contract awarded by competitive sealed proposals or pursuant to the sole source procurement authority, if the total contract price is expected to exceed \$100,000.
  2. The pricing of any change order or contract modification which is expected to increase the total contract price which will then exceed \$100,000.
- B.** Any contract, change order or contract modification for which certified cost or pricing data is required shall contain a provision that the price to the school district shall be adjusted to exclude any significant amounts by which the school district finds that the price was increased because the contractor-furnished cost or pricing data was inaccurate, incomplete or not current as of the date agreed on between the parties. Such adjustment by the school district may include profit or fee. The school district may reduce the contract price pursuant to R7-2-1081.
- C.** The requirements of this Section may be waived if any of the following apply:
1. The contract price is based on adequate price competition.
  2. The contract price is based on established catalog prices or market prices.
  3. Contract prices are set by law or regulation.
  4. It is determined in writing by the school district that the waiver is advantageous to the school district. The determination shall include the reasons why the waiver is advantageous to the school district.
- D.** When applicable, the solicitation shall include a notice that certified cost or pricing data shall be submitted.
- E.** In an emergency, cost or pricing data may be submitted at a reasonable time after the contract is awarded.
- F.** A copy of all determinations by the school district that pertain to the submission of cost or pricing data shall be retained in the procurement file.
- D.** If certification of either current cost or pricing data is required, the awarded contract shall include notice of the right of the school district to a reduction in price if certified cost or pricing data are subsequently determined to be defective.

**Historical Note**

Adopted effective December 17, 1987 (Supp. 87-4).  
Amended by final exempt rulemaking at 21 A.A.R. 1525, effective July 1, 2014 (Supp. 15-3); effective year corrected in Supp. 18-2.

**R7-2-1082. Right to Inspect Plant**

The school district may at reasonable times inspect the part of the plant or place of business of a contractor or any subcontractor which is related to the performance of any contract awarded or to be awarded by the school district.

**Historical Note**

Adopted effective December 17, 1987 (Supp. 87-4).

**R7-2-1083. Right to Audit Records**

- A.** The school district may, at reasonable times and places, audit the books and records of any person who submits cost or pricing data as provided in R7-2-1079 to the extent that the books and records relate to the cost or pricing data. Any person who receives a contract, change order or contract modification for which cost or pricing data is required shall maintain the books and records that relate to the cost or pricing data for five years after completion of the contract.
- B.** The school district is entitled to audit the books and records of a contractor or any subcontractor under any contract or subcontract to the extent that the books and records relate to the performance of the contract or subcontract. The books and records shall be maintained by the contractor for a period of five years after completion of the contract and by the subcontractor for a period of five years after completion of the subcontract.

**Historical Note**

Adopted effective December 17, 1987 (Supp. 87-4).  
Amended by final exempt rulemaking at 21 A.A.R. 1525, effective July 1, 2014 (Supp. 15-3); effective year corrected in Supp. 18-2.

**R7-2-1080. Refusal to Submit Cost or Pricing Data**

- A.** If the offeror fails to submit cost or pricing data in the required form, the school district may reject the proposal.
- B.** If a contractor fails to submit data to support a price adjustment in the form required, the school district may:
1. Reject the price adjustment; or
  2. Set the amount of the price adjustment subject to the contractor's rights under R7-2-1141 through R7-2-1185.

**Historical Note**

Adopted effective December 17, 1987 (Supp. 87-4).  
Amended by final exempt rulemaking at 21 A.A.R. 1525, effective July 1, 2014 (Supp. 15-3); effective year corrected in Supp. 18-2.

**R7-2-1081. Defective Cost or Pricing Data**

- A.** The school district may reduce the contract price if, upon determination, the cost or pricing data are defective.
- B.** The contract price shall be reduced in the amount of the defect plus related overhead and profit or fee if the school district relied upon the defective data in awarding the contract.
- C.** Any dispute as to the existence of defective cost or pricing data or the amount of an adjustment due to defective cost or pricing data may be appealed as a contract controversy under R7-2-1141 through R7-2-1185. Pending appeal, the adjusted contract price shall remain in effect.

**R7-2-1084. Anticompetitive Practices**

- A.** If for any reason collusion or other anticompetitive practices are suspected among any bidders or offerors, a notice or the relevant facts shall be transmitted to the governing board and the attorney general. This Section does not require a law enforcement agency conducting an investigation into such practices to convey such notice to the school district.
- B.** Upon submitting a bid or proposal, the bidder or offeror shall certify on a form prescribed by the school district that the submission of the bid or proposal did not involve collusion or other anticompetitive practices.

**Historical Note**

Adopted effective December 17, 1987 (Supp. 87-4).  
Amended by final exempt rulemaking at 21 A.A.R. 1525, effective July 1, 2014 (Supp. 15-3); effective year corrected in Supp. 18-2.

**R7-2-1085. Retention of Procurement Records**

All procurement records shall be retained and disposed of in accordance with records retention guidelines and schedules approved by the Arizona State Library, Archives and Public Records.

**Historical Note**

Adopted effective December 17, 1987 (Supp. 87-4).  
Amended by final exempt rulemaking at 21 A.A.R. 1525,

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effective July 1, 2014 (Supp. 15-3); effective year corrected in Supp. 18-2.

**R7-2-1086. Record of Procurement Actions**

- A. The school district shall maintain a record listing all contracts made under R7-2-1053, Sole source procurements, or R7-2-1055, Emergency procurements, for a minimum of five years. The record shall contain:
1. Each contractor's name.
  2. The amount and type of each contract.
  3. A listing of the materials, services or construction procured under each contract.
- B. The record shall be available for public inspection.

**Historical Note**

Adopted effective December 17, 1987 (Supp. 87-4).  
Amended by final exempt rulemaking at 21 A.A.R. 1525,  
effective July 1, 2014 (Supp. 15-3); effective year corrected in Supp. 18-2.

**R7-2-1087. Contract Clauses**

- A. The school district shall include in solicitations and contracts all contract clauses necessary to ensure the school district's interests are addressed. The school district may modify clauses for inclusion in any particular school district contract, provided that any variations are supported by a written determination that states the circumstances justifying the variation and provided that notice of any material variation is stated in the solicitation.
- B. All contract clauses shall be consistent with the provisions of Articles 10 and 11.
- C. The school district may permit or require the inclusion of clauses providing for appropriate remedies, adjustments in prices, time of performance or other contract provisions.
- D. A contract for the procurement of construction or construction services shall include a provision for the recovery of damages related to expenses incurred by the contractor for a delay for which the school district is responsible, that is unreasonable under the circumstances and that was not within the contemplation of the parties to the contract. This subsection does not void any provision in the contract that requires notice of delays, provides for arbitration or any other procedure for settlement or provides for liquidated damages.
- E. A provision, covenant, clause or understanding in, collateral to or affecting a construction contract or design professional service contract that makes the contract subject to the laws of another state or that requires any litigation, arbitration or other dispute resolution proceeding arising from the contract to be conducted in another state is against the public policy of this state and is void and unenforceable.
- F. A provision or clause for contract termination in accordance with A.R.S. § 38-511. The school district may cancel the Contract within three years after Contract execution without penalty or further obligation if any person significantly involved in initiating, negotiating, securing, drafting, or creating the Contract on behalf of the school district is or becomes at any time while the Contract, or an extension of the Contract is in effect an employee of or a consultant to any party to the Contract with respect to the subject matter of the Contract. The cancellation shall be effective when the Contractor receives written notice of the cancellation unless the notice specifies a later time.
- G. A provision or clause for contract termination if it appears that any person has not complied with A.R.S. § 15-213(O). The school district or school purchasing cooperative may, by written notice, terminate the Contract, in whole or in part, if the school district or school purchasing cooperative determines that any person or vendor has offered, conferred or agreed to

confer any personal gift or benefit on any employee of the school district or school purchasing cooperative who supervised or participated in the planning, recommending, selecting or contracting of the Contract.

- H. A provision or clause for contract termination for gratuities. The school district or school purchasing cooperative may, by written notice, terminate the Contract in whole or in part, if the school district or school purchasing cooperative determines that employment or a gratuity was offered or made by the Contractor or a representative of the Contractor to any officer or employee of the school district or school purchasing cooperative for the purpose of influencing the outcome of the procurement or securing the Contract, an amendment to the Contract, or favorable treatment concerning the Contract, including making of any determination or decision about contract performance.
- I. A covenant, clause or understanding in, collateral to or affecting a construction contract or subcontract or a design professional services contract or subcontract that purports to indemnify, to hold harmless or to defend the promisee of, from or against liability for loss or damage resulting from the negligence of the promisee or the promisee's agents, employees or indemnitee is against the public policy of this state and is void.
- J. If a design professional provides work, services, studies, planning, surveys or other preparatory work in connection with a public building or improvement, the school district or property owner may require that the design professional services contract or subcontract require the design professional to indemnify and hold harmless the school district or property owner, and its officers and employees, from liabilities, damages, losses and costs, including reasonable attorney fees and court costs, but only to the extent caused by the negligence, recklessness or intentional wrongful conduct of such design professional or other persons employed or used by such design professional in the performance of the contract or subcontract.
- K. A design professional services subcontract entered into in connection with a public building or improvement may also require any design professional to indemnify and hold harmless the school district or property owner and the indemnified design professional who executed the subcontract, and their respective owners, officers and employees, from liabilities, damages, losses and costs, including reasonable attorney fees and court costs, but only to the extent caused by the negligence, recklessness or intentional wrongful conduct of such design professional, or persons employed or used by the indemnifying design professional in connection with the subcontract.
- L. Nothing in this Section shall prohibit the requirement of insurance coverage that complies with this Section, including the designation of the school district or property owner as an additional insured on a general liability insurance policy or as a designated insured on an automobile liability policy provided in connection with a construction contract or subcontract or design professional services contract or subcontract.
- M. Notwithstanding subsection (I), a contractor who is responsible for the performance of a construction contract or subcontract may fully indemnify a person, firm, corporation, state or other agency for whose account the construction contract or subcontract is not being performed and that, as an accommodation, enters into an agreement with the contractor that permits the contractor to enter on or adjacent to its property to perform the construction contract or subcontract for others.
- N. Except as provided in subsections (J), (K) and (L), a design professional services contract or subcontract entered into in connection with a public building or improvement shall not require that a design professional defend, indemnify, insure or



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hold harmless the school district or property owner or its employees, officers, directors, agents, contractors or subcontractors from any liability, damage, loss, claim, action or proceeding, and any contract provision that is not permitted by subsections (J), (K) and (L) is against the public policy of this state and is void.

- O.** If any provision or condition contained in this Section conflicts with any provision of a contract between the school district and the federal government, such provision shall not apply to any construction contract or subcontract, or design professional services contract or subcontract to the extent such conflict exists, but all provisions of this Section with which there is no such conflict, shall apply.
- P.** In this Section:
1. "Construction contract or subcontract" means a written or oral agreement relating to the construction, alteration, repair, maintenance, relocation, moving, demolition or excavation of a structure, street or roadway, appurtenance, facility, development, or other improvement to land.
  2. "Design professional services" means architect services, engineer services, land surveying services, geologist services or landscape architect services or any combination of those services performed by or under the supervision of a design professional or any person employed by the design professional.
  3. "Design professional services contract or subcontract" means a written or oral agreement relating to the planning, design, construction administration, study, evaluation, consulting, inspection, surveying, mapping, material sampling, testing or other professional, scientific or technical services furnished in connection with any actual or proposed study, planning, survey, environmental remediation, construction, improvement, alteration, repair, maintenance, relocation, moving, demolition or excavation of a structure, street or roadway, appurtenance, facility, development or other improvement to land.
  4. "Other persons employed or used" means a subcontractor to a contractor or design professional in any tier, or any other person or entity who performs work or design professional services, or provides labor, services, materials or equipment in connection with a construction contract or subcontract or design professional service contract or subcontract subject to this Section.

**Historical Note**

New Section made by final exempt rulemaking at 21 A.A.R. 1525, effective July 1, 2014 (Supp. 15-3); effective year corrected in Supp. 18-2. Amended by final exempt rulemaking at 26 A.A.R. 597, effective July 1, 2020 (Supp. 20-1).

**R7-2-1088. Reserved**

**R7-2-1089. Reserved**

**R7-2-1090. Reserved**

**CONTRACT TYPES**

**R7-2-1091. Repealed**

**Historical Note**

Adopted effective December 17, 1987 (Supp. 87-4). Section repealed by final exempt rulemaking at 21 A.A.R. 1525, effective July 1, 2014 (Supp. 15-3); effective year corrected in Supp. 18-2.

**R7-2-1092. Authority to Use Contract Types**

Subject to the limitations of this Section, any type of contract that would be advantageous to the school district may be used, except that the use of a cost-plus-a-percentage-of-cost contract is prohibited.

**Historical Note**

Adopted effective December 17, 1987 (Supp. 87-4). Section repealed; new Section amended by final exempt rulemaking at 21 A.A.R. 1525, effective July 1, 2014 (Supp. 15-3); effective year corrected in Supp. 18-2.

**R7-2-1093. Multiterm Contracts**

- A.** Unless otherwise provided by law, multiterm contracts for materials or services and contracts for job-order-contracting construction services may be entered into if the duration of the contract and the conditions of renewal or extension, if any, are included in the invitation for bids or the request for proposals and if monies are available for the first fiscal period at the time the contract is executed. The duration of contracts for materials or services and contracts for job-order-contracting construction services shall be limited to no more than five years unless the governing board determines in writing before the procurement solicitation is issued that a contract of longer duration would be advantageous to the school district. Payment and performance obligations for succeeding fiscal periods are subject to the availability and appropriation of monies.
- B.** Before the use of a multiterm contract, it shall be determined in writing by the governing board that:
1. Estimated requirements cover the period of the contract and are reasonable and continuing.
  2. Such a contract will be advantageous to the school district by encouraging effective competition or otherwise promoting economies in school district procurement.
- C.** The school district shall include in all multiterm contracts a clause specifying that the contract shall be canceled if monies are not appropriated or otherwise made available to support the continuation of performance in a subsequent fiscal year.
- D.** If monies are not appropriated or otherwise made available to support continuation of performance in a subsequent fiscal period, the contract shall be canceled and the contractor may only be reimbursed for the reasonable value of any nonrecurring costs incurred but not amortized in the price of the materials or services delivered under the contract or which are otherwise not recoverable. The cost of cancellation may be paid from any appropriations available for such purposes.
- E.** A contract for specified professional services shall have a term not to exceed five years after the date of contract award by the school district of the first contract under the procurement, except that the contract may continue in effect after the five year term for projects on which the rendering of specified professional services commences within the five year term.
- F.** Notwithstanding this Section, contracts for auditors and auditing firms shall have a term as prescribed in A.R.S. § 15-213.

**Historical Note**

Adopted effective December 17, 1987 (Supp. 87-4). Section amended by final exempt rulemaking at 21 A.A.R. 1525, effective July 1, 2014 (Supp. 15-3); effective year corrected in Supp. 18-2. Amended by final exempt rulemaking at 24 A.A.R. 3283, effective October 22,

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2018 (Supp. 18-4).

**R7-2-1094. Reserved**

**R7-2-1095. Reserved**

**R7-2-1096. Reserved**

**R7-2-1097. Reserved**

**R7-2-1098. Reserved**

**R7-2-1099. Reserved**

**ARTICLE 11. SCHOOL DISTRICT PROCUREMENT  
(CONTINUED)**

**PROCUREMENT OF CONSTRUCTION**

**R7-2-1100. Construction Project Delivery Methods**

- A.** For the design-bid-build project delivery method, the school district shall procure:
  - 1. Design services pursuant to R7-2-1117 through R7-2-1123, except as authorized by R7-2-1053 and R7-2-1055.
  - 2. Construction by competitive sealed bidding pursuant to R7-2-1021 through R7-2-1032 and R7-2-1102 through R7-2-1105, except as authorized by R7-2-1033, R7-2-1053, R7-2-1055, and R7-2-1101.
- B.** For construction-manager-at-risk, design-build and job-order-contracting project delivery methods, the school district shall procure construction services pursuant to R7-2-1102 through R7-2-1115.
- C.** For construction-manager-at-risk project delivery method, the school district shall purchase design services pursuant to R7-2-1117 through R7-2-1123.
- D.** For job-order-contracting project delivery method, the school district may include design services in the job-order-contracting construction services contract, but if the school district does not include design services in the contract, the school district shall procure any design services relating to construction services projects under the contract pursuant to R7-2-1117 through R7-2-1123.

**Historical Note**

New Section made by final exempt rulemaking at 21 A.A.R. 1525, effective July 1, 2014 (Supp. 15-3); effective year corrected in Supp. 18-2.

**R7-2-1101. Qualified Select Bidders List**

- A.** The school district may use the qualified select bidders list method to determine the vendors who receive the notice of competitive sealed bidding for a construction contract. The qualified select bidders list shall be determined in accordance with this Section.
- B.** Sealed prime contractor or construction materials supplier statements of qualifications shall be solicited through requests for qualifications.
  - 1. Notice of the request for qualifications shall be given by the school district pursuant to R7-2-1022 and R7-2-1024(C).
  - 2. Requests for qualifications shall be issued at least 21 days before the due date and time for submission.
  - 3. Use of the qualified select bidders list shall be restricted to the specific project identified in the request for qualifications.
  - 4. The qualified select bidders list shall consist of at least three prime contractors when a contractor is solicited or three construction material suppliers when material suppliers are solicited.

- 5. The qualified select bidders list for any specific project is valid for one year but may be extended for an additional year, at the option of the school district.
- C.** The request for qualifications shall include the following:
  - 1. Notice that all information and statements of qualifications submitted by persons will be made available for public inspection following the establishment of a qualified select bidders list.
  - 2. Instructions and information to persons concerning the statement of qualifications submission requirements, including the due date and time for submission, the address of the office at which the statements of qualifications are to be received, and any other special information.
  - 3. The anticipated evaluation period and selection of a qualified select bidders list.
  - 4. General information on the project site or sites, scope of work, schedule, evaluation criteria, project design and construction budget, or life cycle budget for a procurement that includes maintenance, operations, and finance services.
  - 5. The weight prescribed by the school district for each of the criteria to be used in making the evaluation.
  - 6. The criteria to be used in making the evaluation, which shall include at a minimum:
    - a. Person's capabilities and qualifications for performing the scope of work;
    - b. Person's project team, and key members' education, training and qualifications;
    - c. Method of approach, including subcontractor plan, safety plan;
    - d. Safety record and worker's compensation rate;
    - e. Projected construction schedule;
    - f. Current workload;
    - g. Five most recent representative examples of similar work along with references for each example;
    - h. Current bonding availability and capacity;
    - i. Any judgment or liens against the person within the last three years;
    - j. Any current unresolved bond claims against the person;
    - k. Any deficiency orders issued against the prime contractor by the Arizona Registrar of Contractors within the last three years; and
    - l. Any filing under the United States Bankruptcy Code, assignments for the benefit of creditors, or other measures taken for the protection against creditors during the last three years.
  - 7. The type of contract to be used.
  - 8. The name of the district representative or district representatives.
  - 9. The expiration date of the qualified select bidders list if less than one year.
  - 10. A statement that the school district reserves the right to conduct interviews as part of the evaluation process.
  - 11. The date, time and location of any pre-submittal conference.
- D.** The school district may conduct a pre-submittal conference not less than 14 days prior to the statement of qualifications due date and time for the purposes of explaining the requirements of the request for qualifications.
- E.** Amendments to request for qualifications.
  - 1. An amendment to a request for qualifications shall be issued if necessary to do any of the following:
    - a. Make changes in the request for qualifications;
    - b. Correct defects or ambiguities;

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- c. Furnish to persons information given to any other person, if the information will assist the persons in submitting their statements of qualifications or if the lack of the information will prejudice the persons;
  - d. Provide additional information or instructions; or
  - e. Extend the due date and time if the school district determines that an extension is advantageous to the school district.
- 2. Amendments to a request for qualifications shall be so identified and the school district shall ensure that the amendments are distributed or made available to all persons to whom the original request for qualifications was distributed or made available. The school district shall make a copy of the amendments to a request for qualifications available for public inspection at the school district office. If the school district posted the request for qualifications or a notice of the availability of a request for qualifications on a designated site on the Internet, then the school district shall post any amendments to the request for qualifications on the same designated site on the Internet. The school district shall also do one or more of the following:
  - a. Distribute the amendment, by any method reasonably calculated to ensure delivery, to all persons to whom the request for qualifications was distributed;
  - b. Make the amendment available and issue a notice of amendment which contains instructions for obtaining copies of the amendment. The notice of amendment shall be distributed, by any method reasonably calculated to ensure delivery, to all persons to whom the request for qualifications was distributed. Upon receipt of such notice of amendment, it is the responsibility of the person to obtain the amendment.
- 3. Amendments to request for qualifications shall be issued within a reasonable time before the due date and time to allow persons to consider them in preparing their statements of qualifications. If the school district determines that the due date and time in the request for qualifications does not permit sufficient time for statement of qualifications preparation, the due date and time shall be extended in the amendment or, if necessary, by telephone, facsimile, email, or other communications methods, and confirmed in the amendment.
- 4. A person shall acknowledge receipt of an amendment in the manner specified in the request for qualifications or the amendment on or before the due date and time.
- F. Pre-submittal modification or withdrawal of statements of qualifications**
  - 1. A person may modify or withdraw a statement of qualifications in writing at any time before the prescribed due date and time if the modification or withdrawal is received before the due date and time at the location designated in the request for qualifications for receipt of statements of qualifications.
  - 2. All documents concerning a modification or withdrawal of a statement of qualifications shall be retained in the procurement file.
- G. Late statements of qualifications, late withdrawals and late modifications**
  - 1. A statement of qualifications, modification or withdrawal is late if it is received at the location designated in the request for qualifications for receipt of statements of qualifications after the due date and time.
  - 2. A late statement of qualifications, late modification, or late withdrawal shall be rejected, unless the statement of qualifications, modification or withdrawal would have been timely received but for the action or inaction of school district personnel and is received before the qualified select bidders list is established.
- 3. Upon receiving a late statement of qualifications, late modification, or late withdrawal, the school district shall record the time and date of receipt and promptly send notice of late receipt to the person. The school district may discard the document 30 days after the date on the notice unless the person requests the document be returned.
- 4. All documents concerning acceptance of a late statement of qualifications, late modification, or late withdrawal shall be retained in the procurement file.
- H. Receipt, opening and recording statements of qualifications**
  - 1. A school district shall maintain a record of statements of qualifications and modifications received for each solicitation, shall record the time and date when each statement of qualifications or modification is received, and shall store each unopened statement of qualifications or modification in a secure place until the due date and time.
    - a. If required to confirm a vendor's inquiry regarding receipt of its statement of qualifications prior to the due date and time, a school district may open a statement of qualifications to identify the vendor. If this occurs, the school district shall record the reason for opening the statement of qualifications, the date and time the statement of qualifications was opened, and the solicitation number. The school district shall secure the statement of qualifications and retain it for public opening.
    - b. One or more witnesses shall be present for the opening of a statement of qualifications under subsection (H)(1)(a).
  - 2. Statements of qualifications and modifications shall be opened publicly at the date, time and location designated in the request for qualifications in the presence of one or more witnesses. The name of each person and any other relevant information deemed appropriate by the school district shall be recorded. The person opening the statements of qualifications and all witnesses shall sign the record.
    - a. The record created in subsection (H)(2) shall be available for public inspection.
    - b. The statements of qualifications shall not be open for public inspection until after the qualified select bidders list has been established.
- I. Establishing the qualified select bidders list.**
  - 1. The qualified select bidders list shall be established by determining the highest rated persons from the statements of qualifications received. This will be a minimum of three and a maximum of five.
  - 2. For each qualified select bidders list process there will be established by the school district an evaluation committee composed of five members. These members shall include the project designer or construction material specifier, one member from the prime contracting or construction material supplier community that performs commensurate level work and is disinterested in this project, a school district facilities representative and two other members as designated by the school district.
  - 3. The evaluation committee shall review and score each statement of qualifications received according to the established evaluation criteria. The committee shall rank the statements of qualifications in accordance with the scores.

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4. The committee may conduct interviews before making the final determination of the qualified select bidders list. The committee shall document the interviews in writing.
  5. The committee shall select at least three and not more than five of the highest scoring persons for the qualified select bidders list.
  6. The district representative shall review the committee's qualified select bidders list. The district representative shall:
    - a. Accept the list as submitted;
    - b. Return the list for additional committee review;
    - c. Reject the list and terminate the process.
  7. A one-year eligibility period for the qualified select bidders list shall begin on the date the district representative accepts it. The qualified select bidders list may be extended one year at the option of the school district.
  8. Once the qualified select bidders list is established, a written notice of the selected persons shall be sent to all the persons that submitted statements of qualifications.
  9. After the establishment of the qualified select bidders list, a written record showing the basis for determining the qualified select bidders list shall be prepared by the district representative and retained in the procurement file. Within 10 days after the qualified select bidders list has been established, the school district shall make the procurement file, including all statements of qualifications, available for public inspection.
    - a. If the procurement file contains information that is confidential under R7-2-1006, a copy of the applicable documents with the confidential information redacted shall be placed in the procurement file for the purpose of public inspection.
    - b. The unredacted original copy of the confidential information shall be placed in a sealed envelope or other appropriate container, identified as confidential information, and maintained in the procurement file.
  10. The qualified select bidders shall be provided an invitation for bids in accordance with R7-2-1024 to R7-2-1032. For any projects not identified in the request for qualifications, the school district may not solicit bids on those projects under the qualified select bidders list either in the initial one-year period or the one-year extension period.
  11. The project identified in the request for qualifications shall have invitation for bids issued within the initial one-year period, or in the one-year extension period, to be awarded a contract under that qualified select bidders list.
- J.** Terminating the process for insufficient response or selection
1. In the event that less than three statements of qualifications are received, this procurement process shall cease and the school district may elect to reissue the request for qualifications or pursue other procurement methods.
  2. In the event that less than three persons are identified by the selection committee as being the most highly qualified, this procurement process shall cease and the school district may elect to reissue the request for qualifications or pursue other procurement methods.
- K.** A copy of the request for qualifications shall be made available for public inspection at the school district office.

**Historical Note**

Adopted effective December 17, 1987 (Supp. 87-4). Section repealed; new Section made by final exempt rulemaking at 21 A.A.R. 1525, effective July 1, 2014 (Supp. 15-3); effective year corrected in Supp. 18-2. Amended by final exempt rulemaking at 26 A.A.R. 597,

effective July 1, 2020 (Supp. 20-1).

**R7-2-1102. Bid Security**

- A.** Bid security shall be required for all competitive sealed bidding for construction contracts, and for all competitive sealed proposals for design-build construction services or job-order-contracting construction services procured pursuant to R7-2-1111, if the price, excluding the cost of any finance services, maintenance services, operations services, design services, preconstruction services, or other related services included in the contract, is estimated by the school district to exceed the amount established by R7-2-1002(A).
- B.** Invitations for bid on school district construction contracts and requests for proposals for design-build construction services or job-order-contracting construction services, shall require submission of bid security as follows:
1. For design-bid-build construction services, ten percent of the contractor's bid.
  2. For design-build construction services awarded by competitive sealed proposals pursuant to R7-2-1111, ten percent of the school district's construction budget for the project as stated in the request for proposals, excluding finance services, maintenance services, operations services, design services, preconstruction services or any other related services included in the contract.
  3. For job-order-contracting construction services awarded by competitive sealed proposals pursuant to R7-2-1111, the amount prescribed by the school district in the request for proposals, but not more than ten percent of the school district's reasonably estimated budget for construction that the school district believes is likely to actually be done during the first year under the contract, excluding any finance services, maintenance services, operations services, design services, preconstruction services or other related services included in the contract.
- C.** Acceptable bid security shall be limited to:
1. An annual or one-time bid bond executed and furnished as required by A.R.S. Title 34, Chapter 2 or 6, as applicable; or
  2. A certified check.
- D.** The school district may issue a written determination to accept the bid security if the bid security fails to comply in a nonsubstantial manner when:
1. Only one bid or proposal is received and there is not sufficient time to rebid or resolicit proposals;
  2. The amount of the bid security submitted, although less than the amount required by the invitation for bids or request for proposals, is equal to or greater than the difference between the apparent low bid or highest scoring proposal and the next higher acceptable bid or next highest scoring proposal; or
  3. The bid security is inadequate as a result of modifying or correcting a bid in accordance with R7-2-1027 or R7-2-1030, if the bidder increases the amount of security to required limits within two days after notification.
- E.** After the bids and proposals are opened, they are irrevocable for the period specified in the invitation for bids or request for proposals, except as provided in R7-2-1030. If a bidder or offeror is permitted to withdraw its bid before award, no action may be had against the bidder or offeror or the bid security.

**Historical Note**

Adopted effective December 17, 1987 (Supp. 87-4). Section repealed; new Section made by final exempt rulemaking at 21 A.A.R. 1525, effective July 1, 2014 (Supp. 15-3); effective year corrected in Supp. 18-2. Amended by final exempt rulemaking at 26 A.A.R. 597,

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effective July 1, 2020 (Supp. 20-1).

**R7-2-1103. Contract Performance and Payment Bonds**

A. The following bonds or security is required and is binding on the parties to the contract if the value of a construction or construction services award exceeds the amount established by R7-2-1002(A):

1. A performance bond that is executed and furnished as required under Arizona Revised Statutes Title 34, Chapter 2, Article 2 or Chapter 6, as applicable, in an amount equal to one hundred percent of the price specified in the contract conditioned on the faithful performance of the contract in accordance with the plans, specifications and conditions of the contract, except that:
  - a. For job-order-contracting construction services, the performance bond shall cover the full amount of construction under the job-order-contracting construction services contract, shall not include any design services, preconstruction services, finance services, maintenance services, operations services or other related services included in the contract, may be a single bond for the full term of the contract, a separate bond for each year of a multiyear contract or a separate bond for each job order, as determined by the school district, and, if a single bond for the full term of the contract or a separate bond for each year of a multiyear contract, shall initially be based on the school district's reasonable estimate of the amount of construction that the school district believes is likely to actually be done during the full term of the contract or during the particular year of a multiyear contract, as applicable.
  - b. For construction-manager-at-risk construction services and design-build construction services, the amount of the performance bond shall be the price of construction and shall not include the cost of any design services, preconstruction services, finance services, maintenance services, operations services and other related services included in the contract. This bond is solely for the protection of the school district. The conditions and provisions of the performance bond regarding the surety's obligations shall follow the form required under A.R.S. § 34-222(G) or A.R.S. § 34-610(G), as applicable.
  - c. For guaranteed energy cost savings contracts and guaranteed energy production contracts, the amount of the performance bond shall be one hundred percent of the project amount to the school district for its faithful performance of the equipment installment.
2. A payment bond that is executed and furnished as required by Arizona Revised Statutes Title 34, Chapter 2, Article 2 or Chapter 6, as applicable, in an amount equal to one hundred percent of the price specified in the contract for the protection of all persons supplying labor or material to the contractor or its subcontractors for the performance of the construction provided for in the contract, except that:
  - a. For job-order-contracting construction services, the payment bond shall cover the full amount of construction under the job-order-contracting construction services contract, shall not include any design services, preconstruction services, finance services, maintenance services, operations services or other related services included in the contract, may be a single bond for the full term of the contract, a separate bond for each year of a multiyear contract or a

separate bond for each job order, as determined by the school district, and, if a single bond for the full term of the contract or a separate bond for each year of a multiyear contract, shall initially be based on the school district's reasonable estimate of the amount of construction that the school district believes is likely to actually be done during the full term of the contract or during the particular year of a multiyear contract, as applicable.

- b. For construction-manager-at-risk construction services and design-build construction services, the amount of the payment bond shall be the price of construction and shall not include the cost of any design services, preconstruction services, finance services, maintenance services, operations services or other related services included in the contract. The conditions and provisions of the payment bond regarding the surety's obligations shall follow the form required under A.R.S. § 34-222(F) or A.R.S. § 34-610(F), as applicable.
- B. For design-bid-build construction, the bonds prescribed in subsection (A) shall be provided on and at the same time as execution of the construction contract. For construction-manager-at-risk, design-build and job-order-contracting construction services, the bonds prescribed in subsection (A) shall be provided only on and at the same time as execution of a contract or contract modification that commits the contractor to provide construction for a fixed price, guaranteed maximum price or other fixed amount within a designated time frame.
- C. If the prime contract or specifications require any persons supplying labor or materials in the prosecution of the work to furnish payment or performance bonds, these bonds shall be executed solely by a surety company or companies holding a certificate of authority to transact surety business in this state issued by the director of the Department of Insurance pursuant to Arizona Revised Statutes Title 20, Chapter 2, Article 1. Notwithstanding the provisions of any other statute, the bonds shall not be executed by an individual surety or sureties, even if the requirements of A.R.S. § 7-101 are satisfied.
- D. If a contractor fails to deliver the required performance bond or payment bond, the contractor's bid shall be rejected, its bid security shall be enforced, and award of the contract shall be made pursuant to Articles 10 and 11.
- E. This Section shall not be construed to limit the authority of the school district to require a performance bond or other security in addition to those bonds or in circumstances other than specified in subsection (A).
- F. Any person who furnishes labor or material to the contractor or its subcontractors for the work provided in the contract, in respect of which a payment bond is furnished under this Section, and who has not been paid in full within 90 days from the date on which the last of the labor was performed or material was supplied by the person for whom the claim is made has the right to sue on the payment bond for any amount unpaid at the time the suit is instituted and to prosecute the action for the amount due the person. However, any person who has a contract with a subcontractor of the contractor, but no express or implied contract with the contractor furnishing the payment bond, has a right of action on the payment bond on giving the contractor, only, a written preliminary 20-day notice as provided for in A.R.S. § 33-992.01, subsection (C)(1), (2), (3), and (4) and subsections (D), (E), and (H), and upon giving written notice to the contractor within 90 days from the date on which the last of the labor was performed or material was supplied by the person for whom the claim is made. The person shall state in the notice the amount claimed and the name of

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the party for whom the labor was performed or to whom the material was supplied. The notice shall be personally served or sent by registered mail, postage prepaid, in an envelope addressed to the contractor at any place the contractor maintains an office or conducts business.

**Historical Note**

Adopted effective December 17, 1987 (Supp. 87-4). Section repealed; new Section made by final exempt rulemaking at 21 A.A.R. 1525, effective July 1, 2014 (Supp. 15-3); effective year corrected in Supp. 18-2.

**R7-2-1104. Contract Payment Retention and Substitute Security**

- A.** Ten percent of all construction contract payments shall be retained by the school district as insurance of proper performance of the contract or, at the option of the contractor, a substitute security may be provided by the contractor pursuant to this Section. The contractor is entitled to all interest from any such substitute security. When the contract is fifty percent completed, one-half of the amount retained or securities substituted pursuant to this Section shall be paid to the contractor upon the contractor's request provided the contractor is making satisfactory progress on the contract and there is no specific cause or claim requiring a greater amount to be retained. After the contract is fifty percent completed, no more than five percent of the amount of any subsequent progress payments made under the contract shall be retained providing the contractor is making satisfactory progress on the project, except if at any time the governing board determines satisfactory progress is not being made, ten percent retention shall be reinstated for all progress payments made under the contract subsequent to the determination.
- B.** Notwithstanding subsection (A), there shall be no retention for job-order-contracting construction services contracts. The school district may elect to have no retention for construction-manager-at-risk and design-build construction services contracts. If the school district elects to have retention, then payment retention for construction-manager-at-risk and design-build contracts shall be in accordance with this Section.
- C.** Retention applies only to amounts payable for construction and does not apply to amounts payable for design services, preconstruction services, finance services, maintenance services, operations services, or any other related services included in the contract.
- D.** The form of substitute security is limited to the following:
1. An assignment of time certificates of deposit by financial institutions licensed by this state;
  2. Share certificate of a financial institution or credit union authorized to transact business in this state; or
  3. Security issued or guaranteed as to principal and interest by:
    - a. The United States;
    - b. The state;
    - c. Counties, municipalities and school districts within this state.
- E.** Conditions for use of substitute security.
1. A contractor may submit substitute security to replace contract payment retention if:
    - a. The use of substitute security is requested of the school district or designee for work performed under the contract. The contractor shall have the option of submitting the substitute security:
      - i. Prior to each progress payment in an amount of no less than five percent of each progress payment; or

- ii. Once, prior to the first progress payment in an amount no less than five percent of the total contract amount.

- b. The interest earned on such security shall accrue to the benefit of the contractor, but shall be retained until the school district has approved completion and acceptance of all work to be performed under the contract;
  - c. The term of such security shall not mature until after the estimated contract completion date; and
  - d. The security shall mature no later than one year after the estimated contract completion date.
2. The substitute security shall not be released without written approval by the school district.
3. A contractor may submit a single substitute security for more than one project provided that:
- a. The amount of such security is sufficient to cover the aggregate retention amount;
  - b. The school district determines that such single substitute security is advantageous to the school district; and
  - c. Such security complies with the requirements of subsection (E)(1).
- F.** Any retention shall be paid or substitute security shall be returned to the contractor within 60 days after final completion and acceptance of work under the contract. Retention of payments by a school district longer than 60 days after final completion and acceptance requires a specific written finding by the governing board of the reasons justifying the delay in payment. No school district may retain any monies after 60 days which are in excess of the amount necessary to pay the expenses the governing board reasonably expects to incur in order to pay or discharge the expenses determined in the finding justifying the retention of monies.
- G.** The school district shall not accept any substitute security unless accompanied by a signed and acknowledged waiver of any right or power of the obligor to set off any claim against either the school district or the contractor in relationship to the security assigned. In any instance in which the school district accepts substitute security as provided in this Section, any subcontractor undertaking to perform any part of the contract is entitled to provide such security to the contractor.

**Historical Note**

Adopted effective December 17, 1987 (Supp. 87-4). Section repealed; new Section made by final exempt rulemaking at 21 A.A.R. 1525, effective July 1, 2014 (Supp. 15-3); effective year corrected in Supp. 18-2.

**R7-2-1105. Progress Payments**

- A.** Progress payments may be made by the school district to the contractor on the basis of a duly certified and approved estimate of the work performed during the preceding month if the contractor agrees to adhere to the provisions of A.R.S. § 41-2577(B), (D), and (F). Payment shall be made within 14 days after the estimate of the work is certified and approved, except that a percentage of all estimates shall be retained as provided in R7-2-1104. The estimate of the work shall be deemed received by the school district on submission of the estimate of the work to the school district or a person designated by the school district for the submission, review or approval of the estimate of the work. An estimate of the work submitted under this Section shall be considered approved and certified after seven days from the date of submission unless before that time the school district or designee prepares and issues a specific written finding detailing those items in the estimate of the work that are not approved and certified under the contract or

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design professional service contract. The school district may withhold an amount from the progress payment sufficient to pay the expenses the school district reasonably expects to incur in correcting the deficiency set forth in the written finding. No contract for construction or design professional service contract may materially alter the rights of any contractor, subcontractor, design professional or material supplier to receive prompt and timely payment as provided under this Section. On completion and acceptance of separate divisions of the contract or design professional service contract on which the price is stated separately in the contract, payment may be made in full including retained percentages, less deductions, unless a substitute security has been provided pursuant to R7-2-1104.

- B. Progress payments pursuant to subsection (A) are authorized for construction services and design professional services contracts. The requirements of subsection (A) apply only to amounts payable in a construction services contract for construction and in a contract for design services and do not apply to amounts payable in a contract for preconstruction services, finance services, maintenance services, operations services or any other related services included in the contract.
- C. A subcontractor or design professional may notify the school district, in writing, requesting that the subcontractor or design professional be notified by the school district in writing within five days from payment of each progress payment made to the contractor. The subcontractor's or design professional's request remains in effect for the duration of the subcontractor's or design professional's work on the project.
- D. If any payment to a contractor is delayed after the date due, interest shall be paid at the rate of one percent per calendar month, or a fraction of a calendar month, on such unpaid balance as may be due.

**Historical Note**

Adopted effective December 17, 1987 (Supp. 87-4). Section repealed; new Section made by final exempt rulemaking at 21 A.A.R. 1525, effective July 1, 2014 (Supp. 15-3); effective year corrected in Supp. 18-2. Amended by final exempt rulemaking at 26 A.A.R. 597, effective July 1, 2020 (Supp. 20-1).

**R7-2-1106. Procurement of Construction Using Alternative Project Delivery Methods**

- A. A school district may use an alternative project delivery method if it determines in writing that such alternative project delivery method is advantageous to the school district. The following factors may be used for such determination:
  - 1. Cost and cost control method;
  - 2. Value engineering;
  - 3. Market conditions;
  - 4. Schedule;
  - 5. Required specialized expertise;
  - 6. Technical complexity of the project; or
  - 7. Project management.
- B. Use of alternative project delivery methods
  - 1. Alternative project delivery methods for construction services shall be procured as provided in R7-2-1100.
  - 2. For design-build construction services and construction-manager-at-risk construction services, the school district is limited to one contract per procurement.
    - a. Alternatively, for construction-manager-at-risk construction services, a school district may elect separate contracts for preconstruction services during the design phase, for construction during the construction phase and for any other construction services.

- b. Alternatively, for design-build construction services, a school district may elect separate contracts for preconstruction services and design services during the design phase, for construction and design services during the construction phase and for any other construction services.
  - c. If the school district enters into the first contract for preconstruction services or construction services the procurement ends. After execution of that first contract the school district may not use the procurement or the existing final list in the procurement as the basis for entering into a contract with any other person that participated in the procurement.
- 3. For job-order-contracting construction services, the school district may award a single contract, or multiple contracts for similar job-order-contracting construction services to be awarded to separate persons. If the school district enters into the number of contracts specified under the request for qualifications, the procurement ends. After that time the school district may not use the procurement or any existing final list in the procurement as the basis for entering into a contract with any other person that participated in the procurement.
- 4. All construction-manager-at-risk construction services or design-build construction services included in a procurement shall be limited to construction services to be performed at a single location, a common location or, if the construction services are all for a similar purpose, multiple locations. For construction-manager-at-risk construction services and design-build construction services to be performed at multiple locations:
  - a. At the time the request for qualifications is issued, the school district shall intend to commence all construction at each location within thirty months after execution of the first contract for preconstruction services or other construction services at any of the locations.
  - b. The request for qualifications shall include the information described in R7-2-1108(B)(2).
- 5. The school district and the selection committee shall not request or consider fees, price, man-hours or any other cost information at any point in the selection process under this Section and R7-2-1107, R7-2-1108, R7-2-1110, and R7-2-1111, including the selection of persons to be interviewed, the selection of persons to be on the final list, in determining the order of preference of persons on the final list or for any other purpose in the selection process, except as provided in R7-2-1110(D) and R7-2-1111.
- 6. In determining the persons to participate in any interviews, in determining the persons to be on the final list, and in determining the order on the final list, the selection committee shall use and consider only the criteria and weighting of criteria in the request for qualifications. No other factors or criteria may be used in the evaluation, determinations and other actions.
- 7. Notwithstanding any other provision specifying the number of persons to be interviewed, the number of persons to be on a final list, or any other numerical specification in R7-2-1106 through R7-2-1115:
  - a. If a smaller number of persons respond to the request for qualifications or if one or more persons drop out of the procurement so there is a smaller number of persons participating in the procurement, the school district, as the school district determines necessary and appropriate, may elect to proceed

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with the participating persons if there are at least two participating responsive and responsible persons. Alternatively, the school district may elect to terminate the procurement.

- b. As to a request for qualifications to be negotiated pursuant to R7-2-1110(D), if only one responsive and responsible person responds to the request for qualifications or if one or more persons drop out of the procurement so that only one responsive and responsible person remains in the procurement, the school district may elect to proceed with the procurement with only one person if the governing board determines in writing that the negotiated fee is fair and reasonable and that either other prospective persons had reasonable opportunity to respond or there is not adequate time for a resolicitation.
- c. If a person on the final list withdraws or is removed from the procurement and the selection committee determines that it is advantageous to the school district, the selection committee may replace that person on the final list with another person that submitted qualifications in the procurement and that is selected as the next most qualified.

**Historical Note**

New Section made by final exempt rulemaking at 21 A.A.R. 1525, effective July 1, 2014 (Supp. 15-3); effective year corrected in Supp. 18-2.

**R7-2-1107. Selection Committee**

- A. The school district shall initiate an appropriately qualified selection committee for each request for qualifications. The school district shall ensure that selection committee members are competent to serve on the selection committee.
- B. Each selection committee shall include at least one school district representative appointed by the school district.
- C. The selection committee shall not have more than seven members and shall include at least one person who is a senior management employee of a licensed contractor and one person who is an architect or an engineer who is registered pursuant to A.R.S. § 32-121.
- D. Non-school district employees serving on a selection committee shall not receive compensation from the school district for performing this service, but the school district may elect to reimburse non-school district members for travel, lodging and other expenses incurred in connection with service on a selection committee.
- E. A person who is a member of a selection committee shall not be a contractor or subcontractor under a contract awarded under the procurement or provide any specified professional services, construction, construction services, materials or other services under the contract.
- F. For the procurement of multiple contracts for job-order-contracting, the same selection committee shall be used for all contracts in the procurement.

**Historical Note**

New Section made by final exempt rulemaking at 21 A.A.R. 1525, effective July 1, 2014 (Supp. 15-3); effective year corrected in Supp. 18-2.

**R7-2-1108. Request for Qualifications**

- A. Notice of the need for construction services shall be given by the school district pursuant to R7-2-1022 and R7-2-1024(C). Such notice shall be issued not less than 14 days in advance of when responses shall be received. The notice shall:
  1. Contain a statement of the construction services required that adequately describes the procurement and specifies

how a request for qualifications containing specific information on the procurement may be obtained;

2. Specify whether the procurement is for a single contract or, for job-order-contracting construction services only, for multiple contracts; and
3. If the procurement is for multiple job-order-contracting construction services contracts:
  - a. Specify that multiple contracts may or will be awarded;
  - b. Specify the number of contracts that may or will be awarded; and
  - c. Describe the construction services to be performed under each contract.
- B. The request for qualifications shall include the following:
  1. Instructions and information to persons concerning the statement of qualifications submission requirements, including the due date and time for receipt of statements of qualifications, the address of the office at which the statements of qualifications are to be received, and any other special information.
  2. In a procurement of construction-manager-at-risk construction services or design-build construction services to be performed at multiple locations, include:
    - a. A brief description of the construction services to be performed at each location;
    - b. The estimated budget for the construction services to be performed at each location; and
    - c. A schedule for the construction services to be performed at each location that shows the school district's intent to commence all construction at each location within thirty months after execution of the first contract for preconstruction services or other construction services at any of the locations.
  3. General information on the project site, scope of work, schedule, selection criteria, project design and construction budget, or life cycle budget for a procurement that includes maintenance, operations, and finance services.
  4. The criteria and the weight prescribed by the school district for each of the criteria to be used in making the evaluation.
    - a. All selection criteria shall be factors that demonstrate competence and qualifications for the type of construction services included in the procurement.
    - b. One of the criteria shall be the person's subcontractor selection plan or procedures to implement the school district's subcontractor selection plan.
    - c. If interviews will be held, state the selection criteria and relative weights to be used in selecting the persons to be interviewed. The request for qualifications may state the selection criteria and relative weights to be used in selecting the persons on the final list and in determining their order on the final list. The final list selection criteria and relative weights may be different than the selection criteria and relative weights used to determine the persons to be interviewed. The request for qualifications also shall state whether the school district will select the persons on the final list and their order on the final list solely through the results of the interview process or through the combined results of both the interview process and the evaluation of statements of qualifications and performance data submitted in response to the school district's request for qualifications.
    - d. If interviews will not be held, state the selection criteria and relative weights to be used in selecting the



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- persons on the final list and in determining their order on the final list.
5. Whether one contract or multiple contracts may or will be awarded.
    - a. For design-build construction services, construction-manager-at-risk construction services, and a single contract for job-order-contracting construction services, state that one person may or will be awarded the contract.
    - b. For multiple contracts for similar job-order-contracting construction services, state the number of contracts that may or will be awarded, the job-order-contracting construction services to be performed under each of the contracts, and that each of the multiple contracts will be awarded to a separate person.
  6. In a procurement where the contract is to be negotiated under R7-2-1110(D):
    - a. State that there will be a single final list of at least three and not more than five persons for a design-build, construction-manager-at-risk, or single job-order-contracting construction services award.
    - b. In a procurement for multiple contracts for similar job-order-contracting construction services to be awarded to separate persons, state that there will be a single final list and the number of persons on the final list, which shall be the sum of the number of contracts that may or will be awarded, plus another number that is determined by the school district and that is not more than five.
  7. In a procurement in which the contract will be awarded under R7-2-1111:
    - a. State that there will be a single final list and that the number of persons on the final list will be three for a design-build or single job-order-contracting construction services award.
    - b. In a procurement for multiple contracts for similar job-order-contracting construction services to be awarded to separate persons, state that there will be a single final list and the number of persons on the final list, which shall be the sum of the number of contracts that may or will be awarded, plus another number that is determined by the school district and that is not more than five.
  8. The type of contract to be used.
  9. The name of the district representative or district representatives and the publicly available location of the school district's protest policy and procedures.
  10. If the school district will hold interviews as part of the selection process:
    - a. State that interviews will be held and that the interviews will be with at least three and not more than five persons for a design-build, construction-manager-at-risk, or single job-order-contracting construction services procurement.
    - b. In a procurement for multiple contracts for similar job-order-contracting construction services to be awarded to separate persons, state that interviews will be held and that the interviews will be with a specified number of persons. The specified number shall be stated in the request for qualifications, shall be determined by the school district and shall be the sum of the number of contracts that may or will be awarded, plus another number that is determined by the school district and that is not more than five.
  11. The manner in which subcontractors shall be selected, either:
    - a. A requirement that each person submit a proposed subcontractor selection plan and a requirement that the proposed subcontractor selection plan shall select subcontractors based on qualifications alone or on a combination of qualifications and price and shall not select subcontractors based on price alone; or
    - b. A subcontractor selection plan adopted by the school district that applies to the person that is selected to perform the construction services and that requires subcontractors to be selected based on qualifications alone or on a combination of qualifications and price and not based on price alone and a requirement that each person shall submit a description of the procedures it proposes to use to implement the school district's subcontractor selection plan.
  12. Notice that all information and statements of qualifications submitted by persons will be made available for public inspection after the school district has entered into a single contract or all of the multiple contracts.
  - C. A copy of the request for qualifications shall be made available for public inspection at the school district office.

**Historical Note**

New Section made by final exempt rulemaking at 21 A.A.R. 1525, effective July 1, 2014 (Supp. 15-3); effective year corrected in Supp. 18-2. Amended by final exempt rulemaking at 26 A.A.R. 597, effective July 1, 2020 (Supp. 20-1).

**R7-2-1109. Receipt and Opening of Statements of Qualifications, Technical Proposals and Price Proposals for Design-build and Job-order-contracting**

- A. Statements of qualifications, technical proposals and price proposals shall be received and opened in accordance with R7-2-1045. Late statements of qualifications, proposals, modifications, or withdrawals shall be considered in accordance with R7-2-1044 and R7-2-1049.
- B. A school district may cancel a request for qualifications or a request for proposals, reject in whole or in part any or all statements of qualifications or proposals or determine not to enter into a contract as specified in the solicitation if it is advantageous to the school district. The school district shall make the reasons for cancellation, rejection or determination not to enter into a contract part of the procurement file.

**Historical Note**

New Section made by exempt rulemaking at 13 A.A.R. 1266, effective February 26, 2007 (Supp. 07-1). Section repealed; new Section made by final exempt rulemaking at 21 A.A.R. 1525, effective July 1, 2014 (Supp. 15-3); effective year corrected in Supp. 18-2.

**R7-2-1110. Committee Evaluation and Contract Award**

- A. If interviews are specified in the request for qualifications:
  1. The selection committee shall determine the persons to be interviewed by evaluating the statements of qualifications and performance data submitted based solely on the selection criteria and relative weights in the request for qualifications to be used to determine the persons to be interviewed.
  2. If the selection criteria and relative weights to be used by the selection committee to select the persons on the final list and to determine their order on the final list are not included in the request for qualifications:
    - a. Before the interviews are held the school district shall distribute to the persons to be interviewed the selection criteria and relative weights to be used to

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select the persons on the final list and to determine their order on the final list.

- b. These selection criteria and relative weights may be different than the selection criteria and relative weight used to determine the persons to be interviewed.
3. The selection committee shall conduct interviews with the number of persons specified in the request for qualifications.
- B. Based solely on the selection criteria and relative weights for selection of the persons on the final list and their order on the final list, the selection committee shall select the persons for the final list and, in the case of a final list for a contract that will be negotiated under subsection (D), rank the persons in order of preference.
- C. The school district shall make the following notifications regarding the final lists:
  1. If the contract will be negotiated under subsection (D) before or at the same time as the school district notifies the highest ranking person on the final list that it is the highest ranking person, the school district shall send actual notice to each of the following that it is not the highest ranking person or that another person is the highest ranking person:
    - a. If interviews were held, the other persons interviewed.
    - b. If interviews were not held, the other persons that made submittals.
  2. If the contract will be awarded under R7-2-1111, before or at the same time as the school district notifies the persons on the final list that they are on the final list, the school district shall send actual notice to each of the following persons that they are not on the final list or that other persons are on the final list:
    - a. If interviews were held, the other persons interviewed.
    - b. If interviews were not held, the other persons that made submittals.
- D. The school district shall conduct negotiations with persons on the final list as follows:
  1. The negotiations shall include consideration of compensation and other contract terms that the school district determines to be fair and reasonable to the school district. In making this decision, the school district shall take into account the estimated value, the scope, the complexity and the nature of the construction services to be rendered.
  2. If the procurement is for a single contract, there is one final list and the school district shall enter into negotiations with the highest qualified person on the final list. If the school district is not able to negotiate a satisfactory contract with the highest qualified person on the final list, at compensation and on other contract terms the school district determines to be fair and reasonable, the school district shall formally terminate negotiations with that person. The school district shall then undertake negotiations with the next most qualified person on the final list in sequence until an agreement is reached or a determination is made to reject all persons on the final list.
  3. If the procurement is for multiple contracts for similar job-order-contracting construction services to be awarded to separate persons, there is one final list and the school district shall enter into separate negotiations for contracts with the number of the highest qualified persons on the final list equal to the number of contracts to be awarded. If the school district is not able to negotiate a satisfactory contract with a person with whom the school district has

commenced negotiations, the school district shall formally terminate negotiations with that person. The school district shall then undertake negotiations for a contract with the next most qualified person on the final list with whom the school district is not then negotiating and with whom the school district has not previously negotiated in sequence until an agreement is reached for some or all of the multiple contracts included in the request for qualifications or a determination is made to reject all persons on the final list.

4. If the school district terminates negotiations with a person and commences negotiations with another person on the final list, the school district shall not recommence negotiations or enter into a contract for the construction services covered by the final list with any person with whom the school district terminated negotiations.

**Historical Note**

New Section made by exempt rulemaking at 13 A.A.R. 1266, effective February 26, 2007 (Supp. 07-1). Section repealed; new Section made by final exempt rulemaking at 21 A.A.R. 1525, effective July 1, 2014 (Supp. 15-3); effective year corrected in Supp. 18-2.

**R7-2-1111. Alternative Procedure for Design-build or Job-order-contracting Construction Services**

- A. As an alternative to R7-2-1110(D), the school district may award a single contract for design-build construction services or a single or multiple contracts for similar job-order-contracting construction services pursuant to this Section.
- B. The school district shall use the selection committee appointed for the request for qualifications pursuant to R7-2-1107.
- C. The school district shall issue a request for proposals to the persons on the final list developed pursuant to R7-2-1110(A) through (C). The request for proposals shall be issued at least 14 days before the due date and time for receipt of proposals unless a shorter time is determined necessary by the school district.
- D. The request for proposals shall include the following:
  1. A statement that the procurement is for a single contract or, for similar job-order-contracting construction services only, for multiple contracts.
  2. If the procurement is for multiple contracts for similar job-order-contracting construction services, the notice shall specify that multiple contracts will be awarded, shall specify the number of contracts that will be awarded, shall specify the number of offerors to whom contracts will be awarded which shall be the number of contracts in the procurement, and shall describe the job-order-contracting services to be performed under each contract.
  3. Instructions and information to persons concerning the proposal submission requirements, including the due date and time for receipt of proposals, the address of the office at which proposals are to be received, the proposal acceptance period, and any other special information.
  4. The school district's project schedule and project final budget for design and construction or life cycle budget for a procurement that includes maintenance services or operations services.
  5. If a single contract will be awarded, a statement that the contract will be awarded to the person whose proposal receives the highest number of points under a scoring method. If multiple contracts for similar job-order-contracting services will be awarded, a statement that the multiple contracts will be awarded to a specified number of offerors whose proposals receive the highest number

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of points under a scoring method. The specified number of offerors will be the number of contracts included in the procurement.

6. A description of the scoring method, including a list of the factors in the scoring method and the number of points allocated to each factor.
  7. For design-build construction services only, the design requirements, including the required features, functions, characteristics, qualities and properties, the anticipated schedule, including start, duration and completion, and the estimated budgets applicable to the specific procurement for design and construction and, if applicable, for operation and maintenance. Drawings and other documents illustrating the scale and relationship of the features, functions and characteristics of the project, which shall all be prepared by an architect or engineer, as appropriate, and additional design information or documents specified by the school district, may also be included.
  8. A requirement that each offeror submit separately a technical proposal and a price proposal and that the offeror's entire proposal is responsive to the requirements in the request for proposals. For design-build construction services, the price in the price proposal shall be a fixed price or a guaranteed maximum price.
  9. A statement that in applying the scoring method, the selection committee will separately evaluate and score the technical proposal before opening, evaluating, and scoring the price proposal.
  10. If the school district desires to conduct discussions with offerors, a statement that discussions may be held and a requirement that each offeror submit a preliminary technical proposal before the discussions are held.
  11. Type of contract to be used.
  12. That offerors may designate as proprietary portions of the proposal.
  13. Notice that all information and proposals submitted by offerors, except as stated in subsection (D)(12), will be made available for public inspection after the school district has entered into a single contract or all of the multiple contracts.
  14. The contract terms and conditions, including warranty and bonding or other security requirements, as applicable.
  15. The name of the district representative or district representatives.
  16. If the request for proposals incorporates documents by reference, the request for proposals shall specify where such documents may be obtained.
- E.** The factors in the scoring method described in the request for proposals may include:
1. For design-build construction services only, demonstrated compliance with the design requirements.
  2. Offeror qualifications.
  3. Offeror financial capacity.
  4. Compliance with the school district's project schedule.
  5. For design-build construction services only, if the request for proposals specifies that the school district will spend its project budget and not more than its project budget and is seeking the best proposal for the project budget, compliance of the offeror's price or life cycle price for procurements that include maintenance services, operations services or finance services with the school district's budget as prescribed in the request for proposals.
  6. For design-build construction services if the request for proposals does not contain the specifications prescribed in subsection (E)(5) and for job-order-contracting construction services, the price or life cycle price for procurements that include maintenance services, operations services or finance services.
7. An offeror quality management plan.
  8. Other evaluation factors that demonstrate competence and qualifications for the type of construction services in the request for proposals as determined by the school district, if any.
- F.** If determined by the school district and included in the request for proposals, the selection committee shall conduct discussions with all offerors that submit preliminary technical proposals. Discussions shall be for the purpose of clarification to ensure full understanding of, and responsiveness to, the solicitation requirements. Offerors shall be accorded fair treatment with respect to any opportunity for discussion and for clarification by the school district. Revision of preliminary technical proposals shall be permitted after submission of preliminary technical proposals and before award for the purpose of obtaining best and final proposals. In conducting any discussions, information derived from proposals submitted by competing offerors shall not be disclosed to other competing offerors.
- G.** After completion of any discussions pursuant to subsection (F) or if no discussions are held, each offeror shall submit separately its final technical proposal and its price proposal.
- H.** Before opening any price proposal, the selection committee shall open and evaluate the final technical proposals and score the final technical proposals using the scoring method in the request for proposals. No other factors or criteria may be used in evaluation and scoring.
- I.** After completion of the evaluation and scoring of all final technical proposals, the selection committee shall open, evaluate and score the price proposals, and complete scoring of the entire proposals using the scoring method in the request for proposals. No other factors or criteria may be used in evaluation and scoring.
- J.** The school district shall award the contract to the responsive and responsible offeror whose proposal receives the highest score under the method of scoring in the request for proposals. No other factors or criteria may be used in evaluation and award.
- K.** For procurements of multiple contracts for similar job-order-contracting construction services, the school district may award up to the number of contracts specified in the request for proposals.
- L.** Before or at the same time as the school district notifies the selected offeror of contract award, the school district shall notify all other offerors of the award.
- M.** For design-build construction services only, the school district shall award a stipulated fee equal to a percentage of the school district's project final budget for design and construction, as prescribed in the request for proposals, but not less than two-tenths of one percent of the project final budget for design and construction to each final list offeror who provides a responsive, but unsuccessful, proposal. If the school district does not award a contract, all responsive final list offerors shall receive the stipulated fee based on the school district's project final budget for design and construction as included in the request for proposals. The school district shall pay the stipulated fee to each offeror within 90 days after the award of the initial contract or the decision not to award a contract. In consideration for paying the stipulated fee, the school district may use any ideas or information contained in the proposals in connection with any contract awarded for the project, or in connection with a subsequent procurement, without any obligation to pay any additional compensation to the offerors. Notwithstanding the other provisions of this subsection, an offeror may elect to

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waive the stipulated fee. If an offeror elects to waive the stipulated fee, the school district may not use ideas and information contained in the offeror's proposal, except that this restriction does not prevent the school district from using any idea or information if the idea or information is also included in a proposal of an offeror that accepts the stipulated fee.

- N. The procurement file shall contain the basis on which the award is made, including at a minimum the information and documents required under R7-2-1115.
- O. A copy of the request for proposals shall be made available for public inspection at the school district office.

**Historical Note**

Adopted effective December 17, 1987 (Supp. 87-4). Section repealed; new Section made by final exempt rulemaking at 21 A.A.R. 1525, effective July 1, 2014 (Supp. 15-3); effective year corrected in Supp. 18-2.

**R7-2-1112. Contractor Licenses, Contract and Performance Requirements****A. Notwithstanding any other rule:**

1. The contractor for design-build or job-order-contracting construction services is not required to be registered to perform design services pursuant to A.R.S. Title 32, Chapter 1 if the person actually performing the design services on behalf of the contractor is appropriately registered.
2. The contractor for construction-manager-at-risk, design-build or job-order-contracting construction services shall be licensed to perform construction pursuant to A.R.S. Title 32, Chapter 10.
3. The school district shall obtain and maintain a record of proof in the procurement file that a construction or construction services provider that has been awarded a contract with the school district, or through a cooperative purchasing agreement, has a license in good standing to perform construction work pursuant to A.R.S. Title 32, Chapter 10. The license shall be active on the day the contract is awarded. This subsection does not require licensure for professions that are not licensed pursuant to A.R.S. Title 32, Chapter 10.

**B. In a procurement for construction-manager-at-risk construction services or design-build construction services, except for design-build contracts awarded pursuant to R7-2-1111, the school district shall enter into a written contract with the contractor for preconstruction services under which the school district shall pay the contractor a fee for preconstruction services in an amount agreed by the school district and the contractor, and the school district shall not request or obtain a fixed price or a guaranteed maximum price for the construction from the contractor or enter into a construction contract with the contractor until after the school district has entered into the written contract for preconstruction services and a preconstruction services fee.****C. Construction shall not commence under a construction services contract until the school district and contractor agree in writing on either a fixed price that the school district will pay or a guaranteed maximum price for the construction to be commenced. The construction to be commenced may be the entire project or may be one or more phased parts of the project.****D. For negotiated construction-manager-at-risk and design-build contracts, preconstruction services, general conditions, schedules, construction contingency, and construction fees shall be part of the contract. For design-build contracts awarded pursuant to a request for proposals, the fees shall be included in the**

vendor's proposal and shall become part of the awarded contract.

**E. For job-order-contracting construction services only:**

1. The maximum dollar amount of an individual job order for job-order-contracting construction services shall be one million dollars or a higher or lower amount prescribed by the governing board in a policy adopted in a public meeting held pursuant to A.R.S. Title 38, Chapter 3, Article 3.1. Requirements shall not be artificially divided or fragmented in order to constitute a job order that satisfies the requirements of this subsection.
2. If the contractor subcontracts or intends to subcontract part or all of the work under a job order and if the job-order-contracting construction services contract includes descriptions of standard individual tasks, standard unit prices for standard individual tasks and pricing of job orders based on the number of units of standard individual tasks in the job order:
  - a. The contractor has a duty to deliver promptly to each subcontractor invited to bid a coefficient to the contractor to do all or part of the work under one or more job orders a copy of the descriptions of all standard individual tasks on which the subcontractor is invited to bid and a copy of the standard unit prices for the individual tasks on which the subcontractor is invited to bid.
  - b. If not previously delivered to the subcontractor, the contractor has a duty to promptly deliver to each subcontractor invited to or that has agreed to do any of the work included in any job order a copy of the description of each standard individual task that is included in the job order and that the subcontractor is invited to perform, the number of units of each standard individual task that is included in the job order and that the subcontractor is invited to perform, and the standard unit price for each standard individual task that is included in the job order and that the subcontractor is invited to perform.

**F. For all construction services contracts, the contractor performing the construction services is permitted to self-perform part of the construction work, if and to the extent agreed in writing by the school district and the contractor. The school district may use methods other than competitive bidding to assure itself that the price the school district pays to the contractor for self-performed work is fair and reasonable. Permitted methods to evaluate fairness and reasonableness of the price of self-performed work include evaluation of the contractor's proposed scope of work and price for self-performed work by an estimator who is hired and paid by the school district, who is independent of the contractor and who may be an employee of the school district. Although the school district may elect to so require, nothing in Articles 10 and 11 shall be construed or interpreted to require the school district to require a contractor desiring to self-perform part of the construction work to competitively bid that part of the construction work against other contractors in a bid competition.****G. For all construction services contracts, the following requirements apply to the construction work to be performed by subcontractors and do not apply to construction work that the school district and the contractor agree in writing will be self-performed by the contractor:**

1. The person selected to perform the construction services shall select subcontractors based on qualifications alone or on a combination of qualifications and price and shall not select subcontractors based on price alone. A qualifications and price selection may be a single-step selection

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based on a combination of qualifications and price or a two-step selection. In a two-step selection, the first step shall be based on qualifications alone and the second step may be based on a combination of qualifications and price or on price alone.

2. The school district shall include in each contract:
    - a. If the school district included its subcontractor selection plan in the request for qualifications, the school district's subcontractor selection plan and the procedures to implement the school district's subcontractor selection plan proposed by the awarded contractor in submitting its qualifications with those modifications to the procedures as the school district and the contractor agree.
    - b. If the school district did not include its subcontractor selection plan in the request for qualifications, the subcontractor selection plan proposed by the awarded contractor in submitting its qualifications with those modifications as the school district and the contractor agree.
  3. In making the selection of subcontractors, the contractor shall use the subcontractor selection plan and any procedures included in its contract.
- H.** The school district shall include in each contract for construction services the full street or physical address of each separate location at which the construction will be performed and a requirement that the contractor and each subcontractor at any level include in each of its subcontracts the same address information. The contractor and each subcontractor at any level shall include in each subcontract the full street or physical address of each separate location at which construction work will be performed.

**Historical Note**

Adopted effective December 17, 1987 (Supp. 87-4). Section repealed; new Section made by final exempt rulemaking at 21 A.A.R. 1525, effective July 1, 2014 (Supp. 15-3); effective year corrected in Supp. 18-2. Amended by final exempt rulemaking at 24 A.A.R. 3283, effective October 22, 2018 (Supp. 18-4).

**R7-2-1113. Prohibitions**

- A.** Notwithstanding any contrary provision of Articles 10 and 11, a school district shall not enter into a contract to provide construction-manager-at-risk construction services, design-build construction services or job-order-contracting construction services.
- B.** The prohibitions prescribed in subsection (A) do not prohibit a school district from providing construction for itself as provided by law.

**Historical Note**

Adopted effective December 17, 1987 (Supp. 87-4). Section repealed; new Section made by final exempt rulemaking at 21 A.A.R. 1525, effective July 1, 2014 (Supp. 15-3); effective year corrected in Supp. 18-2.

**R7-2-1114. Bid Security, Contract Performance and Payment Bonds, and Payment and Retention**

- A.** Bid security shall be provided pursuant to R7-2-1102.
- B.** Contract performance and payment bonds shall be provided pursuant to R7-2-1103.
- C.** Contract payment retention and substitute security shall be in accordance with R7-2-1104.
- D.** Progress payments shall be in accordance with R7-2-1105.

**Historical Note**

Adopted effective December 17, 1987 (Supp. 87-4). Amended effective March 21, 1991 (Supp. 91-1).

Amended effective October 22, 1992 (Supp. 92-4). Section repealed; new Section made by final exempt rulemaking at 21 A.A.R. 1525, effective July 1, 2014 (Supp. 15-3); effective year corrected in Supp. 18-2.

**R7-2-1115. Procurement File Contents and Review**

- A.** At a minimum, the school district shall retain the following for each procurement under R7-2-1106 through R7-2-1114:
  1. For each request for qualifications procurement process:
    - a. If interviews were not held:
      - i. The submittal of the person listed first on the final list and the submittal of each person with whom the school district enters into a contract.
      - ii. The final list.
      - iii. A list of the selection criteria and relative weight of selection criteria used to select the persons for the final list and to determine their order on the final list.
      - iv. A list that contains the name of each person that submitted qualifications and that shows the person's final overall rank or score.
      - v. Documents that show the final score or rank on each selection criteria of each person that submitted qualifications and that support the final overall rankings and scores of the persons that submitted qualifications. The school district shall retain the individual scoring sheets for individual selection committee members.
    - b. If interviews were held:
      - i. All submittals of the person listed first on the final list and the submittal of each person with whom the school district enters into a contract.
      - ii. The final list.
      - iii. A list of the selection criteria and relative weight of selection criteria used to select the persons for the final list and to determine their order on the final list.
      - iv. A list that contains the name of each person that was interviewed and that shows the person's final overall rank or score.
      - v. Documents that show the final score or rank on each selection criteria of each person that was interviewed and that support the final overall rankings and scores of the persons that were interviewed. The school district shall retain the individual scoring sheets for individual selection committee members.
      - vi. A list of the selection criteria and relative weight of the selection criteria used to select the persons for the short list to be interviewed.
      - vii. A list that contains the name of each person that submitted qualifications and that shows the person's final overall rank or score in the selection of the persons to be on the short list to be interviewed.
      - viii. Documents that show the final score or rank on each selection criteria of each person that submitted qualifications and that support the final overall rankings and scores of the persons that submitted qualifications. The school district shall retain the individual scoring sheets for individual selection committee members.
  2. For each request for proposals procurement process under R7-2-1111:
    - a. The entire proposal submitted by the person that received the highest score in the scoring method in the request for proposals and the entire proposal sub-

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mitted by each person with whom the school district enters into a contract.

- b. The description of the scoring method, the list of factors in the scoring method and the number of points allocated to each factor, all as included in the request for proposals.
- c. A list that contains the name of each offeror that submitted a proposal and that shows the offeror's final overall score.
- d. Documents that show the final score or rank on each factor in the scoring method in the request for proposals of each offeror that submitted a proposal and that support the final overall scores of the offerors that submitted proposals. The school district shall retain the individual scoring sheets for individual selection committee members.

**B.** Information relating to each procurement under R7-2-1106 through R7-2-1114 shall be made available to the public as follows:

- 1. Until the school district awards a single contract or all of the multiple contracts or terminates the procurement, only the name of each person on the final list may be made available to the public. All other information received by the school district in response to the request for qualifications shall be confidential in order to avoid disclosure of the contents that may be prejudicial to competing respondents during the selection process.
- 2. After the school district awards a single contract or all of the multiple contracts or terminates the procurement, the school district shall make the contents of the procurement file, except the proposals and statements of qualifications submitted in response to a solicitation and the documents described in subsections (A)(1)(a)(v), (A)(1)(b)(v), (A)(1)(b)(viii), and (A)(2)(d), available to the public.
- 3. After the school district has entered into a single contract or all of the multiple contracts or has terminated the procurement, the school district shall make the proposals and statements of qualifications and the documents described in subsections (A)(1)(a)(v), (A)(1)(b)(v), (A)(1)(b)(viii), and (A)(2)(d) available to the public.
- 4. To the extent that an offeror designates and the school district concurs, trade secrets and other proprietary data contained in a proposal or statement of qualifications shall remain confidential.
- 5. If the procurement file contains information that is confidential under R7-2-1006, a copy of the applicable documents with the confidential information redacted shall be placed in the procurement file for the purpose of public inspection. The unredacted original copy of the confidential information shall be placed in a sealed envelope or other appropriate container, identified as confidential information, and maintained in the procurement file.

**C.** The school district shall retain the records of a procurement under R7-2-1106 through R7-2-1114 in accordance with R7-2-1085.

**Historical Note**

Adopted effective December 17, 1987 (Supp. 87-4).

Amended effective March 21, 1991 (Supp. 91-1).

Amended effective October 22, 1992 (Supp. 92-4). Section repealed; new Section made by final exempt rulemaking at 21 A.A.R. 1525, effective July 1, 2014 (Supp. 15-3); effective year corrected in Supp. 18-2.

**R7-2-1116. Repealed**

**Historical Note**

New Section made by exempt rulemaking at 13 A.A.R.

1266, effective February 26, 2007 (Supp. 07-1). Section repealed by final exempt rulemaking at 21 A.A.R. 1525, effective July 1, 2014 (Supp. 15-3); effective year corrected in Supp. 18-2.

**PROCUREMENT OF SPECIFIED PROFESSIONAL SERVICES**

**R7-2-1117. Procurement of Specified Professional Services**

**A.** Specified professional services, which is defined in R7-2-1001(120), as services of an architect, engineer, land surveyor, assayer, geologist and landscape architect, shall be procured as provided in R7-2-1117 through R7-2-1123, except as authorized in R7-2-1033, R7-2-1053, R7-2-1055, and R7-2-1122.

**B.** Prior to public notice of the need for specified professional services, the school district shall determine that the services to be acquired are specified professional services.

**C.** In the procurement of specified professional services:

- 1. The school district shall specify whether the procurement is for a single contract or for multiple contracts. Multiple contracts may be awarded to separate persons or may be awarded to a single person as specified in the request for qualifications.
- 2. The school district and the selection committee shall not request or consider fees, price, man-hours or any other cost information at any point in the selection process under this Section and R7-2-1120 or R7-2-1121, including the selection of persons to be interviewed, the selection of persons to be on the final list, in determining the order of preference of persons on a final list or for any other purpose in the selection process except as provided in R7-2-1121.
- 3. In determining the persons to participate in any interviews, in determining the persons to be on the final list, and in determining the order on the final list, the selection committee shall use and consider only the criteria and weighting of criteria in the request for qualifications. No other factors or criteria may be used in the evaluation, determinations and other actions.
- 4. If the school district enters into the number of contracts specified in the request for qualifications, the procurement ends. After that time the school district may not use the procurement or any final list in the procurement as the basis for entering into a contract with any other person that participated in the procurement.
- 5. Notwithstanding any other provision specifying the number of persons to be interviewed, the number of persons to be on a final list, or any other numerical specification in this Section or R7-2-1121:
  - a. If a smaller number of persons respond to the request for qualifications or if one or more persons drop out of the procurement so that there is a smaller number of persons participating in the procurement, the school district, as the school district determines necessary and appropriate, may elect to proceed with the participating persons if there are at least two participating responsive and responsible persons. Alternatively, the school district may elect to terminate the procurement.
  - b. As to a request for qualifications to be negotiated pursuant to R7-2-1121(D), if only one responsive and responsible person responds to the request for qualifications, or if one or more persons drop out of the procurement so that only one responsive and responsible person remains in the procurement, the school district may elect to proceed with the procurement with only one person if the governing

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board determines in writing that the negotiated fee is fair and reasonable and that either other prospective persons had reasonable opportunity to respond or there is not adequate time for a resolicitation.

- c. If a person on the final list withdraws or is removed from the procurement and the selection committee determines that it is advantageous to the school district, the selection committee may replace that person on the final list with another person that submitted qualifications in the procurement and that is selected as the next most qualified.

**D. The request for qualifications shall:**

1. Provide instructions and information to persons concerning the statement of qualifications submission requirements, including the due date and time for receipt of statements of qualifications, the address of the office at which the statements of qualifications are to be received, and any other special information.
2. State whether one contract or multiple contracts may or will be awarded.
  - a. If one contract will be awarded, state that one contract may or will be awarded, describe the services to be performed under the contract and state that one person may or will be awarded the contract.
  - b. If multiple contracts may or will be awarded, state the number of contracts that may or will be awarded, the services to be performed under each of the multiple contracts, and either that each contract will be awarded to a separate person or that all of the contracts will be awarded to the same person.
3. State the number of persons to be included on the final list.
  - a. If a single contract will be awarded, state that there will be a single final list of at least three and not more than five persons.
  - b. If multiple contracts will be awarded to a single person, state that there will be a single final list of at least three and not more than five persons.
  - c. In a procurement for multiple contracts for similar specified professional services to be awarded to separate persons, state that there will be a single final list and the number of persons on the final list, which shall be the sum of the number of contracts that may or will be awarded plus another number that is determined by the school district and that is not more than five.
  - d. If multiple contracts for different specified professional services will be awarded to separate persons, state that there will be a separate final list for each type of specified professional services and that the number of persons on each final list will be equal to the number of contracts that may or will be awarded for each type of specified professional services plus a number determined by the school district not to exceed five.
4. State the selection criteria and relative weight to be used. All selection criteria shall be factors that demonstrate competence and qualifications for the type of specified professional services included in the procurement.
  - a. If interviews will be held, state the selection criteria and relative weights to be used in selecting the persons to be interviewed. The request for qualifications may state the selection criteria and relative weights to be used in selecting the persons on the final list and in determining their order on the final list. The final list selection criteria and relative

weights may be different than the selection criteria and relative weights used to determine the persons to be interviewed. The request for qualifications also shall state whether the school district will select the persons on the final list and their order on the final list solely through the results of the interview process or through the combined results of both the interview process and the evaluation of statements of qualifications and performance data submitted in response to the request for qualifications.

- b. If interviews will not be held, state the selection criteria and relative weights to be used in selecting the persons on the final list and in determining their order on the final list.
5. State whether interviews will be held.
  - a. If a single contract will be awarded, state that there will be interviews with at least three and not more than five persons.
  - b. If multiple contracts will be awarded to a single person, state that there will be interviews with at least three and not more than five persons.
  - c. In a procurement for multiple contracts for similar specified professional services to be awarded to separate persons, state that interviews will be held and that the interviews will be with a specified number of persons. The specified number shall be stated in the request for qualifications, shall be determined by the school district and shall be the sum of the number of contracts that may or will be awarded, plus another number that is determined by the school district and that is not more than five.
  - d. If multiple contracts for different specified professional services will be awarded to separate persons, state that interviews will be held and that the interviews will be with a specified number of persons. The specified number shall be stated in the request for qualifications, shall be determined by the school district, shall be at least three times the number of contracts that may or will be awarded and shall not be more than five times the number of contracts that may or will be awarded.
6. The name of the district representative or district representatives and the publicly available location of the school district's protest policy or procedure.
7. Notice that all information and statements of qualifications submitted by persons will be made available for public inspection after the school district has entered into a single contract or all of the multiple contracts.
- E.** Statements of qualifications shall be received and opened in accordance with R7-2-1045. Late statements of qualifications, late modifications, or late withdrawals shall be considered in accordance with R7-2-1044 and R7-2-1049.
- F.** A copy of the request for qualifications shall be made available for public inspection at the school district office.

**Historical Note**

Adopted effective December 17, 1987 (Supp. 87-4).  
Amended by final exempt rulemaking at 21 A.A.R. 1525, effective July 1, 2014 (Supp. 15-3); effective year corrected in Supp. 18-2. Amended by final exempt rulemaking at 26 A.A.R. 597, effective July 1, 2020 (Supp. 20-1).

**R7-2-1118. Public Notice of Specified Professional Services**

- A.** Notice of the need for specified professional services shall be given by the school district pursuant to R7-2-1022 and R7-2-1024(C). Such notice shall be issued not less than 14 days in advance of when responses shall be received.

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**B.** The notice shall:

1. Contain a statement of the services required that adequately describes the procurement and specifies how a request for qualifications containing specific information on the procurement may be obtained.
2. Specify whether the procurement is for a single contract or for multiple contracts; and
3. If the procurement is for multiple contracts:
  - a. Specify that multiple contracts may or will be awarded;
  - b. Specify the number of contracts that may or will be awarded; and
  - c. Describe the specified professional services to be performed under each contract.

**Historical Note**

Adopted effective December 17, 1987 (Supp. 87-4).  
Amended by final exempt rulemaking at 21 A.A.R. 1525,  
effective July 1, 2014 (Supp. 15-3); effective year cor-  
rected in Supp. 18-2.

**R7-2-1119. Cancellation or Rejection of the Solicitation**

A school district may cancel a request for qualifications, reject in whole or in part any or all statements of qualifications or determine not to enter into a contract as specified in the solicitation if it is advantageous to the school district. The school district shall make the reasons for cancellation, rejection or determination not to enter into a contract part of the procurement file.

**Historical Note**

Adopted effective December 17, 1987 (Supp. 87-4). Sec-  
tion repealed; new Section made by final exempt  
rulemaking at 21 A.A.R. 1525, effective July 1, 2014  
(Supp. 15-3); effective year corrected in Supp. 18-2.

**R7-2-1120. Specified Professional Services Selection Committee**

- A.** The school district shall initiate an appropriately qualified selection committee for each request for qualifications. The school district shall ensure that selection committee members are competent to serve on the selection committee.
- B.** Each selection committee shall include at least one school district representative appointed by the school district.
- C.** The school district shall determine the number and qualifications of the selection committee members. These members may be employees of the school district or non-school district appointees.
- D.** Non-school district employees serving on a selection committee shall not receive compensation from the school district for performing this service, but the school district may elect to reimburse non-school district members for travel, lodging and other expenses incurred in connection with service on a selection committee.
- E.** A person who is a member of a selection committee shall not be a contractor or subcontractor under a contract awarded under the procurement or provide any specified professional services or other services under the contract.
- F.** For the procurement of multiple contracts for specified professional services, the same selection committee shall be used for all contracts in the procurement.

**Historical Note**

Adopted effective December 17, 1987 (Supp. 87-4). Sec-  
tion repealed; new Section made by final exempt  
rulemaking at 21 A.A.R. 1525, effective July 1, 2014  
(Supp. 15-3); effective year corrected in Supp. 18-2.

**R7-2-1121. Committee Evaluation and Selection**

- A.** If interviews are specified in the request for qualifications:

1. The selection committee shall determine the persons to be interviewed by evaluating the statements of qualifications and performance data submitted based solely on the selection criteria and relative weights in the request for qualifications to be used to determine the persons to be interviewed.
2. If the selection criteria and relative weights to be used by the selection committee to select the persons on the final list or final lists and to determine their order on the final list or final lists are not included in the request for qualifications:
  - a. Before the interviews are held the school district shall distribute to the persons to be interviewed the selection criteria and relative weights to be used to select the persons on the final list and to determine their order on the final list.
  - b. These selection criteria and relative weight may be different than the selection criteria and relative weight used to determine the persons to be interviewed.
3. The selection committee shall conduct interviews with the number of persons specified in the request for qualifications.

- B.** Based solely on the selection criteria and relative weights for selection of the persons on the final list or final lists and their order on the final list or final lists, the selection committee shall select the persons for the final list or final lists and rank the persons on the final list or final lists in order of preference. If the procurement is for multiple contracts for different specified professional services to be awarded to separate persons, and if a person submitted qualifications for more than one type of specified professional services, the person may be on more than one final list.

- C.** Before or at the same time as the school district notifies the highest ranking person on the final list or final lists that it is the highest ranking person, the school district shall send actual notice to each of the following that it is not the highest ranking person or that another person is the highest ranking person:

1. If interviews were held, the other persons interviewed.
2. If interviews were not held, the other persons that made submittals.

- D.** The school district shall conduct negotiations with persons on the final list or final lists as follows:

1. The school district shall negotiate a contract with the highest qualified person for the required specified professional services at compensation determined in writing to be fair and reasonable to the school district. Contract negotiations shall be directed toward:
  - a. Making certain that the person has a clear understanding of the scope of the work, specifically, the essential requirements involved in providing the required services;
  - b. Determining that the person will make available the necessary personnel and facilities to perform the services within the required time; and
  - c. Agreeing upon compensation that is fair and reasonable.
2. The negotiations shall include consideration of compensation and other contract terms that the school district determines to be fair and reasonable to the school district. In making this decision, the school district shall take into account the estimated value, the scope, the complexity and the nature of the specified professional services to be rendered.
3. If the procurement is for a single contract, there is one final list and the school district shall enter into negotia-



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tions with the highest qualified person on the final list. If the school district is not able to negotiate a satisfactory contract with the highest qualified person on the final list, at compensation and on other contract terms the school district determines to be fair and reasonable, the school district shall formally terminate negotiations with that person. The school district shall then undertake negotiations with the next most qualified person on the final list in sequence until an agreement is reached or a determination is made to reject all persons on the final list.

4. If the procurement is for multiple contracts for specified professional services to be awarded to a single person on the final list, there is one final list and the school district shall enter into negotiations with the highest qualified person on the final list. If the school district is not able to negotiate a satisfactory contract with the highest qualified person on the final list, at compensation and on other contract terms the school district determines to be fair and reasonable, the school district shall formally terminate negotiations with that person. The school district shall then undertake negotiations with the next most qualified person on the final list in sequence until an agreement is reached or a determination is made to reject all persons on the final list.
5. If the procurement is for multiple contracts for similar specified professional services to be awarded to separate persons, there is one final list and the school district shall enter into separate negotiations for contracts with the number of the highest qualified persons on the final list equal to the number of contracts to be awarded. If the school district is not able to negotiate a satisfactory contract with a person with whom the school district has commenced negotiations, the school district shall formally terminate negotiations with that person. The school district shall then undertake negotiations for a contract with the next most qualified person on the final list with whom the school district is not then negotiating and with whom the school district has not previously negotiated in sequence until an agreement is reached for some or all of the multiple contracts included in the request for qualifications or a determination is made to reject all persons on the final list.
6. If the procurement is for multiple contracts for different specified professional services to be awarded to separate persons, there is a separate final list for each type of specified professional services and the school district shall enter into separate negotiations for contracts with the number of the highest qualified persons on each final list equal to the number of contracts to be awarded. If the school district is not able to negotiate a satisfactory contract with a person with whom the school district has commenced negotiations, the school district shall formally terminate negotiations with that person. The school district shall then undertake negotiations for a contract with the next most qualified person on the applicable final list with whom the school district is not then negotiating and with whom the school district has not previously negotiated in sequence until an agreement is reached for some or all of the multiple contracts included in the request for qualifications or a determination is made to reject all persons on the final list.
7. If the school district terminates negotiations with a person and commences negotiations with another person on the final list, the school district shall not recommence negotiations or enter into a contract for the specified profes-

sional services covered by the final list with any person with whom the school district terminated negotiations.

**Historical Note**

Adopted effective December 17, 1987 (Supp. 87-4). Section amended by final exempt rulemaking at 21 A.A.R. 1525, effective July 1, 2014 (Supp. 15-3); effective year corrected in Supp. 18-2.

**R7-2-1122. Specified Professional Services Contracts Not Exceeding Certain Amounts**

- A. A school district may procure a single contract or multiple contracts for specified professional services under this Section if the contract is for specified professional services by an architect or architect firm and the contract amount is \$250,000 or less or if the contract is for specified professional services by a person other than an architect and the contract amount is \$500,000 or less. For such procurements, the school district shall encourage persons engaged in the lawful practice of the profession to submit annually a statement of qualifications and experience.
- B. For each procurement of specified professional services under this Section, the school district shall establish a selection committee pursuant to R7-2-1120.
- C. The selection committee shall evaluate current statements of qualifications and experience on file with the school district, together with those that may be submitted by other persons regarding the procurement.
- D. The school district and the selection committee shall not request or consider fees, price, man-hours or any other cost information at any point in the selection process under this Section, including the selection of the persons to be interviewed, the selection of persons to be on a final list, in determining the order of preference of persons on a final list or for any other purpose in the selection process, except as provided in subsection (F).
- E. If possible and practicable, the selection committee shall conduct interviews regarding the procurement and the relative methods of furnishing the required specified professional services and, if possible, shall select, in order of preference and based on criteria established and published by the selection committee, one or more final lists of the persons deemed to be the most qualified to provide the specified professional services required. The selection committee shall base the selection of each final list and the order of preference on demonstrated competence and qualifications only.
  1. If the procurement is for a single contract or if the procurement is for multiple contracts to be awarded to a single person, there shall be one final list of three persons.
  2. If the procurement is for multiple contracts for different specified professional services to be awarded to separate persons, there shall be a separate final list of three persons for each contract.
  3. In a procurement for multiple contracts for similar specified professional services to be awarded to separate persons, there shall be one final list and the number of persons on the final list shall be the number of contracts, plus another number that is determined by the school district and that is not more than five.
- F. The school district shall enter into negotiations with the highest qualified person on each final list or, in the case of a single final list for multiple contracts for the same specified professional services to be awarded to separate persons, the school district shall enter into negotiations with a number of the highest qualified persons on the final list equal to the number of contracts that may or will be awarded.

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1. Negotiations shall include consideration of compensation and other contract terms that the school district determines to be fair and reasonable to the school district. In making this determination, the school district shall take into account the estimated value, the scope, the complexity and the nature of the specified professional services to be rendered.
2. If the school district is unable to negotiate a satisfactory contract with a person with whom the school district is negotiating at a price and on other contract terms the school district determines to be fair and reasonable to the school district, the school district shall formally terminate negotiations with that person.
3. The school district may undertake negotiations with the next most qualified person on the final list in sequence until an agreement is reached or a determination is made to reject all persons on the final list.
4. If the school district terminates negotiations with a person on a final list and commences negotiations with another person on the final list, the school district shall not in that procurement recommence negotiations or enter into a contract or contracts with any person with whom the school district has terminated negotiations.

**Historical Note**

Adopted effective December 17, 1987 (Supp. 87-4). Section repealed; new Section made by final exempt rulemaking at 21 A.A.R. 1525, effective July 1, 2014 (Supp. 15-3); effective year corrected in Supp. 18-2. Amended by final exempt rulemaking at 26 A.A.R. 597, effective July 1, 2020 (Supp. 20-1).

**R7-2-1123. Procurement File Contents and Review for Procurements Conducted under R7-2-1117 through R7-2-1121**

**A.** At a minimum, the school district shall retain the following for each procurement under R7-2-1117 through R7-2-1121:

1. If interviews were not held:
  - a. The submittal of the person listed first on the final list and the submittal of each person with whom the school district enters into a contract. If the procurement has multiple final lists, the school district shall retain the submittal of the person listed first on the final list and the submittal of each person with whom the school district enters into a contract, for each final list.
  - b. The final list or final lists.
  - c. A list of the selection criteria and relative weight of selection criteria used to select the persons for the final list or final lists and to determine their order on the final list or final lists.
  - d. A list that contains the name of each person that submitted qualifications and that shows the person's final overall rank or score.
  - e. Documents that show the final score or rank on each selection criteria of each person that submitted qualifications and that support the final overall rankings and scores of the persons that submitted qualifications. The school district shall retain the individual scoring sheets for individual selection committee members.
2. If interviews were held:
  - a. All submittals of the person listed first on the final list and the submittal of each person with whom the school district enters into a contract. If the procurement has multiple final lists, the school district shall retain the submittal of the person listed first on the final list and the submittal of each person with

whom the school district enters into a contract, for each final list.

- b. The final list or final lists.
- c. A list of the selection criteria and relative weight of selection criteria used to select the persons for the final list or final lists and to determine their order on the final list or final lists.
- d. A list that contains the name of each person that was interviewed and that shows the person's final overall rank or score.
- e. Documents that show the final score or rank on each selection criteria of each person that was interviewed and that support the final overall rankings and scores of the persons that were interviewed. The school district shall retain the individual scoring sheets for individual selection committee members.
- f. A list of the selection criteria and relative weight of the selection criteria used to select the persons for the short list or short lists to be interviewed.
- g. A list that contains the name of each person that submitted qualifications and that shows the person's final overall rank or score in the selection of the persons to be on the short list or short lists to be interviewed.
- h. Documents that show the final score or rank on each selection criteria of each person that submitted qualifications and that support the final overall rankings and scores of the persons that submitted qualifications. The school district shall retain the individual scoring sheets for individual selection committee members.

**B.** Information relating to each procurement under R7-2-1117 through R7-2-1121 shall be made available to the public as follows:

1. Until the school district awards a single contract or all of the multiple contracts or terminates the procurement, only the name of each person on the final list may be made available to the public. All other information received by the school district in response to the request for qualifications shall be confidential in order to avoid disclosure of the contents that may be prejudicial to competing respondents during the selection process.
2. After the school district awards a single contract or all of the multiple contracts or terminates the procurement, the school district shall make the contents of the procurement file, except the statements of qualifications and the documents described in subsections (A)(1)(e), (A)(2)(e), and (A)(2)(h), available to the public.
3. After the school district has entered into a single contract or all of the multiple contracts or has terminated the procurement, the school district shall make the statements of qualifications and the documents described in subsections (A)(1)(e), (A)(2)(e), and (A)(2)(h) available to the public.
4. To the extent that a person designates and the school district concurs, trade secrets and other proprietary data contained in a statement of qualifications shall remain confidential.
5. If the procurement file contains information that is confidential under R7-2-1006, a copy of the applicable documents with the confidential information redacted shall be placed in the procurement file for the purpose of public inspection. The unredacted original copy of the confidential information shall be placed in a sealed envelope or other appropriate container, identified as confidential information, and maintained in the procurement file.

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- C. The school district shall retain the records of a procurement under R7-2-1117 through R7-2-1121 in accordance with R7-2-1085.

**Historical Note**

Adopted effective December 17, 1987 (Supp. 87-4). Section repealed; new Section made by final exempt rulemaking at 21 A.A.R. 1525, effective July 1, 2014 (Supp. 15-3); effective year corrected in Supp. 18-2.

**R7-2-1124. Reserved****COST PRINCIPLES****R7-2-1125. Cost Principles**

The cost principles adopted by the director of the Department of Administration pursuant to A.R.S. § 41-2591 shall be used to determine the allowability of incurred costs for the purpose of reimbursing costs under contract provisions that provide for the reimbursement of costs.

**Historical Note**

Adopted effective December 17, 1987 (Supp. 87-4). Section amended by final exempt rulemaking at 21 A.A.R. 1525, effective July 1, 2014 (Supp. 15-3); effective year corrected in Supp. 18-2.

**R7-2-1126. Reserved****R7-2-1127. Reserved****R7-2-1128. Reserved****R7-2-1129. Reserved****R7-2-1130. Reserved****MATERIALS MANAGEMENT****R7-2-1131. Material Management and Disposition**

- A. The school district shall ascertain or verify that materials, services, or construction items procured by the school district conform to specifications as set forth in the solicitation.
- B. The school district shall determine the fair market value of excess and surplus material.
- C. Disposition of surplus materials.
  1. Except as provided in A.R.S. § 15-342(7) related to sales or leases to the state, a county, a city, another school district, or a tribal government agency, and A.R.S. § 15-342(18) related to the disposition of surplus or outdated learning materials, educational equipment and furnishings, surplus materials, regardless of value, shall be offered through competitive sealed bids, public auction, on-line sales, established markets, trade in, posted prices or state surplus property. If unusual circumstances render the above methods impractical, the school district may employ other disposition methods, including appraisal or barter, provided the school district makes a written determination that such procedure is advantageous to the school district. Only United States Postal Money Orders, certified checks, cashiers' checks or cash shall be accepted for sales of surplus material unless otherwise approved by the school district.
  2. Competitive sealed bidding.
    - a. Notice for sale bids shall be publicly available from the school district at least 10 days before the due date set for bids. Notice of the sale bids shall be provided to prospective bidders, including those bidders on lists maintained by the school district pursuant to R7-2-1023. The notice for sale bids shall list the materials offered for sale, their location, availability for inspection, the terms and conditions of sale and instructions to bidders including the bid due date and time. Bids shall be opened publicly pursuant to the requirements of R7-2-1029.
    - b. The award shall be made in accordance with the provisions of the notice for sale bids to the highest responsive and responsible bidder, provided that the price offered by such bidder is acceptable to the school district. If the school district determines that the bid is not advantageous to the school district, the school district may reject the bids in whole or in part and may resolicit bids or the school district may negotiate the sale, provided that the negotiated sale price is higher than the highest responsive and responsible bidder's price.
3. Auctions shall be advertised in the official newspaper of the county as prescribed in A.R.S. § 11-255 or a newspaper of general circulation, in accordance with A.R.S. § 41-2533. The publication shall not be less than 14 days before the auction date. All the terms and conditions of any sale shall be available to the public at least 24 hours prior to the auction date. The school district or any agent acting on the school district's behalf may also advertise the auction in any other manner determined advantageous to the school district.
4. Internet-based on-line sales shall not be subject to the advertisement requirements in subsection (C)(3). For such disposal services, the school district shall post and maintain a notice explaining the use of Internet-based on-line sales on a designated site on the Internet. The notice shall include:
  - a. The name of the on-line sales provider and the designated site on the Internet where potential buyers may obtain information or participate in the on-line auctions;
  - b. A link to the Internet-based on-line sales service;
  - c. A link to the terms and conditions of sale;
  - d. Instructions for bidding on the Internet-based on-line sales site; and
  - e. A period of not less than 14 days for each Internet-based on-line sale during which persons may submit offers to purchase the specified materials.
5. Before surplus materials are disposed of by trade-in to a vendor for credit on an acquisition, the school district shall approve such disposal. The school district shall base this determination on whether the trade-in value is expected to exceed the value realized through the sale or other disposition of such materials.
6. An employee of the school district or a governing board member, or an employee of a school district's agent conducting an auction on behalf of the school district, shall not directly or indirectly purchase or agree with another person to purchase surplus property if said employee or board member is, or has been, directly or indirectly involved in the purchase, disposal, maintenance, or preparation for sale of the surplus material.
7. State surplus property manager. The school district may enter into an agreement with the State Surplus Property Manager for the disposition of materials pursuant to Article 8 of the Arizona Procurement Code (A.R.S. § 41-2601 et seq.) and the rules adopted thereunder.
8. Pursuant to A.R.S. § 15-342(35), a school district may offer to sell outdated learning materials, educational equipment or furnishings at a posted price commensurate with the value of the items to pupils who are currently enrolled in that school district before those materials are offered for public sale.

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**Historical Note**

Adopted effective December 17, 1987 (Supp. 87-4).

Amended effective March 21, 1991 (Supp. 91-1).

Amended effective October 22, 1992 (Supp. 92-4). Section amended by final exempt rulemaking at 21 A.A.R. 1525, effective July 1, 2014 (Supp. 15-3); effective year corrected in Supp. 18-2. Amended by final exempt rulemaking at 26 A.A.R. 597, effective July 1, 2020 (Supp. 20-1).

**R7-2-1132. State and Federal Surplus Materials Program**

- A. The governing board may acquire surplus materials from the state and the United States government.
- B. The governing board may enter into an agreement with the State Surplus Property Manager for the purpose of acquiring surplus materials from the United States government pursuant to A.R.S. § 41-2603 and the rules adopted thereunder.

**Historical Note**

Adopted effective December 17, 1987 (Supp. 87-4).

Amended effective March 21, 1991 (Supp. 91-1).

**R7-2-1133. Authority for Transfer of Material**

Notwithstanding any law to the contrary, the governing board may secure the transfer of surplus materials and obligate its monies to the extent necessary to comply with the laws and conditions of such transfers.

**Historical Note**

Adopted effective December 17, 1987 (Supp. 87-4).

Amended by final exempt rulemaking at 26 A.A.R. 597, effective July 1, 2020 (Supp. 20-1).

**R7-2-1134. Reserved**

**R7-2-1135. Reserved**

**R7-2-1136. Reserved**

**R7-2-1137. Reserved**

**R7-2-1138. Reserved**

**R7-2-1139. Reserved**

**R7-2-1140. Reserved**

**BID PROTESTS****R7-2-1141. Resolution of Bid Protests**

- A. Informal resolution of bid protests. Nothing in Articles 10 and 11 are intended to eliminate the informal resolution of problems by school district personnel.
- B. Formal resolution of bid protests. The governing board pursuant to R7-2-1007 shall designate a district representative, as defined in R7-2-1001(39), to resolve bid protests. All solicitations issued by the school district shall include the name of the district representative and shall indicate that any bid protest shall be filed with the district representative. Appeal from the decision of the district representative may be made to the hearing officer pursuant to R7-2-1147 and R7-2-1181.

**Historical Note**

Adopted effective December 17, 1987 (Supp. 87-4). Section amended by final exempt rulemaking at 21 A.A.R. 1525, effective July 1, 2014 (Supp. 15-3); effective year corrected in Supp. 18-2.

**R7-2-1142. Filing of a Protest**

- A. Any interested party may protest a solicitation issued by the school district, a determination that a proposal is unacceptable, or the proposed award or the award of a school district contract. Protests shall be filed with the district representative.

- B. Content of protest. The protest shall be in writing and shall include the following information:

1. The name, address and telephone number of the interested party;
2. The signature of the interested party or the interested party's representative;
3. Identification of the solicitation or contract number;
4. A detailed statement of the legal and factual grounds of the protest including copies of relevant documents; and
5. The form of relief requested.

- C. The interested party shall supply any other information requested by the district representative within 10 days of the request.

- D. The interested party may file a written request with the district representative for an extension of the time limit for providing additional information set forth in subsection (C). The written request shall be filed before the expiration of the time limit set forth in subsection (C) and shall set forth good cause as to the specific reason that the interested party is unable to provide the additional information within the 10 days. The district representative shall approve or deny the request in writing, state the reasons for the determination, and if an extension is granted, set forth a new date for submission of the filing.

**Historical Note**

Adopted effective December 17, 1987 (Supp. 87-4). Section amended by final exempt rulemaking at 21 A.A.R. 1525, effective July 1, 2014 (Supp. 15-3); effective year corrected in Supp. 18-2. Amended by final exempt rulemaking at 26 A.A.R. 597, effective July 1, 2020 (Supp. 20-1).

**R7-2-1143. Time for Filing Protests**

- A. Protests based upon alleged improprieties in a solicitation that are apparent before the due date and time for responses to the solicitation, shall be filed before the due date and time for responses to the solicitation.
- B. In cases other than those covered in subsection (A), the interested party shall file the protest within 10 days after the school district makes the procurement file available for public inspection.
- C. The interested party may file a written request with the district representative for an extension of the time limit for protest filing set forth in subsection (B). The written request shall be filed before the expiration of the time limit set forth in subsection (B) and shall set forth good cause as to the specific action or inaction of the school district that resulted in the interested party being unable to file the protest within the 10 days. The district representative shall approve or deny the request in writing, state the reasons for the determination, and, if an extension is granted, set forth a new date for submission of the filing.
- D. If the interested party shows good cause and it is advantageous to the school district, the district representative may consider any protest that is not filed timely.
- E. The district representative shall immediately give notice of the protest to the successful contractor if award has been made or, if no award has been made, to all interested parties.
- F. At any time the district representative or hearing officer may refer the protest to the governing board for resolution in accordance with R7-2-1152.

**Historical Note**

Adopted effective December 17, 1987 (Supp. 87-4). Section amended by final exempt rulemaking at 21 A.A.R. 1525, effective July 1, 2014 (Supp. 15-3); effective year

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corrected in Supp. 18-2.

**R7-2-1144. Stay of Procurements During the Protest**

The district representative may stay all or part of the procurement or contract if it is determined that there is a reasonable probability the protest will be upheld or that a stay is advantageous to the school district. The district representative shall notify the successful contractor if award has been made or, if no award has been made, all interested parties of the stay in writing no later than the time of issuance of the district representative's decision in accordance with R7-2-1145.

**Historical Note**

Adopted effective December 17, 1987 (Supp. 87-4). Section amended by final exempt rulemaking at 21 A.A.R. 1525, effective July 1, 2014 (Supp. 15-3); effective year corrected in Supp. 18-2. Amended by final exempt rulemaking at 26 A.A.R. 597, effective July 1, 2020 (Supp. 20-1).

**R7-2-1145. Decision by the District Representative**

- A. The district representative shall have the authority granted to the district representative by the governing board to settle and resolve a protest.
- B. The district representative shall issue a written decision within 14 days after a protest has been filed, or after additional information requested by the district representative has been submitted, pursuant to R7-2-1142. The decision shall include:
  1. A statement of the decision of the district representative with supporting rationale; and
  2. A paragraph substantially as follows: "This is the decision of the district representative of the \_\_\_\_\_ School District. The decision may be appealed to a hearing officer. If you appeal, you must file a written notice of appeal with the district representative within 30 days from the date of the decision."
- C. The district representative shall furnish a copy of the decision to the interested party by any method that provides evidence of receipt.
- D. On agreement of all interested parties, the time limit for decisions set forth in subsection (B) may be extended by the district representative for good cause for a reasonable time not to exceed an additional 30 days. The district representative shall notify the interested party in writing that the time for the issuance of a decision has been extended and the date by which a decision will be issued.
- E. If the district representative fails to issue a decision within the time limits set forth in subsections (B) or (D), the interested party may proceed as if the district representative had issued an adverse decision.

**Historical Note**

Adopted effective December 17, 1987 (Supp. 87-4). Section amended by final exempt rulemaking at 21 A.A.R. 1525, effective July 1, 2014 (Supp. 15-3); effective year corrected in Supp. 18-2. Amended by final exempt rulemaking at 26 A.A.R. 597, effective July 1, 2020 (Supp. 20-1).

**R7-2-1146. Remedies**

- A. If the district representative sustains the protest in whole or part and determines that a solicitation, a determination that a proposal is unacceptable, proposed contract award, or contract award does not comply with Articles 10 and 11, the school district shall implement an appropriate remedy.
- B. In determining an appropriate remedy, the district representative shall consider all the circumstances surrounding the procurement or proposed procurement including, but not limited

to, the seriousness of the procurement deficiency, the degree of prejudice to other interested parties or to the integrity of the procurement system, the good faith of the parties, the extent of performance, costs to the school district, the urgency of the procurement, the impact of the relief on the mission of the school district, and other relevant issues.

- C. An appropriate remedy may include one or more of the following:
  1. Decline to exercise an option to renew under the contract;
  2. Terminate the contract;
  3. Amend the solicitation;
  4. Issue a new solicitation;
  5. Award a contract consistent with procurement statutes and regulations; or
  6. Such other relief as is determined necessary to ensure compliance with Articles 10 and 11.

**Historical Note**

Adopted effective December 17, 1987 (Supp. 87-4). Section amended by final exempt rulemaking at 21 A.A.R. 1525, effective July 1, 2014 (Supp. 15-3); effective year corrected in Supp. 18-2.

**R7-2-1147. Appeals to a Hearing Officer**

- A. An appeal to a hearing officer from a decision entered or deemed to be entered by the district representative shall be filed with the district representative within 30 days from the date of decision.
- B. Content of appeal. The appeal shall contain:
  1. The information set forth in R7-2-1142(B); and
  2. The precise factual or legal error in the decision of the district representative from which an appeal is taken.
- C. All costs associated with conducting a hearing, including the costs of the hearing officer, shall be paid by the school district. If the hearing officer decides in favor of the school district, the other party shall reimburse the school district for the costs of the hearing within 30 days of receipt of a copy of the hearing officer's invoice.
- D. The Executive Director of the State Board of Education ("Executive Director") shall prepare and maintain a list of individuals who meet the qualifications specified in R7-2-1185 to serve as hearing officers.
- E. A hearing officer may be selected by mutual agreement of both parties. If the parties are unable to mutually agree on a hearing officer, three hearing officers shall be selected randomly by the Executive Director and shall be screened to determine availability and possible bias. Once the Executive Director has selected three hearing officers who are available and show no evidence of bias, the three names shall be provided to both parties. Both parties have the opportunity to strike one name from the list provided, but shall do so within 14 calendar days from the date on which the Executive Director provided the list to the parties. If after the time period for striking a hearing officer has passed and more than one person remains on the list, the Executive Director shall select one of the remaining individuals on the list as the hearing officer unless either party objects for cause and provides such reason in writing to the Executive Director. If after the time period for striking a hearing officer has passed and there is only one person remaining on the list, the remaining individual shall be named as the hearing officer unless either party objects for cause and provides such reason in writing to the Executive Director. Objections for cause shall require specific evidence that the individual does not meet the criteria specified in R7-2-1185. The Executive Director shall review the evidence submitted and determine the qualifications of the individual. If the Executive Director determines that the individual is not quali-

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fied to serve as the hearing officer, the Executive Director shall repeat the process and select three additional hearing officers to be provided to the parties.

- F. Issuance of a school district purchase order shall constitute the official selection date of the hearing officer.

**Historical Note**

Adopted effective December 17, 1987 (Supp. 87-4). Section amended by final exempt rulemaking at 21 A.A.R. 1525, effective July 1, 2014 (Supp. 15-3); effective year corrected in Supp. 18-2. Amended by final exempt rulemaking at 26 A.A.R. 597, effective July 1, 2020 (Supp. 20-1).

**R7-2-1148. Notice of Appeal**

The district representative shall within three working days give notice of the filing of the appeal to the governing board and the successful contractor if award has been made.

**Historical Note**

Adopted effective December 17, 1987 (Supp. 87-4). Section amended by final exempt rulemaking at 21 A.A.R. 1525, effective July 1, 2014 (Supp. 15-3); effective year corrected in Supp. 18-2.

**R7-2-1149. Stay of Procurement During Appeal**

If an appeal is filed and the procurement or contract was stayed by the district representative pursuant to R7-2-1144, the filing of an appeal shall automatically continue the stay unless the hearing officer makes a written determination that the award of the contract without delay is necessary to protect substantial interests of the school district. If no such determination is made, the stay shall automatically end upon written decision of the hearing officer pursuant to R7-2-1151 or R7-2-1181.

**Historical Note**

Adopted effective December 17, 1987 (Supp. 87-4). Section amended by final exempt rulemaking at 21 A.A.R. 1525, effective July 1, 2014 (Supp. 15-3); effective year corrected in Supp. 18-2. Amended by final exempt rulemaking at 26 A.A.R. 597, effective July 1, 2020 (Supp. 20-1).

**R7-2-1150. District Representative's Response**

- A. The district representative shall file a complete response to the appeal within 21 days from the date the appeal is filed or within five days after the hearing officer has been selected, whichever is later. At the same time, the district representative shall furnish a copy of the response to the appellant and to any interested party.
- B. The district representative may submit a written request to the hearing officer for an extension of the period for submission of response, identifying the reasons for the extension. The hearing officer shall approve or deny the request in writing, state the reasons for the determination, and, if an extension is granted, set forth a new date for the submission of filing a response. The hearing officer shall notify the district representative and the interested party of any extension.
- C. The interested party shall file comments on the district representative's response with the hearing officer within 10 days after receipt of the response. The interested party shall provide copies of the comments to the district representative and other interested parties.
- D. The interested party may submit a written request to the hearing officer for an extension of the period for submission of comments, identifying the reasons for the extension. The hearing officer shall approve or deny the request in writing, state the reasons for the determination, and, if an extension is granted, set forth a new date for the submission of filing com-

ments. The hearing officer shall notify the district representative and the interested party of any extension.

**Historical Note**

Adopted effective December 17, 1987 (Supp. 87-4). Section amended by final exempt rulemaking at 21 A.A.R. 1525, effective July 1, 2014 (Supp. 15-3); effective year corrected in Supp. 18-2. Amended by final exempt rulemaking at 26 A.A.R. 597, effective July 1, 2020 (Supp. 20-1).

**R7-2-1151. Dismissal Before Hearing**

- A. The hearing officer shall dismiss, upon a written determination, an appeal before scheduling a hearing if:
  1. The appeal does not state a valid basis for protest;
  2. The appeal is untimely pursuant to R7-2-1147(A); or
  3. The appeal attempts to raise issues not raised in the protest.
- B. The hearing officer shall notify the interested party and the district representative in writing of a determination to dismiss an appeal before hearing.

**Historical Note**

Adopted effective December 17, 1987 (Supp. 87-4). Section amended by final exempt rulemaking at 21 A.A.R. 1525, effective July 1, 2014 (Supp. 15-3); effective year corrected in Supp. 18-2.

**R7-2-1152. Hearing**

Hearings on appeals of bid protest decisions shall be conducted pursuant to R7-2-1181 and A.R.S. § 41-1092.07 as contested cases.

**Historical Note**

Adopted effective December 17, 1987 (Supp. 87-4). Section amended by final exempt rulemaking at 21 A.A.R. 1525, effective July 1, 2014 (Supp. 15-3); effective year corrected in Supp. 18-2.

**R7-2-1153. Remedies**

If the hearing officer sustains the appeal in whole or part and determines that a solicitation, a determination that a proposal is unacceptable, proposed award, or award does not comply with Articles 10 and 11, remedies shall be implemented pursuant to R7-2-1146.

**Historical Note**

Adopted effective December 17, 1987 (Supp. 87-4). Section amended by final exempt rulemaking at 21 A.A.R. 1525, effective July 1, 2014 (Supp. 15-3); effective year corrected in Supp. 18-2.

**R7-2-1154. Reserved**

**CONTRACT CLAIMS AND CONTROVERSIES**

**R7-2-1155. Resolution of Contract Claims and Controversies**

- A. The district representative shall have the authority granted to the district representative by the governing board to settle and resolve contract claims and controversies including claims relating to assignees of the contractor.
- B. The district representative shall receive prior written approval of the governing board for the settlement or resolution of a claim exceeding the dollar amount specified in A.R.S. § 41-2535.
- C. Appeals from decisions of the district representative may be made to the hearing officer pursuant to R7-2-1158.
- D. A claimant shall file a contract claim with the district representative within 180 days after the claim arises. The claim shall include the following:
  1. The name, address, and telephone number of the claimant;

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2. The signature of the claimant or claimant's representative;
3. Identification of the solicitation or contract number;
4. A detailed statement of the legal and factual grounds of the claim including copies of the relevant documents; and
5. The form and dollar amount of the relief requested.

**Historical Note**

Adopted effective December 17, 1987 (Supp. 87-4). Section amended by final exempt rulemaking at 21 A.A.R. 1525, effective July 1, 2014 (Supp. 15-3); effective year corrected in Supp. 18-2. Amended by final exempt rulemaking at 26 A.A.R. 597, effective July 1, 2020 (Supp. 20-1).

**R7-2-1156. District Representative's Decision**

- A. If a controversy cannot be resolved by mutual agreement, the district representative shall issue a written decision within no more than 60 days from receipt of the contractor's written request for a decision. Before issuing a written decision, the district representative shall review the facts pertinent to the claim and secure any necessary assistance from legal, fiscal, and other advisors.
- B. Decision of the district representative. The district representative shall furnish a copy of the decision to the contractor by any method that provides evidence of receipt. The decision shall include:
  1. A description of the claim;
  2. A reference to the pertinent contract provision;
  3. A statement of the factual areas of agreement or disagreement;
  4. A statement of the district representative's decision, with supporting rationale; and
  5. A paragraph substantially as follows:  
 "This is the decision of the district representative of the \_\_\_\_\_ School District. This decision may be appealed to a hearing officer. If you appeal, you must file a written notice of appeal with the district representative within 30 days from the date of decision."

**Historical Note**

Adopted effective December 17, 1987 (Supp. 87-4). Amended by final rulemaking at 6 A.A.R. 3750, effective September 8, 2000 (Supp. 00-4). Section amended by final exempt rulemaking at 21 A.A.R. 1525, effective July 1, 2014 (Supp. 15-3); effective year corrected in Supp. 18-2. Amended by final exempt rulemaking at 26 A.A.R. 597, effective July 1, 2020 (Supp. 20-1).

**R7-2-1157. Issuance of a Timely Decision**

- A. On agreement of all interested parties, the time limit for decisions set forth in R7-2-1156(A) may be extended for good cause for a reasonable time not to exceed 14 days. The district representative shall notify the contractor in writing that the time for the issuance of a decision has been extended and the date by which a decision shall be issued.
- B. If the district representative fails to issue a decision within 60 days after the request is filed or within the time prescribed under subsection (A), the contractor may proceed as if the district representative had issued an adverse decision.

**Historical Note**

Adopted effective December 17, 1987 (Supp. 87-4). Section amended by final exempt rulemaking at 21 A.A.R. 1525, effective July 1, 2014 (Supp. 15-3); effective year corrected in Supp. 18-2. Section amended by final exempt rulemaking at 21 A.A.R. 1525, effective July 1, 2014 (Supp. 15-3); effective year corrected in Supp. 18-2. Amended by final exempt rulemaking at 26 A.A.R. 597,

effective July 1, 2020 (Supp. 20-1).

**R7-2-1158. Appeals to a Hearing Officer**

- A. An appeal from a decision entered or deemed to be entered by the district representative on a contract claim or controversy shall be filed with the district representative within 30 days from the date of decision.
- B. The appeal shall contain the basis for the precise factual or legal error in the decision of the district representative from which an appeal is taken.
- C. The district representative shall file a complete response to the appeal within 21 days from the date the appeal is filed or within five days after the hearing officer has been selected, whichever is later. At the same time, the district representative shall furnish a copy of the response to the appellant and to any interested party.
- D. The district representative may submit a written request to the hearing officer for an extension of the period for submission of response, identifying the reasons for the extension. The hearing officer shall approve or deny the request in writing, state the reasons for the determination, and, if an extension is granted, set forth a new date for the submission of filing a response. The hearing officer shall notify the district representative and the interested party of any extension.
- E. The interested party shall file comments on the district representative's response with the hearing officer within 10 days after receipt of the response. The interested party shall provide copies of the comments to the district representative and other interested parties.
- F. The interested party may submit a written request to the hearing officer for an extension of the period for submission of comments, identifying the reasons for the extension. The hearing officer shall approve or deny the request in writing, state the reasons for the determination, and, if an extension is granted, set forth a new date for the submission of filing comments. The hearing officer shall notify the district representative and the interested party of any extension.
- G. All costs associated with conducting a hearing, including the costs of the hearing officer, shall be paid by the school district. If the hearing officer decides in favor of the school district, the other party shall reimburse the school district for the costs of the hearing within 30 days of receipt of a copy of the hearing officer's invoice.
- H. The Executive Director of the State Board of Education ("Executive Director") shall prepare and maintain a list of individuals who meet the qualifications specified in R7-2-1185 to serve as hearing officers.
- I. A hearing officer may be selected by mutual agreement of both parties. If the parties are unable to mutually agree on a hearing officer, three hearing officers shall be selected randomly by the Executive Director and shall be screened to determine availability and possible bias. Once the Executive Director has selected three hearing officers who are available and show no evidence of bias, the three names shall be provided to both parties. Both parties have the opportunity to strike one name from the list provided, but shall do so within 14 calendar days from the date on which the Executive Director provided the list to the parties. If after the time period for striking a hearing officer has passed and more than one person remains on the list, the Executive Director shall select one of the remaining individuals on the list as the hearing officer unless either party objects for cause and provides such reason in writing to the Executive Director. If after the time period for striking a hearing officer has passed and there is only one person remaining on the list, the remaining individual shall be named as the hearing officer unless either party objects for cause and provides such reason in writing to the Executive

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Director. Objections for cause shall require specific evidence that the individual does not meet the criteria specified in R7-2-1185. The Executive Director shall review the evidence submitted and determine the qualifications of the individual. If the Executive Director determines that the individual is not qualified to serve as the hearing officer, the Executive Director shall repeat the process and select three additional hearing officers to be provided to the parties.

- J. Issuance of a school district purchase order shall constitute the official selection date of the hearing officer.

**Historical Note**

Adopted effective December 17, 1987 (Supp. 87-4). Amended by final rulemaking at 6 A.A.R. 3750, effective September 8, 2000 (Supp. 00-4). Section amended by final exempt rulemaking at 21 A.A.R. 1525, effective July 1, 2014 (Supp. 15-3); effective year corrected in Supp. 18-2. Amended by final exempt rulemaking at 26 A.A.R. 597, effective July 1, 2020 (Supp. 20-1).

**R7-2-1159. Hearing**

Hearings on appeals of contract claim and controversy decisions shall be conducted pursuant to R7-2-1181 and A.R.S. § 41-1092.07 as contested cases.

**Historical Note**

Adopted effective December 17, 1987 (Supp. 87-4). Section amended by final exempt rulemaking at 21 A.A.R. 1525, effective July 1, 2014 (Supp. 15-3); effective year corrected in Supp. 18-2.

**R7-2-1160. Reserved****DEBARMENT AND SUSPENSION****R7-2-1161. Authority to Debar or Suspend**

- A. Except as provided in A.R.S. § 41-1279.21(B), the governing board has the sole authority to debar or suspend a person from participating in school district procurements.
- B. The causes for debarment or suspension include the following:
1. Conviction of any person or any subsidiary or affiliate of any person for commission of a criminal offense arising out of obtaining or attempting to obtain a public or private contract or subcontract, or in the performance of such contract or subcontract.
  2. Conviction of any person or any subsidiary or affiliate of any person under any statute of the federal government, this state or any other state for embezzlement, theft, fraudulent schemes and artifices, fraudulent schemes and practices, bid rigging, perjury, forgery, bribery, falsification or destruction of records, receiving stolen property or any other offense indicating a lack of business integrity or business honesty which affects responsibility as a school district contractor.
  3. Conviction or civil judgment finding a violation by any person or any subsidiary or affiliate of any person under state or federal antitrust statutes.
  4. Violations of contract provisions of a character which are deemed to be so serious as to justify debarment action, such as either of the following:
    - a. Knowingly fails without good cause to perform in accordance with the specification or within the time limit provided in the contract.
    - b. Failure to perform or unsatisfactory performance in accordance with the terms of one or more contracts, except that failure to perform or unsatisfactory performance caused by acts beyond the control of the contractor shall not be considered to be a basis for debarment.

5. Any other cause deemed to affect responsibility as a school district contractor, including suspension or debarment of such person or any subsidiary or affiliate of such person by another governmental entity for any cause.

**Historical Note**

Adopted effective December 17, 1987 (Supp. 87-4). Section amended by final exempt rulemaking at 21 A.A.R. 1525, effective July 1, 2014 (Supp. 15-3); effective year corrected in Supp. 18-2.

**R7-2-1162. Initiation of Debarment**

Upon receipt of information concerning a possible cause for debarment, the school district shall investigate the possible cause. If the school district has a reasonable basis to believe that a cause for debarment exists, the school district may propose debarment under R7-2-1164.

**Historical Note**

Adopted effective December 17, 1987 (Supp. 87-4).

**R7-2-1163. Period of Debarment**

- A. The period of time for a debarment shall not exceed three years from the date of the debarment determination.
- B. If debarment is based solely upon debarment by another governmental agency including another school district, the period of debarment may run concurrently with the period established by that other debarring agency.

**Historical Note**

Adopted effective December 17, 1987 (Supp. 87-4).

**R7-2-1164. Notice**

- A. If the school district proposes debarment, the school district shall notify the person and affected affiliates in writing within seven days of the proposed debarment by any means evidencing receipt, which notice shall indicate that a hearing shall be scheduled, if requested, in accordance with R7-2-1181 as contested cases.
- B. The notice of debarment shall state:
1. The basis for debarment;
  2. The period, including dates, of the debarment;
  3. That bids or proposals shall not be solicited or accepted from the person and, if received, will not be considered; and
  4. That the person is entitled to a hearing on the suspension if the person files a written request for a hearing with a designated district representative within 10 days after receipt of the notice.

**Historical Note**

Adopted effective December 17, 1987 (Supp. 87-4). Section amended by final exempt rulemaking at 21 A.A.R. 1525, effective July 1, 2014 (Supp. 15-3); effective year corrected in Supp. 18-2.

**R7-2-1165. Notice to Affiliates**

- A. If the school district proposes to debar an affiliate, the affiliate shall have a right to appear in any hearing on the proposed debarment to show mitigating circumstances.
- B. The affiliate shall in writing advise the school district within 10 days of receipt of the notice under R7-2-1164 of its intention to appear under subsection (A). Failure to provide written notice of appearance within the 10-day period shall be a waiver of the right to appear in the hearing.

**Historical Note**

Adopted effective December 17, 1987 (Supp. 87-4). Section amended by final exempt rulemaking at 21 A.A.R. 1525, effective July 1, 2014 (Supp. 15-3); effective year



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corrected in Supp. 18-2.

**R7-2-1166. Imputed Knowledge**

- A. Improper conduct may be imputed to an affiliate for purposes of debarment where the impropriety occurred in connection with the affiliate's duties for or on behalf of, or with the knowledge, approval, or acquiescence of, the contractor.
- B. The improper conduct of a person or its affiliate having a contract with a contractor may be imputed to the contractor for purposes of debarment where the impropriety occurred in connection with the person's duties for or on behalf of, or with the actual or constructive knowledge, approval, or acquiescence of, the contractor.

**Historical Note**

Adopted effective December 17, 1987 (Supp. 87-4). Section amended by final exempt rulemaking at 21 A.A.R. 1525, effective July 1, 2014 (Supp. 15-3); effective year corrected in Supp. 18-2.

**R7-2-1167. Reinstatement**

- A. The governing board may at any time reinstate a debarred person or rescind the debarment upon a determination that the cause upon which the debarment is based no longer exists or upon a determination that such reinstatement or rescission is advantageous to the school district. The governing board's determination shall include any limitations on the debarred person's ability to contract with the school district.
- B. Any debarred person may request reinstatement by submitting a petition to the school district supported by documentary evidence showing that the cause for debarment no longer exists or has been substantially mitigated.
- C. The school district may require a hearing on the request for reinstatement.
- D. The school district shall make a written decision on reinstatement within 30 days after the request is filed and specify the factors on which it is based.

**Historical Note**

Adopted effective December 17, 1987 (Supp. 87-4). Section amended by final exempt rulemaking at 21 A.A.R. 1525, effective July 1, 2014 (Supp. 15-3); effective year corrected in Supp. 18-2.

**R7-2-1168. Suspension**

- A. If adequate grounds for debarment exist, the governing board may suspend a person from participating in any procurement or receiving any award in accordance with the procedures in R7-2-1170.
- B. The governing board shall not suspend a person pending debarment unless compelling reasons require suspension to protect school district interests.

**Historical Note**

Adopted effective December 17, 1987 (Supp. 87-4). Section amended by final exempt rulemaking at 21 A.A.R. 1525, effective July 1, 2014 (Supp. 15-3); effective year corrected in Supp. 18-2.

**R7-2-1169. Period and Scope of Suspension**

- A. Unless otherwise agreed to by the parties, the period of suspension shall not exceed 35 days without satisfying the notice requirements of R7-2-1170. If the notice requirements are satisfied the period of suspension shall not exceed six months.
- B. For purpose of suspension, a person's conduct may be imputed to an affiliate or another person in accordance with R7-2-1166.

**Historical Note**

Adopted effective December 17, 1987 (Supp. 87-4). Section amended by final exempt rulemaking at 21 A.A.R.

1525, effective July 1, 2014 (Supp. 15-3); effective year corrected in Supp. 18-2.

**R7-2-1170. Notice and Hearing**

- A. The school district shall notify the person suspended by any means evidencing receipt.
- B. The notice of suspension shall state:
  1. The basis for suspension;
  2. The period, including dates, of the suspension;
  3. That bids or proposals shall not be solicited or accepted from the person and, if received, will not be considered; and
  4. That the person is entitled to a hearing on the suspension if the person files a written request for a hearing, including the basis for the request, with a designated district representative within 10 days after receipt of the notice.
- C. A hearing requested under this Section shall be conducted pursuant to R7-2-1181.

**Historical Note**

Adopted effective December 17, 1987 (Supp. 87-4). Section amended by final exempt rulemaking at 21 A.A.R. 1525, effective July 1, 2014 (Supp. 15-3); effective year corrected in Supp. 18-2.

**R7-2-1171. List of Debarments, Suspensions and Voluntary Exclusions**

The school district shall maintain a list of debarment, suspensions, and voluntary exclusions. It is recommended that the school district provide notice of any debarments, suspensions and voluntary exclusions to the state purchasing office.

**Historical Note**

Adopted effective December 17, 1987 (Supp. 87-4).

**R7-2-1172. Reserved****R7-2-1173. Reserved****R7-2-1174. Reserved****R7-2-1175. Reserved****R7-2-1176. Reserved****R7-2-1177. Reserved****R7-2-1178. Reserved****R7-2-1179. Reserved****R7-2-1180. Reserved****HEARING PROCEDURES****R7-2-1181. Hearing Procedures**

- A. If a hearing is required or permitted under Articles 10 and 11, this Section shall apply. Hearing officers shall be selected pursuant to R7-2-1147(D) and (E) or R7-2-1158(E) and (F).
- B. The Arizona Administrative Procedure Act (A.R.S. Title 41, Chapter 6) shall apply where the Act is not inconsistent with Articles 10 and 11.
- C. The hearing officer shall arrange for a hearing to be held within 30 days of receiving required responses and comments from both parties and notify the parties in writing of the time and place of the hearing.
- D. The hearing officer may:
  1. Hold pre-hearing conferences to settle, simplify, or identify the issues in a proceeding, or to consider other matters that may aid in the expeditious disposition of the proceeding;
  2. Require parties to state their positions concerning the various issues in the proceeding;

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3. Require parties to produce for examination those relevant witnesses and documents under their control;
  4. Rule on motions and other procedural items on matters pending before such officer;
  5. Regulate the course of the hearing and conduct of participants;
  6. Establish time limits for submission of motions or memoranda;
  7. Impose appropriate sanctions against any person failing to obey an order under these procedures, which may include:
    - a. Refusing to allow the person to assert or oppose designated claims or defenses, or prohibiting that person from introducing designated matters in evidence;
    - b. Excluding all testimony of an unresponsive or evasive witness; and
    - c. Expelling person from further participation in the hearing;
  8. Take official notice of any material fact not appearing in evidence in the record, if the fact is among the traditional matters of judicial notice; and
  9. Administer oaths or affirmations.
- E.** A transcribed record of the hearing shall be made available at cost to any requesting party.
- F.** Decision by the hearing officer. A decision by the hearing officer shall be sent within 30 days after the conclusion of the hearing to all parties by any means evidencing receipt. A decision shall contain:
1. A statement of facts;
  2. A statement of the decision with supporting rationale; and
  3. A statement that the parties may file a motion for rehearing within 15 days from the date a copy of this decision is served upon the party.
- Historical Note**
- Adopted effective December 17, 1987 (Supp. 87-4).  
Amended by final rulemaking at 6 A.A.R. 3750, effective September 8, 2000 (Supp. 00-4). Section amended by final exempt rulemaking at 21 A.A.R. 1525, effective July 1, 2014 (Supp. 15-3); effective year corrected in Supp. 18-2. Amended by final exempt rulemaking at 26 A.A.R. 597, effective July 1, 2020 (Supp. 20-1).
- R7-2-1182. Rehearing of Decisions**
- A.** Procedure; grounds. A decision of the hearing officer may be vacated and new hearing granted on motion of the aggrieved party for any of the following causes materially affecting the party's rights:
1. Irregularity in the proceedings of the hearing officer or prevailing party, or any order or abuse of discretion, whereby the moving party was deprived of a fair hearing.
  2. Misconduct of the prevailing party.
  3. Accident or surprise not preventable by ordinary prudence.
  4. Material evidence, newly discovered, which despite reasonable diligence was not discovered and produced at the hearing.
  5. Excessive or insufficient damages or penalties.
  6. Error of law occurring at the hearing or during the progress of the proceeding.
  7. That the findings of fact or decision is not justified by the evidence or is contrary to law.
- B.** Scope. A rehearing may be granted to all or any of the parties and on all or part of the issues in the proceeding for any of the reasons for which rehearings are authorized by law or rule of court. On a motion for a rehearing, the hearing officer may open the decision, take additional testimony, amend findings of fact and conclusions of law or make new findings and conclusions, and direct the entry of a new decision.
- C.** Contents of motion; amendment; rulings reviewable.
1. The motion for rehearing shall be in writing, shall specify generally the grounds upon which the motion is based, and may be amended at any time before it is ruled upon by the hearing officer.
  2. Upon the general ground that the hearing officer erred in admitting or rejecting evidence, the hearing officer shall review all rulings during the hearing upon objections to evidence.
  3. Upon the general ground that the findings of fact or decision are not justified by the evidence, the hearing officer shall review the sufficiency of the evidence.
- D.** Time for motion for rehearing. A motion for rehearing shall be filed not later than 15 days after service of the decision upon the party.
- E.** Time for serving affidavits. When a motion for rehearing is based upon affidavits they shall be served with the motion. The opposing party has 10 days after such service within which to serve opposing affidavits, which period may be extended for an additional period not exceeding 20 days either by the hearing officer for good cause shown or by the parties by written stipulation. The hearing officer may permit reply affidavits.
- F.** On initiative of hearing officer. Not later than 15 days after the date of the decision, the hearing officer may order a rehearing for any reason for which it might have granted a rehearing on motion of a party. After giving the parties notice and an opportunity to be heard on the matter, the hearing officer may grant a motion for a rehearing, timely served, for a reason not stated in the motion. In either case, the hearing officer shall specify in the order the grounds therefor.
- G.** Questions to be considered in rehearing. A rehearing, if granted, shall be only a rehearing of the question or questions with respect to which the decision is found erroneous, if separable. If a rehearing is ordered because the damages or penalties are excessive or inadequate and granted solely for that reason, the decision shall be set aside only in respect of the damages or penalties, and shall stand in all other respects.
- H.** Motion on ground of excessive or inadequate damages. When a motion for rehearing is made upon the ground that the damages or penalties awarded are either excessive or insufficient, the hearing officer may grant the rehearing conditionally upon the filing within a fixed period of time, not to exceed 15 days, of a statement by the party adversely affected by reduction or increase of damages or penalties accepting that amount of damages or penalties which the hearing officer shall designate. If such a statement is filed with the prescribed time, the motion for rehearing shall be regarded as denied as of the date of such filing. If no statement is filed, the motion for rehearing shall be regarded as granted as of the date of the expiration of the time period within which a statement may have been filed. No further written order shall be required to make an order granting or denying the rehearing final. If the conditional order of the hearing officer requires a reduction of or increase in damages or penalties, then the rehearing will be granted in respect of the damages or penalties only and the decision shall stand in all other respects.
- I.** Number of motions for rehearing. Not more than two motions for rehearing shall be granted to any party in the same action.
- J.** Specifications of grounds of rehearing in order. An order granting a motion for rehearing shall specify with particularity the ground or grounds on which the rehearing is granted.
- K.** Final decision.

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1. If a motion for rehearing is denied, the final decision denying the motion for rehearing shall be sent within five days after the denial to all parties by any means evidencing receipt. A final decision shall contain a paragraph substantially as follows: "This is the final decision of the hearing officer in the matter of \_\_\_\_\_."
2. If the motion for rehearing was granted, after the rehearing is completed, a final decision shall be made and shall be sent within five days after the conclusion of the rehearing to all parties as required in subsection (K)(1). A final decision shall contain:
  - a. A statement of facts;
  - b. A statement of the decision with supporting rationale; and
  - c. A paragraph substantially as stated in subsection (K)(1).

**Historical Note**

Adopted effective December 17, 1987 (Supp. 87-4). Amended by final rulemaking at 6 A.A.R. 3750, effective September 8, 2000 (Supp. 00-4). Section amended by final exempt rulemaking at 21 A.A.R. 1525, effective July 1, 2014 (Supp. 15-3); effective year corrected in Supp. 18-2.

**R7-2-1183. Judicial Review**

Any final decision made as a result of a hearing held pursuant to Articles 10 and 11 are subject to judicial review in accordance with A.R.S. Title 12, Chapter 7, Article 6.

**Historical Note**

New Section adopted by final rulemaking at 6 A.A.R. 3750, effective September 8, 2000 (Supp. 00-4). Section amended by final exempt rulemaking at 21 A.A.R. 1525, effective July 1, 2014 (Supp. 15-3); effective year corrected in Supp. 18-2.

**R7-2-1184. Exclusive Remedy**

Articles 10 and 11 (R7-2-1001 et seq.) provide the exclusive procedure for asserting a cause against the school district and its governing board arising in relation to any procurement conducted under Articles 10 and 11.

**Historical Note**

Section amended by final exempt rulemaking at 21 A.A.R. 1525, effective July 1, 2014 (Supp. 15-3); effective year corrected in Supp. 18-2.

**R7-2-1185. Qualifications for Hearing Officers**

- A. A "hearing officer" means a person assigned to preside at a hearing held pursuant to Articles 10 and 11 and whose duty it is to assure that proper procedures are followed and that the rights of the parties are protected.
- B. A hearing officer shall be:
  1. Unbiased - not prejudiced for or against any party in the hearing;
  2. Disinterested - not having any personal or professional interest which would conflict with his/her objectivity in the hearing; and
  3. Independent - may not be an officer, employee or agent of the contractor or governing board, or of any other public agency involved in the dispute to be settled. A person who otherwise qualifies to conduct a hearing is not an employee of the contractor or governing board solely because he or she is paid by the parties to serve as a hearing officer.
- C. A hearing officer shall have:
  1. A minimum of three years of verified experience in the practice of law; or

2. A minimum of three years of verified experience in school procurement or school facilities management and a minimum of one year of verified experience in conducting hearings. Completion of a course or program in conducting a hearing or arbitration may substitute for the one year of verified experience in conducting hearings.

**Historical Note**

New Section adopted by final rulemaking at 6 A.A.R. 3750, effective September 8, 2000 (Supp. 00-4). Section amended by final exempt rulemaking at 21 A.A.R. 1525, effective July 1, 2014 (Supp. 15-3); effective year corrected in Supp. 18-2.

**R7-2-1186. Reserved**

**R7-2-1187. Reserved**

**R7-2-1188. Reserved**

**R7-2-1189. Reserved**

**R7-2-1190. Reserved**

## INTERGOVERNMENTAL PROCUREMENTS

**R7-2-1191. Cooperative Purchasing Authorized**

- A. A school district may either participate in, sponsor, conduct, or administer a cooperative purchasing agreement for the procurement of any materials, services, specified professional services, construction, or construction services with one or more eligible procurement units in accordance with an agreement entered into between the participants. An agreement entered into as provided in R7-2-1191 through R7-2-1195 is exempt from A.R.S. § 11-952(D) and (E). Parties under a cooperative purchasing agreement may:
  1. Sponsor, conduct, or administer a cooperative purchasing agreement for the procurement or disposal of any materials, services or construction.
  2. Cooperatively use materials or services.
  3. Commonly use or share warehousing facilities, capital equipment and other facilities.
  4. Provide personnel, except that the requesting public procurement unit shall pay the public procurement unit providing the personnel the direct and indirect cost of providing the personnel, in accordance with the agreement.
  5. On request, make available to other public procurement units informational, technical or other services or software that may assist in improving the efficiency or economy of procurement. The public procurement unit furnishing the informational, technical, or other services or software has the right to request reimbursement for the reasonable and necessary costs of providing such services or software.
- B. The activities described in subsections (A)(1) through (A)(5) do not limit what parties may do under a cooperative purchasing agreement.
- C. A nonprofit corporation shall comply with Articles 10 and 11 in any cooperative purchasing agreement the nonprofit corporation administers in which a school district participates.
- D. Whether administering or purchasing from the agreement, this Section does not abrogate the responsibility of each school district to perform due diligence in order to ensure compliance with Articles 10 and 11 notwithstanding the fact that the cooperative purchase is administered by another eligible procurement unit.

**Historical Note**

Adopted effective December 17, 1987 (Supp. 87-4). Sec-

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tion amended by final exempt rulemaking at 21 A.A.R. 1525, effective July 1, 2014 (Supp. 15-3); effective year corrected in Supp. 18-2.

#### **R7-2-1192. Contract Provisions in a Cooperative Purchasing Agreement**

Any contract entered pursuant to R7-2-1191 shall provide that:

1. Payment for materials and services and inspection and acceptance of materials or services ordered by an eligible procurement unit under a cooperative purchasing agreement shall be the exclusive obligation of such procurement unit;
2. The exercise of any rights or remedies by a using eligible procurement unit shall be the exclusive obligation of such procurement unit. The administering public procurement unit, as the contract administrator and without subjecting itself to any liability, may join in the resolution of any controversy;
3. Any school district may terminate without notice any cooperative purchasing agreement if another eligible procurement unit fails to comply with the terms of the contract;
4. Failure of an eligible procurement unit to secure performance from the contractor in accordance with the terms and conditions of its purchase order does not necessarily require any other eligible procurement unit to exercise its own rights or remedies; and
5. An eligible procurement unit shall not use a cooperative purchasing contract as a method for obtaining concessions or reduced prices for non-contract purchases of similar materials or services.

##### **Historical Note**

Adopted effective December 17, 1987 (Supp. 87-4). Section amended by final exempt rulemaking at 21 A.A.R. 1525, effective July 1, 2014 (Supp. 15-3); effective year corrected in Supp. 18-2.

#### **R7-2-1193. Use of Payments Received by a Supplying Public Procurement Unit**

All payments received by a public procurement unit supplying personnel or services shall be available to the supplying public procurement unit to defray the cost of the cooperative program.

##### **Historical Note**

Adopted effective December 17, 1987 (Supp. 87-4).

#### **R7-2-1194. Public Procurement Units in Compliance with Article Requirements**

- A. If the eligible procurement unit administering a cooperative purchase complies with the requirements of Articles 10 and 11, any public procurement unit participating in such a purchase is deemed to have complied with Articles 10 and 11. Public procurement units may not enter into a cooperative purchasing agreement for the purpose of circumventing Articles 10 and 11.
- B. A participating public procurement unit using a contract awarded by another eligible procurement unit shall only purchase awarded materials, services, specified professional services, construction, or construction services in compliance with the terms, conditions and prices in the contract.

##### **Historical Note**

Adopted effective December 17, 1987 (Supp. 87-4). Section amended by final exempt rulemaking at 21 A.A.R. 1525, effective July 1, 2014 (Supp. 15-3); effective year corrected in Supp. 18-2.

#### **R7-2-1195. Contract Controversies**

- A. Under a cooperative purchasing agreement in which a school district is a party, controversies arising between an administering public procurement unit and its bidders, offerors or contractors shall be resolved in accordance with Articles 10 and 11.
- B. Any local public procurement unit which is not subject to R7-2-1181 through R7-2-1185 may enter into an agreement with a school district to establish procedures or use such school district's existing procedures to resolve controversies with contractors, whether or not such controversy arose from a cooperative purchasing agreement.

##### **Historical Note**

Adopted effective December 17, 1987 (Supp. 87-4). Section amended by final exempt rulemaking at 21 A.A.R. 1525, effective July 1, 2014 (Supp. 15-3); effective year corrected in Supp. 18-2.

#### **R7-2-1196. General Services Administration Contracts**

- A. The governing board may authorize purchases under a current General Services Administration contract for materials or services without complying with the requirements of Articles 10 and 11 if the governing board determines in writing before proceeding with a General Services Administration contract procurement that all of the following apply:
  1. The price for materials or services is equal to or less than the contractor's current federal supply contract price with the General Services Administration and is fair and reasonable.
  2. The contractor has indicated in writing that the contractor is willing to extend the current federal supply contract pricing, terms and conditions to the school district.
  3. The purchase order adequately identifies the federal supply contract on which the order is based, including the name of the contractor, contract number and procurement description.
  4. The purchase contract is cost effective based on price, quality and other relevant factors, and is advantageous to the school district.
- B. The school district shall only purchase materials or services awarded under the applicable General Services Administration contract.
- C. The governing board shall comply with all federal requirements applicable to state and local government use of General Services Administration contracts.

##### **Historical Note**

Section made by final exempt rulemaking at 21 A.A.R. 1525, effective July 1, 2014 (Supp. 15-3); effective year corrected in Supp. 18-2.

**R7-2-1197. Reserved**

**R7-2-1198. Reserved**

**R7-2-1199. Reserved**

**R7-2-1200. Reserved**

#### **ARTICLE 12. REPEALED**

**R7-2-1201. Repealed**

##### **Historical Note**

Adopted effective April 27, 1989 (Supp. 89-2). Repealed effective February 20, 1997 (Supp. 97-1).

#### **ARTICLE 13. CONDUCT**

##### **R7-2-1301. Definitions**

In this Article, unless the context otherwise specifies:

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1. "Alleging party" means an individual, partnership, corporation, association, governmental subdivision or unit of a governmental subdivision, a public or private organization of any character or other agency who completes a statement alleging immoral or unprofessional conduct against a certificated individual.
2. "Applicant" means a person who has submitted an application to the Department requesting an evaluation of the requirements set forth in R7-2-601 et seq., requesting issuance of a certificate pursuant to R7-2-601 et seq., requesting renewal of a certificate issued pursuant to R7-2-601 et seq. or requesting changes of coding to existing files or certificates pursuant to R7-2-601 et seq.
3. "Board" means the State Board of Education.
4. "Certificated individual" means an individual who holds an Arizona certificate issued pursuant to R7-2-601 et seq.
5. "Complaint" means the filing of a charge by the Board against a certificated individual alleging immoral or unprofessional conduct.
6. "Department" means the Arizona Department of Education.
7. "Hearing" means an adjudicative proceeding held pursuant to Title 41, Chapter 6 and R7-2-701 et seq.
8. "PPAC" means the Professional Practices Advisory Committee established pursuant to R7-2-205.

**Historical Note**

Adopted effective December 4, 1998 (Supp. 98-4).  
Amended by final rulemaking at 6 A.A.R. 1132, effective March 10, 2000 (Supp. 00-1). Amended by final exempt rulemaking at 25 A.A.R. 967, effective March 27, 2019 (Supp. 19-1).

**R7-2-1302. Statement of Allegations**

- A. Any person may file, with the Department, a statement of allegations against a certificated individual on forms provided by the Department.
- B. A statement of allegations shall state the facts under which a party is alleging immoral or unprofessional conduct and shall be signed and notarized.
- C. The facts in a statement of allegations shall clearly state the details of the alleged immoral or unprofessional conduct.
- D. A statement of allegations shall contain the names, addresses and telephone numbers of individuals who can be contacted to provide information regarding the allegations contained in the statement. The list of individuals shall also include a brief summary of the substance and extent of each individual's knowledge regarding the allegations contained in the statement.
- E. The alleging party may attach written or other evidence to a statement of allegations at the time that the statement is filed with the Department.
- F. A statement of allegations may be returned to the alleging party if the statement is not complete or not legible.
- G. The Department shall conduct an investigation of all statements of allegations filed pursuant to this Article.

**Historical Note**

Adopted effective December 4, 1998 (Supp. 98-4).  
Amended by final rulemaking at 6 A.A.R. 1132, effective March 10, 2000 (Supp. 00-1). Amended by final exempt rulemaking at 25 A.A.R. 967, effective March 27, 2019 (Supp. 19-1).

**R7-2-1303. Complaint**

- A. Upon completion of an investigation resulting from a statement of allegations, the Board may file a complaint against a

certificated individual or may issue or deny certification to an applicant.

- B. The Board may, at its own discretion, investigate any matter and file a complaint against a certificated individual upon receiving any information, from any source, indicating immoral or unprofessional conduct has occurred.
- C. A hearing shall be held on a complaint before the PPAC.

**Historical Note**

Adopted effective December 4, 1998 (Supp. 98-4). Section R7-2-1303 renumbered to R7-2-1304; new Section R7-2-1303 renumbered from R7-2-1304 and amended by final rulemaking at 6 A.A.R. 1132, effective March 10, 2000 (Supp. 00-1). Amended by final exempt rulemaking at 25 A.A.R. 967, effective March 27, 2019 (Supp. 19-1).

**R7-2-1304. Notification; Investigation**

The certificated individual shall have 20 days from service by U.S. mail of the notice of investigation to file a written response with the Department.

**Historical Note**

Adopted effective December 4, 1998 (Supp. 98-4). Section R7-2-1304 renumbered to R7-2-1303; new Section R7-2-1304 renumbered from R7-2-1303 and amended by final rulemaking at 6 A.A.R. 1132, effective March 10, 2000 (Supp. 00-1). Amended by final exempt rulemaking at 23 A.A.R. 725, effective January 23, 2017 (Supp. 17-1). Amended by final exempt rulemaking at 25 A.A.R. 967, effective March 27, 2019 (Supp. 19-1).

**R7-2-1305. Investigation**

- A. Applicants shall certify on forms that are provided by the Department whether the applicant:
  1. Has ever received any disciplinary action, including revocation, suspension or reprimand, involving any professional certification or license;
  2. Is currently under investigation or has ever been the subject of any investigation by the Department of Child Safety or a similar department in this state or another jurisdiction;
  3. Has ever been convicted of a felony offense;
  4. Has ever been arrested, cited and released, or received a criminal summons for any offense, regardless if eventually convicted of a crime or if a conviction was set aside or expunged; or
  5. Has ever been arrested, cited and released, or received a criminal summons for any offense involving a child, regardless if eventually convicted of a crime or if a conviction was set aside or expunged.
- B. Upon receipt of notification that an applicant or certificated individual has engaged in unprofessional or immoral conduct pursuant to R7-2-1308, conduct that would warrant disciplinary action if the person had been certified at the time that the alleged conduct occurred, or conduct listed in subsection A, the Department shall initiate an investigation.
- C. Applicants and certificated individuals who are alleged to have engaged in unprofessional or immoral conduct pursuant to R7-2-1308, conduct that would warrant disciplinary action if the person had been certified at the time that the alleged conduct occurred, or conduct listed in subsection (A) shall provide the Board with copies of court records and law enforcement reports pertaining to the offense.

**Historical Note**

Adopted effective December 4, 1998 (Supp. 98-4).  
Amended by final rulemaking at 6 A.A.R. 1132, effective March 10, 2000 (Supp. 00-1). Amended by final exempt rulemaking at 25 A.A.R. 967, effective March 27, 2019

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(Supp. 19-1).

**R7-2-1306. Repealed****Historical Note**

Adopted effective December 4, 1998 (Supp. 98-4).  
Amended by final rulemaking at 6 A.A.R. 1132, effective March 10, 2000 (Supp. 00-1). Repealed by final exempt rulemaking at 25 A.A.R. 967, effective March 27, 2019 (Supp. 19-1).

**R7-2-1307. Criminal Offenses**

- A.** The Board shall revoke, not issue, or not renew the certification of a person who has been convicted of committing or attempting, soliciting, facilitating or conspiring to commit any of the following criminal offenses in this state or similar offenses in another jurisdiction:
1. Sexual abuse of a minor;
  2. Incest;
  3. First-degree murder;
  4. Second-degree murder;
  5. Manslaughter;
  6. Sexual assault;
  7. Sexual exploitation of a minor;
  8. Commercial sexual exploitation of a minor;
  9. A dangerous crime against children as defined in A.R.S. § 13-705;
  10. Armed robbery;
  11. Aggravated assault;
  12. Sexual conduct with a minor;
  13. Molestation of a child;
  14. Exploitation of minors involving drug offenses;
  15. Sexual abuse of a vulnerable adult;
  16. Sexual exploitation of a vulnerable adult;
  17. Commercial sexual exploitation of a vulnerable adult;
  18. Child sex trafficking as prescribed in A.R.S. § 13-3212;
  19. Child abuse;
  20. Abuse of a vulnerable adult;
  21. Molestation of a vulnerable adult;
  22. Taking a child for the purpose of prostitution as prescribed in A.R.S. § 13-3206;
  23. Neglect or abuse of a vulnerable adult;
  24. Sex trafficking;
  25. Sexual abuse;
  26. Production, publication, sale, possession and presentation of obscene items as prescribed in A.R.S. § 13-3502;
  27. Furnishing harmful items to minors as prescribed in A.R.S. § 13-3506;
  28. Furnishing harmful items to minors by internet activity as prescribed in A.R.S. § 13-3506.01;
  29. Obscene or indecent telephone communications to minors for commercial purposes as prescribed in A.R.S. § 13-3512;
  30. Luring a minor for sexual exploitation;
  31. Enticement of persons for purposes of prostitution;
  32. Procurement by false pretenses of person for purposes of prostitution;
  33. Procuring or placing persons in a house of prostitution;
  34. Receiving earnings of a prostitute;
  35. Causing one's spouse to become a prostitute;
  36. Detention of persons in a house of prostitution for debt;
  37. Keeping or residing in a house of prostitution or employment in prostitution;
  38. Pandering;
  39. Transporting persons for the purpose of prostitution, polygamy and concubinage;
  40. Portraying adult as a minor as prescribed in A.R.S. § 13-3555;

41. Admitting minors to public displays of sexual conduct as prescribed in A.R.S. § 13-3558;
42. Unlawful sale or purchase of children;
43. Child bigamy; or
44. Trafficking of persons for forced labor or services.

- B.** Upon notification by the clerk of the court, magistrate or court of competent jurisdiction, the Board shall immediately and permanently revoke the certificate of a person who has been convicted of any of the following offenses:
1. A dangerous crime against children as defined in A.R.S. § 13-705;
  2. Sexual abuse as prescribed in A.R.S. § 13-1404 in which the victim was a minor;
  3. Sexual assault as prescribed in A.R.S. § 13-1406 in which the victim was a minor;
  4. Sexual conduct with a minor as prescribed A.R.S. § 13-1405;
  5. A preparatory offense as prescribed in A.R.S. § 13-1001 of any of the offenses prescribed in paragraphs one, two, three or four of this subsection;
  6. Any crime that requires the person to register as a sex offender; or
  7. An act committed in another state or territory that if committed in this state would have been one of the offenses listed in paragraphs one, two, three, or four of this subsection.
- C.** If the Board does not issue, does not renew, or revokes a certificate due to a person's conviction or admission of an offense listed in subsection (A), but which is not an offense listed in subsection (B), the notice of non-issuance, non-renewal or revocation shall inform the person of that person's right to request a hearing within 20 days of service of the notice.

**Historical Note**

Adopted effective December 4, 1998 (Supp. 98-4).  
Amended by final exempt rulemaking at 23 A.A.R. 725, effective January 23, 2017 (Supp. 17-1). Amended by final rulemaking at 6 A.A.R. 1132, effective March 10, 2000 (Supp. 00-1). Amended by final exempt rulemaking at 25 A.A.R. 967, effective March 27, 2019 (Supp. 19-1).

**R7-2-1308. Unprofessional and Immoral Conduct**

- A.** Individuals holding certificates issued by the Board pursuant to R7-2-601 et seq. and individuals applying for certificates issued by the Board pursuant to R7-2-601 et seq. shall:
1. Make reasonable efforts to protect pupils from conditions harmful to learning, health, or safety;
  2. Account for all funds collected from pupils, parents, or school personnel;
  3. Adhere to provisions of the Uniform System of Financial Records related to use of school property, resources, or equipment; and
  4. Abide by copyright restrictions, security, or administration procedures for a test or assessment.
- B.** Individuals holding certificates issued by the Board pursuant to R7-2-601 et seq. and individuals applying for certificates issued by the Board pursuant to R7-2-601 et seq. shall not:
1. Discriminate against or harass any pupil or school employee on the basis of race, national origin, religion, sex, including sexual orientation, disability, color or age;
  2. Deliberately suppress or distort information or facts relevant to a pupil's academic progress;
  3. Misrepresent or falsify pupil, classroom, school, or district-level data from the administration of a test or assessment;

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4. Engage in a pattern of conduct for the sole purpose or with the sole intent of embarrassing or disparaging a pupil;
  5. Use professional position or relationships with pupils, parents, or colleagues for improper personal gain or advantage;
  6. Falsify or misrepresent documents, records, or facts related to professional qualifications or educational history or character;
  7. Assist in the professional certification or employment of a person the certificate holder knows to be unqualified to hold a position;
  8. Accept gratuities or gifts that influence judgment in the exercise of professional duties;
  9. Possess, consume, or be under the influence of alcohol on school premises or at school-sponsored activities;
  10. Illegally possess, use, or be under the influence of marijuana, dangerous drugs, or narcotic drugs, as each is defined in A.R.S. § 13-3401;
  11. Make any sexual advance towards a pupil or child, either verbal, written, or physical;
  12. Engage in sexual activity, a romantic relationship, or dating of a pupil or child;
  13. Submit fraudulent requests for reimbursement of expenses or for pay;
  14. Use school equipment to access pornographic, obscene, or illegal materials; or
  15. Engage in conduct which would discredit the teaching profession.
- C. Individuals found to have engaged in unprofessional or immoral conduct shall be subject to, and may be disciplined by, the Board.
- D. Procedures for making allegations, complaints, and investigation of unprofessional or immoral conduct shall be as set forth in this Article.
- E. Application forms and certificates shall include the rules and statutes related to unprofessional and immoral conduct, including resignation from a contracted position without authorization and duties to report as required by law.
- F. Individuals applying for certificates issued by the Board pursuant to R7-2-601 et seq shall certify:
1. That they have read and understood the rules and statutes related to unprofessional and immoral conduct, including resignation from a contracted position without authorization and duties to report as required by law; and
  2. Whether they have been disciplined or are under investigation in another state for engaging in conduct that is immoral or unprofessional.

**Historical Note**

New Section made by final rulemaking at 9 A.A.R. 1544, effective June 28, 2003 (Supp. 03-2). Amended by final exempt rulemaking at 23 A.A.R. 725, effective January 23, 2017 (Supp. 17-1).

**R7-2-1309. Summary Suspension**

- A. If a certificate holder is arrested, cited and released, or received a criminal summons for an offense listed in R7-2-1307 and if the Board finds the public health, safety or welfare imperatively requires emergency action, the Board may proceed under A.R.S. § 41-1064(C) ordering a summary suspension of a certificate while other proceedings are pending. The Board shall provide notice to the certificate holder of the meeting pursuant to R7-2-703 and R7-2-704.
- B. Summary suspensions issued by the Board shall remain in effect pending a public hearing and final decision by the Board pursuant to Article 7.

**Historical Note**

New Section made by final exempt rulemaking at 26 A.A.R. 66, effective December 13, 2019 (Supp. 19-4).

**R7-2-1400. Reserved****ARTICLE 14. CHARTER SCHOOLS****R7-2-1401. Definitions**

For the purpose of this Article the following definitions shall apply:

1. "Applicant" means a person, public body, or private organization that has applied to the State Board of Education to establish a charter school under the provisions of A.R.S. § 15-181 et seq.
2. "Background check" means a report received related to an applicant and the identified governing board members regarding the status of each person's credit and credit history, and any criminal activity identified by the law enforcement agency processing the applicant and governing board member's fingerprints.
3. "Committee" means the Charter School Committee established pursuant to this Article.
4. "Charter School" means a school chartered pursuant to A.R.S. § 15-181 et seq. and sponsored by the Board of Education.
5. "Contract" means a document outlining the terms and conditions of an agreement between the parties.
6. "Governing board" means the governing body responsible for the policy and operational decisions of the charter school formed pursuant to A.R.S. § 15-183 et seq.

**Historical Note**

New Section adopted by final rulemaking at 5 A.A.R. 3211, effective August 24, 1999 (Supp. 99-4).

**R7-2-1402. Charter School Committee**

- A. The Board of Education shall establish a Charter School Committee that shall have the responsibility of reviewing applications and preparing a recommendation for the Board of Education's consideration.
- B. The Board of Education shall appoint the members of the committee. The committee shall consist of seven members as follows:
1. An individual knowledgeable in building construction or renovation;
  2. An individual knowledgeable in finance and accounting and in generally accepted accounting practices;
  3. An individual representing a city in this state who is knowledgeable about zoning and operating permit requirements;
  4. An individual knowledgeable about elementary and high school curricula and the development and evaluation of curricula;
  5. An individual knowledgeable about assessments and the administration of assessments;
  6. An individual representing the Board of Education;
  7. A current operator of a charter school sponsored by the Board of Education.
- C. Terms of each member of the committee shall be for three years. Members may be appointed for subsequent terms upon approval by the Board of Education.

**Historical Note**

New Section adopted by final rulemaking at 5 A.A.R. 3211, effective August 24, 1999 (Supp. 99-4).

**R7-2-1403. Application**

- A. Interested parties or individuals may submit an application for approval by the Board of Education pursuant to A.R.S. § 15-

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181 et seq. Applications shall be on forms approved by the Board of Education.

- B.** Applications shall be evaluated by the committee. The committee shall prepare a recommendation for the Board of Education's consideration. The recommendation shall be based upon a review of all aspects of the application, including, for example, completeness of the application, the viability of the school including the financial viability, the projected funding sources, the number and population to be served, including school-aged students who are deemed to be unserved or underserved.
1. The committee may request additional information as needed to assist in evaluating the application and preparing a recommendation for the Board of Education's consideration.
  2. Recommendations of the committee to the Board of Education may include approval of the application, denial of the application, or deferral of the application pending further information or clarification.
  3. Applicants shall be notified in writing at least 10 days prior to the Board of Education meeting of the date, time, and place of the meeting at which the Board of Education shall consider the charter school committee's recommendation related to the application.
  4. Action by the Board of Education may include approval of the application, denial of the application, or deferral of the application pending further information or clarification. The Board of Education shall state the reasons for denial or deferral of the application.
  5. Applicants shall be notified in writing of the decision of the Board of Education. Written notification that the Board of Education has denied an application shall include reasons for denial. Written notification shall be provided to applicants within 15 days following a decision of the Board of Education.
- C.** An approved application does not constitute an approved contract, and approval of an application shall not be construed to imply that a contract will be issued.

**Historical Note**

New Section adopted by final rulemaking at 5 A.A.R. 3211, effective August 24, 1999 (Supp. 99-4).

**R7-2-1404. Contract**

- A.** A contract shall be on forms approved by the Board of Education.
- B.** At least once per year, the Board of Education shall consider issuance of a contract to approved applicants.
- C.** Upon review and recommendation from the committee, the Board of Education may approve the issuance of a contract, approve the issuance of a contract pending receipt of specific information or completion of requirements, defer the issuance of a contract, or deny the issuance of a contract. The Board of Education shall state the reasons for denial or deferral of issuance of a contract.
- D.** Applicants shall be notified in writing at least 10 days prior to the Board of Education meeting of the date, time, and place of the meeting at which the Board of Education shall consider the charter school committee's recommendation related to issuance of a charter.
- E.** Applicants shall be notified in writing of the decision of the Board of Education. Written notification that the Board of Education has denied issuance of a contract shall include reasons for denial. Written notification shall be provided to applicants within 15 days following a decision of the Board of Education.

**Historical Note**

New Section adopted by final rulemaking at 5 A.A.R. 3211, effective August 24, 1999 (Supp. 99-4).

**R7-2-1405. Execution of a Contract**

- A.** Contracts shall be signed by the applicant, or a person with signatory authority for the applicant, within six months from the date of approval of issuance of the contract by the Board of Education, unless an extension of time is granted by the Board of Education. If issuance of a contract was approved by the Board of Education pending receipt of additional information, the contract shall be signed by the applicant or a person with signatory authority for the applicant within six months of receipt of the additional information by the Board of Education.
- B.** Contracts which have not been signed pursuant to this rule shall require reapplication and approval during a subsequent application cycle.
- C.** The following items shall be submitted to the Board of Education prior to signing of a contract:
1. Background check, including fingerprint clearance for all authorized signatories and all governing board members approved;
  2. Certificate of Occupancy or a written exemption from the local municipality or county that the certificate is not required for operation of a public school. A set of architectural plans approved by the local planning and zoning office may be submitted in lieu of a certificate of occupancy for the purposes of this subsection for construction of new buildings or renovation of existing buildings. A certificate of occupancy will be required to be submitted prior to opening of the school.
  3. A lease agreement or proof of building availability;
  4. Executed statement of assurances;
  5. Written verification that the facility meets the requirements established by the state and local fire marshal;
  6. Written verification from an insurance company authorized to do business in the state of Arizona that arrangements have been finalized to provide the required amount of insurance;
  7. Proof of local County Health Department approval.

**Historical Note**

New Section adopted by final rulemaking at 5 A.A.R. 3211, effective August 24, 1999 (Supp. 99-4).

**R7-2-1406. Amendments to a Contract**

- A.** Any changes to the contract shall be submitted on forms approved the Board of Education.
- B.** All amendments to the contract shall be accompanied by a signed governing board resolution or an official copy of the minutes of a governing board meeting that the amendment was approved by the governing board.
- C.** No amendment shall be effective or implemented prior to being approved by the governing board, submitted to and approved by the Board of Education.
- D.** Amendments requesting a change in the membership of the governing board shall, in addition to the requirements specified in subsection (B), include a completed fingerprint application and a signed affidavit authorizing a background check.
- E.** If an extension of time was granted pursuant to R7-2-1405(A), amendments to update the application shall be submitted at the time the contract is executed.

**Historical Note**

New Section adopted by final rulemaking at 5 A.A.R.



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3211, effective August 24, 1999 (Supp. 99-4).

**R7-2-1407. Revocation of a Contract**

- A.** The Board of Education may issue a Notice of Intent to Revoke a Contract and Notice of Hearing to any contract holder who is alleged to be in violation of the contract and the governing board.
- B.** Within 10 days of receipt of a Notice of Intent to Revoke a Contract and Notice of Hearing, the governing board shall:
1. Notify the parents or guardians of the students enrolled in the charter school that a Notice of Intent to Revoke a Contract and Notice of Hearing has been received;
  2. Hold a public meeting to inform the public and discuss the specific charges outlined in the Notice of Intent to Revoke a Contract;
  3. Provide the Board of Education with copies of all correspondence and communications used to comply with subsection (B)(1) above and minutes of the meeting as evidence of compliance with subsection (B)(2) above;
  4. Provide the Board of Education with the names and mailing addresses of parents or guardians of all students enrolled in the charter school at the time the Notice of Intent to Revoke a Contract and Notice of Hearing was received.
- C.** Hearings held pursuant to a Notice of Intent to Revoke a Contract and Notice of Hearing shall be held in accordance with Sections R7-2-701 through R7-2-709.

**Historical Note**

New Section adopted by final rulemaking at 5 A.A.R. 3211, effective August 24, 1999 (Supp. 99-4).

**R7-2-1408. Renewal of Contract**

When considering renewal of a contract, the following, as a minimum, shall be provided to the Board of Education:

1. Assessment results, including scores of the norm-referenced achievement test, the scores of the Arizona's Instrument to Measure Standards (AIMS), and scores of any school assessment programs;
2. Results of any audits conducted, including independent audits, Uniform System of Financial Records or Uniform System of Financial Records for Charter Schools compliance audits, or any audits conducted by the Auditor General's Office;
3. Enrollment reports that include enrollment figures, funding sources, budget updates, and financial reporting of expenditures;
4. All complaints received;
5. Copies of Board of Education minutes where consideration and action was taken on all issues related to the charter school;
6. Any other reports, information, or materials pertinent to the charter school.

**Historical Note**

New Section adopted by final rulemaking at 5 A.A.R. 3211, effective August 24, 1999 (Supp. 99-4).

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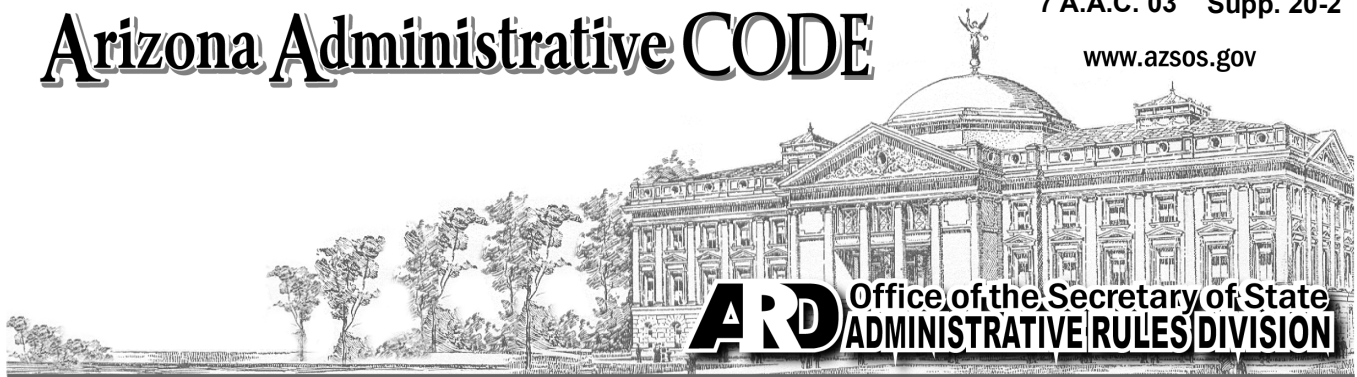
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# Arizona Administrative CODE

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## TITLE 7. EDUCATION

### CHAPTER 3. COMMISSION FOR POSTSECONDARY EDUCATION

The table of contents on the first page contains quick links to the referenced page numbers in this Chapter. Refer to the notes at the end of a Section to learn about the history of a rule as it was published in the *Arizona Administrative Register*.

Sections, Parts, Exhibits, Tables or Appendices codified in this supplement. The list provided contains quick links to the updated rules.

This Chapter contains rule Sections that were filed to be codified in the *Arizona Administrative Code* between the dates of April 1, 2020 through June 30, 2020.

<a href="#">R7-3-201.</a>	<a href="#">Expired .....</a>	<a href="#">3</a>	<a href="#">R7-3-204.</a>	<a href="#">Expired .....</a>	<a href="#">3</a>
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#### Questions about these expired rules?

Name: The Governor's Regulatory Review Council  
100 N. 15th Ave #305  
Phoenix, AZ 85007  
Phone: (602) 542-2058

#### The release of this Chapter in Supp. 20-2 replaces Supp. 03-3, 1-14 pages

Please note that the Chapter you are about to replace may have rules still in effect after the publication date of this supplement. Therefore, all superseded material should be retained in a separate binder and archived for future reference.



## Administrative Rules Division

The Arizona Secretary of State electronically publishes each A.A.C. Chapter with a digital certificate. The certificate-based signature displays the date and time the document was signed and can be validated in Adobe Acrobat Reader.

## TITLE 7. EDUCATION

## CHAPTER 3. COMMISSION FOR POSTSECONDARY EDUCATION

(Authority A.R.S. § 15-1852 et seq.)

*Editor's Note: The Office of the Secretary of State publishes all Code Chapters on white paper (01-4).*

*Editor's Note: This Chapter contains rules which were adopted, amended, repealed, or renumbered under an exemption from the Arizona Administrative Procedure Act (A.R.S. Title 41, Chapter 6), pursuant to A.R.S. § 15-1852(C). Exemption from A.R.S. Title 41, Chapter 6 means the Commission was not required to hold public hearings; and the Governor's Regulatory Review Council did not review or approve the rules. Because this Chapter contains rules which are exempt from the regular rulemaking process, it is printed on blue paper.*

## ARTICLE 1. RULEMAKING

*Article 1, consisting of Sections R7-3-101 through R7-3-108, adopted effective August 22, 1996, under an exemption from the provisions of the Arizona Administrative Procedure Act (Supp. 96-3).*

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## ARTICLE 2. EXPIRED

*Article 2, consisting of Sections R7-3-201 through R7-3-205, expired under A.R.S. § 41-1056(J) at 26 A.A.R. 1322, effective June 10, 2020 (Supp. 20-2).*

*Article 2, consisting of Sections R7-3-201 through R7-3-205, adopted effective August 22, 1996, under an exemption from the provisions of the Arizona Administrative Procedure Act (Supp. 96-3).*

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*Article 3, consisting of Sections R7-3-301 through R7-3-309, adopted effective September 19, 1996, under an exemption from the provisions of the Arizona Administrative Procedure Act (Supp. 96-3).*

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*Article 4, consisting of Sections R7-3-401 through R7-3-404, adopted effective September 19, 1996, under an exemption from the provisions of the Arizona Administrative Procedure Act (Supp. 96-3).*

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## CHAPTER 3. COMMISSION FOR POSTSECONDARY EDUCATION

**ARTICLE 1. RULEMAKING****R7-3-101. General Provisions**

**A.** Definitions. In this Article, unless the context otherwise requires:

1. "Agenda item" means a specified matter listed on an agenda included as part of the public notice of a Commission meeting pursuant to A.R.S. § 38-431.02.
2. "Commission" means the Commission for Postsecondary Education.
3. "Person" means an individual, partnership, corporation, association, governmental subdivision or unit of a governmental subdivision, a public or private organization of any character or another agency.
4. "Public meeting" means a meeting held under and subject to the Open Meeting Act, A.R.S. §§ 38-431 through 38-431.09.
5. "Rule" means a statement of general applicability that implements, interprets or prescribes law or policy, or describes the procedure or practice requirements of the Commission. Rule includes the amendment or repeal of a prior rule, but does not include intra-agency memoranda.
6. "Rulemaking" means the process for formulation and adoption of a rule.

**B.** The Commission shall follow the uniform system for numbering, form and style as prescribed by the Secretary of State in the *Arizona Administrative Code*.

**Historical Note**

Adopted effective August 22, 1996, under an exemption from the Administrative Procedure Act pursuant to A.R.S. § 15-1852(C) (Supp. 96-3).

**R7-3-102. Incorporation by Reference**

The Commission may incorporate by reference in its rules and without publishing the incorporated matter in full all or any part of a code, standard, rule, or regulation that is adopted by an agency of the United States or this state, or a nationally recognized organization or association, if incorporation of its text in Commission rules would be unduly cumbersome, expensive, or otherwise inexpedient. The reference in the Commission rules shall fully identify the incorporated matter by location, date, and shall state that the rule does not include any later amendments or editions of the incorporated matter. The Commission shall file three copies of the incorporated matter with the Secretary of State at the time the adopted rule is filed.

**Historical Note**

Adopted effective August 22, 1996, under an exemption from the Administrative Procedure Act pursuant to A.R.S. § 15-1852(C) (Supp. 96-3).

**R7-3-103. Commission Rulemaking Record**

The Commission shall maintain an official rulemaking record for each rule proposed. The record and matter incorporated by reference shall be available for public inspection. The Commission rulemaking record shall contain all of the following:

1. Reference to the specific authority under which the rule is proposed to be adopted, amended, or repealed;
2. The name and address of Commission personnel with whom persons may communicate regarding the rule;
3. An informative summary of the proposed rule;
4. The time during which written submissions may be made and the time and place where oral comments may be made;
5. The current status of the proposed rule;
6. Any known timetable for Commission decisions or other action for the rulemaking;

7. A copy of all publications in the *Arizona Administrative Register* or a newspaper of general circulation with respect to the proposed action;
8. All written petitions, requests, submissions, and comments received by the Commission and all other written materials considered or prepared by the Commission in connection with the proposed action;
9. The official minutes of all oral proceedings regarding the rule;
10. A copy of the economic, small business, and consumer impact summary and the minutes of any public meeting at which the rule was considered by the Commission;
11. A statement of the time, place, and nature of the proceedings for the adoption, amendment, or repeal of the rule;
12. A copy of the final rule, including the date of its adoption and the date of its filing and publication.

**Historical Note**

Adopted effective August 22, 1996, under an exemption from the Administrative Procedure Act pursuant to A.R.S. § 15-1852(C) (Supp. 96-3).

**R7-3-104. Notice of Oral Proceedings**

The Commission or its staff shall request that the Secretary of State publish in the *Arizona Administrative Register* notice of an oral proceeding concerning proposed action by the Commission regarding a rule. The notice shall include a statement of the date, time, place, and nature of the proceedings, and the name and address of Commission personnel with whom persons may communicate regarding the rule. If the Secretary of State declines to publish such information, the Commission or its staff shall cause the information to be published in a newspaper of general circulation. If an oral proceeding regarding a rule is scheduled, the Commission shall allow at least 30 days to elapse after the publication date of the notice before adopting, amending, or repealing the rule.

**Historical Note**

Adopted effective August 22, 1996, under an exemption from the Administrative Procedure Act pursuant to A.R.S. § 15-1852(C) (Supp. 96-3).

**R7-3-105. Economic, Small Business, and Consumer Impact Summary**

The Commission shall cause to be prepared an economic, small business, and consumer impact summary. The economic, small business, and consumer impact summary shall be a brief summary of the following information:

1. An identification of the proposed rulemaking;
2. An identification of the persons who will be directly affected by, bear the costs of, or directly benefit from the proposed rulemaking;
3. An analysis of the probable costs and benefits from the implementation and enforcement of the proposed rulemaking on the Commission, and on any political subdivision or business directly affected by the proposed rulemaking;
4. The probable impact of the proposed rulemaking on employment in business, agencies, and political subdivisions of this state affected by the proposed rulemaking;
5. A statement of the probable impact of the proposed rulemaking on small business;
6. A statement of the probable effect on state revenues;
7. A description of any less intrusive or less costly alternative methods of achieving the purpose of the proposed rulemaking.

## CHAPTER 3. COMMISSION FOR POSTSECONDARY EDUCATION

**Historical Note**

Adopted effective August 22, 1996, under an exemption from the Administrative Procedure Act pursuant to A.R.S. § 15-1852(C) (Supp. 96-3).

**R7-3-106. Effective Date of Rules**

A rule adopted by the Commission becomes effective when a certified original and two copies of the rule are delivered to the Office of the Secretary of State unless a later date is required by the constitution of Arizona, statute, or court order, or as specified in the rule.

**Historical Note**

Adopted effective August 22, 1996, under an exemption from the Administrative Procedure Act pursuant to A.R.S. § 15-1852(C) (Supp. 96-3).

**R7-3-107. Variance Between Adopted Rule and Published Notice of Proposed Rule Adoption**

- A. If, as a result of public comment or internal review, the Commission determines that a proposed rule requires substantial change pursuant to subsection (B), the Commission shall issue a supplemental notice containing the changes in the proposed rule, in accordance with R7-3-104. The Commission shall provide for additional public comment pursuant to R7-3-108.
- B. In determining whether a rule which the Commission intends to adopt is substantially different from the rule as originally proposed by the Commission, the following shall be considered:
  1. The extent to which the subject matter of the proposed rule or the issues determined by that rule are different from the subject matter or issues involved in the rule which the Commission intends to adopt,
  2. The extent to which the effects of the proposed rule differ from the effects of the rule which the Commission intends to adopt,
  3. The extent to which all persons affected by the rule which the Commission intends to adopt should have understood that the proposed rule would affect their interests.

**Historical Note**

Adopted effective August 22, 1996, under an exemption from the Administrative Procedure Act pursuant to A.R.S. § 15-1852(C) (Supp. 96-3).

**R7-3-108. Oral Proceedings**

- A. When the Commission proposes a rule, such proposed action shall be presented as a specifically identified agenda item for review at a public meeting of the Commission, and such public meeting shall take place no less than 30 days prior to the public meeting at which the Commission intends to adopt, amend, or repeal the rule. At the time it proposes a rule, the Commission may schedule an oral proceeding on the proposed action. Any person may submit written statements, arguments, and supporting data on the Commission's proposed action to the Executive Director of the Commission within 30 days following the date the Commission proposes the rule.
- B. The Commission shall schedule an oral proceeding on a proposed rule if, within 30 days after proposing the rule, a written request for an oral proceeding is submitted to the Commission by no fewer than five persons. An oral proceeding may not be held earlier than 30 days after notice of its date, location, and time is published. If an oral proceeding is scheduled, the Commission shall post, in a location as required for notice of a public meeting, a written notice of the place and date of the proceeding no less than 20 days in advance thereof. The Commission, a member of the Commission, or an official of the Commission's staff designated by the Commission, shall preside at the oral proceeding. At the oral proceeding, minutes of the meeting shall be taken and persons may present oral argu-

ment, views, and supporting data on the proposed rule. The person presiding at the hearing shall exclude unduly repetitious argument.

- C. Prior to its meeting at which it intends to adopt, amend, or repeal a rule, the Commission shall be provided with a copy of the proposed action; an informative summary of such action; a memorandum summarizing the written public comment received; the economic, small business, and consumer impact summary; and the minutes of any oral proceeding regarding the proposed action. The Commission shall consider all such information prior to adopting, amending, or repealing the rule.

**Historical Note**

Adopted effective August 22, 1996, under an exemption from the Administrative Procedure Act pursuant to A.R.S. § 15-1852(C) (Supp. 96-3).

**ARTICLE 2. EXPIRED****R7-3-201. Expired****Historical Note**

Adopted effective August 22, 1996, under an exemption from the Administrative Procedure Act pursuant to A.R.S. § 15-1852(C) (Supp. 96-3). Section expired under A.R.S. § 41-1056(J) at 26 A.A.R. 1322 effective June 10, 2020 (Supp. 20-2).

**R7-3-202. Expired****Historical Note**

Adopted effective August 22, 1996, under an exemption from the Administrative Procedure Act pursuant to A.R.S. § 15-1852(C) (Supp. 96-3). Section expired under A.R.S. § 41-1056(J) at 26 A.A.R. 1322 effective June 10, 2020 (Supp. 20-2).

**R7-3-203. Expired****Historical Note**

Adopted effective August 22, 1996, under an exemption from the Administrative Procedure Act pursuant to A.R.S. § 15-1852(C) (Supp. 96-3). Section expired under A.R.S. § 41-1056(J) at 26 A.A.R. 1322 effective June 10, 2020 (Supp. 20-2).

**R7-3-204. Expired****Historical Note**

Adopted effective August 22, 1996, under an exemption from the Administrative Procedure Act pursuant to A.R.S. § 15-1852(C) (Supp. 96-3). Section expired under A.R.S. § 41-1056(J) at 26 A.A.R. 1322 effective June 10, 2020 (Supp. 20-2).

**R7-3-205. Expired****Historical Note**

Adopted effective August 22, 1996, under an exemption from the Administrative Procedure Act pursuant to A.R.S. § 15-1852(C) (Supp. 96-3). Section expired under A.R.S. § 41-1056(J) at 26 A.A.R. 1322 effective June 10, 2020 (Supp. 20-2).

**ARTICLE 3. ARIZONA LEVERAGING EDUCATIONAL ASSISTANCE PARTNERSHIP PROGRAM****R7-3-301. Federal LEAP Requirements**

The federal government requires that a state LEAP Program must:

1. Be administered by a single state agency in accordance with the Federal-State Agreement under Section 1203 of the Higher Education Act, as amended. The Governor of Arizona has designated as the responsible single state agency the Arizona Commission for Postsecondary Edu-

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- cation, which hereafter shall be referred to as the Commission;
2. Award grants only to students who meet the eligibility and financial need requirements as outlined in R7-3-304(A) and (B);
  3. Provide grants which do not exceed \$5,000 per program year for a full-time student enrolled in an eligible program at a participating postsecondary institution;
  4. Use as state matching funds an amount which is over and above the amount the state expended for grants in the initial program year of FY 1974;
  5. Provide for such fiscal control and fund accounting procedures as may be necessary to assure proper disbursement of the accounting for federal funds paid to the state;
  6. Provide for making such reports, in such form and containing such information, as may be reasonably necessary to enable the U.S. Secretary of Education to perform program analysis;
  7. Provide for the payment of the state matching fund share of grants awarded from direct state appropriated funds;
  8. Provide that no payment may be made to a student under this program unless the student meets the requirements specified in R7-3-304;
  9. Obey all other United States laws and regulations applying to the Federal-State Student Grant Program;
  10. Provide that all institutions of higher education in Arizona which meet the eligibility requirements of R7-3-302 shall be eligible to participate in the program;
  11. Provide that state expenditures shall not be less than:
    - a. The average annual aggregate expenditures for the preceding three years; or
    - b. The average annual expenditure per full-time equivalent student for those years.
  12. Provides assurances that all LEAP grants will be awarded without regard to sex, race, debilitating condition, creed, or economic background.

**Historical Note**

Adopted effective September 19, 1996, under an exemption from the Administrative Procedure Act pursuant to A.R.S. § 15-1852(C) (Supp. 96-3). Amended by exempt rulemaking at 5 A.A.R. 2046, effective June 1, 1999 (Supp. 99-2).

**R7-3-302. Institutional Eligibility Requirements**

To participate in the Arizona LEAP Program, an Arizona postsecondary educational institution must either:

1. Be a public or other nonprofit institution of higher education which:
  - a. Admits as regular students only persons who have a high school diploma, have the recognized equivalent of a high school diploma, or are beyond the age of compulsory school attendance in the state in which the institution is located, and who have the ability to benefit from the training offered;
  - b. Is legally authorized by the state of Arizona to provide an educational program beyond secondary education;
  - c. Provides an educational program for which it awards an associate, baccalaureate, graduate, or professional degree, or at least a two-year program which is acceptable for full credit toward a baccalaureate degree; or at least a one-year training program which leads to a certificate or degree and prepares students for gainful employment in a recognized occupation; or at least a six-month training program at a postsecondary vocational institution (such as a public com-

munity college) which leads to a certificate or degree and prepares students for gainful employment;

- d. Is accredited by a nationally recognized accrediting agency or association, or if not so accredited, is an institution which has satisfactorily assured the Secretary that it will meet the accreditation standards of an approved agency or association within a reasonable time, considering the resources available to the institution, the period of time it has operated and its efforts to meet accreditation standards, or is an institution whose credits are determined by the Secretary to be accepted on transfer by at least three accredited institutions on the same basis as transfer credits from fully accredited institutions.
  - e. Has a certified Eligibility Letter and a valid written Program Participation Agreement from the Department of Education cited in 34 CFR 668.
2. Be a proprietary institution of postsecondary education which:
    - a. Is not a public or other nonprofit institution;
    - b. Admits as regular students only persons who have a high school diploma, have the recognized equivalent of a high school diploma, or are beyond the age of compulsory school attendance in the state in which the institution is located, and who have the ability to benefit from the training offered;
    - c. Is legally authorized to provide postsecondary education in the state of Arizona;
    - d. Provides at least a six-month or 600 clock hour program of training to prepare students for gainful employment in a recognized occupation;
    - e. Is accredited by a nationally recognized accrediting agency or association; and
    - f. Has been in existence for at least two years. The Secretary considers a school to have been in existence for two years if it has been legally authorized to provide, and has provided, a continuous training program to prepare students for gainful employment in a recognized occupation during the 24 months (except for normal vacation periods) preceding the date of application for eligibility.
    - g. Refer to this subsection (1)(e).

**Historical Note**

Adopted effective September 19, 1996, under an exemption from the Administrative Procedure Act pursuant to A.R.S. § 15-1852(C) (Supp. 96-3). Amended by exempt rulemaking at 5 A.A.R. 2046, effective June 1, 1999 (Supp. 99-2).

**R7-3-303. Receipt and Allocation of Arizona LEAP Program Funds****A. Receipt of funds.**

1. The Commission may receive funds for the Arizona LEAP Program from the following sources:
  - a. The federal government;
  - b. The Arizona Legislature;
  - c. Institutions which are eligible to participate in the program; and,
  - d. Other nonfederal institutions, organizations, or individuals.
2. All funds received will be deposited by the Commission in a properly secured account and appropriate controls will be instituted to assure that accountability will be maintained for all funds received.

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3. Available federal program funds will be matched, on a dollar-for-dollar basis, by state appropriated funds.
4. Funds provided by the eligible participating institutions and nonfederal funds from other institutions, organizations, or individuals shall be used by the Commission to supplement the federal and state program funds for grants and for necessary administrative costs.

**B. Allocation of funds.**

1. Arizona LEAP Program Funds will be allocated to eligible Arizona postsecondary educational institutions according to their proportionate share of the State's total headcount of Arizona resident students enrolled in eligible programs. The Commission will survey each eligible institution in Arizona no later than May of each year to determine the number of eligible Arizona resident students who are enrolled. Headcount will be determined in the following manner:
  - a. Semester or quarter hour schedule institutions will provide data for the preceding fall semester. (For example, allocations for the LEAP program for any given academic year will be based on enrollment data from the previous academic year.)
  - b. Institutions which operate on clock hour or other nontraditional schedules will provide unduplicated student enrollment data for the period from August through April of the previous year. (For example, allocations for the LEAP program for any given year will be based on data for the period August through April.) Enrollment data must be verified by two Administrative Officials of the school.
2. The staff will promptly notify each eligible institution of its preliminary allocation as soon as necessary Commission approvals can be obtained. The total will show the amount of federal and state dollars and also the amount the institution must provide to receive the full allocation. The institution will be asked to select one of the following choices:
  - a. It will provide the full amount of institutional funds in order to receive the full allocation.
  - b. It will provide the full amount of institutional funds and also is prepared to provide additional institutional funds if additional federal and state funds should become available. The institution will be asked to specify the amount of additional institutional funds it will be able to provide.
  - c. It prefers to provide a lesser amount which will be noted in the space provided. In this case the federal and state amounts will be adjusted to meet the reduced institutional amount.
  - d. It chooses not to participate in the LEAP program for this period. In this case it is important that the institution return the form to the Commission to inform them of this choice.
3. A response due date will be included in this notification. Only institutions whose response is received by the Commission by that due date will be eligible to participate in the LEAP Program for that academic year.
4. All institution responses which are received by the Commission on or before the response due date will determine the final list of institutions eligible to participate in the LEAP program. If all institutions elect to participate, the preliminary allocation will become the final allocation list. However, if some institutions choose not to participate, or if some prefer to participate at a reduced level, the staff will calculate a new final allocation list considering only the institutions on the final institutional eligibil-

ity list. The staff will then notify each participant institution of its revised allocation, the amount of institutional funds to provide, and instructions for transmitting its funds to the Commission.

5. The Commission will maintain the necessary accounts for each eligible institution which participates in the Arizona LEAP Program. Each account will, as a minimum, show the current status of that account for its source of program funds, and such other information that the Commission deems necessary.
- C. Transfer of institutional funds.** When the institution receives its final allocation notice from the Commission, it shall send its institutional funds to the Commission. This transfer shall take place beginning July 1 of each year. Checks conveying institutional funds shall be made out to the Arizona Commission for Postsecondary Education -- LEAP Program.
- D. Disbursement of Arizona LEAP Program Funds to Participating Institutions.** The Commission will disburse funds from the Arizona LEAP Program Fund to participating institutions for further disbursement to approved student applicants in accordance with the program calendar.
- E. Reallocation of Unused LEAP Program Funds**
  1. Schools will be contacted in February, and asked if they will be able to use all their funds or if they wish additional funding and the amount thereof.
  2. Schools not awarding 100% of their funds by the middle of February may have the remaining LEAP funds recovered by the Commission for reallocation. Remaining institutional funds, less administrative funds, will then be returned to each of those schools when the final program financial report has been received by the Commission.
  3. In March, a reallocation of funds will take place and funds will be available for those schools that asked for additional funds in February.
    - a. If the amount of available funds exceeds the total amount of requests, all requests will be honored. Any remaining available funds will be retained by the Commission for later reallocation.
    - b. If the amount of the requests exceeds the amount of available funds, the Commission will allocate those funds among the requesting institutions based on each institution's proportionate share of Arizona resident students eligible headcount for that institution. The enrollment at non-requesting institutions will not be included in these calculations.
  4. The staff will notify each participant institution of its share of the reallocation, the amount of institutional funds to provide, and instructions for transmitting its funds to the Commission.
  5. Any LEAP funds retained by the institutions, minus the institutional proportionate share originally paid, must be returned to the Commission in the form of a check by the end of July, along with the signed Financial Report. Any unused program funds remaining in the state treasury will be returned to the institutions in the same proportionate share as was paid in at the beginning of the program year. The Commission may impose a deduction in the amount of those unutilized program funds from a school's following years allocation.

**Historical Note**

Adopted effective September 19, 1996, under an exemption from the Administrative Procedure Act pursuant to A.R.S. § 15-1852(C) (Supp. 96-3). Amended by exempt rulemaking at 5 A.A.R. 2046, effective June 1, 1999 (Supp. 99-2).



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**R7-3-304. Arizona LEAP Student Eligibility Requirements**

- A.** Student eligibility requirements. To be eligible for a grant from the Arizona LEAP Program, a student must:
1. Be a resident of the State of Arizona as defined by the A.R.S. §§ 15-1802, 15-1803, 15-1804, and 15-1805;
  2. Be enrolled or accepted for enrollment on at least a half-time basis as defined in R7-3-309(A)(20) in an eligible course or program at an Arizona postsecondary educational institution which has met the institutional eligibility requirements in R7-3-302, and which has been approved by the Commission.
  3. At the discretion of the institution financial aid officer, this may include a person who has attained a baccalaureate or first professional degree and has re-entered an eligible Arizona postsecondary institution for retraining in a program below the baccalaureate level. Such a person will be considered an undergraduate student for LEAP purposes.
  4. Have a substantial demonstrated financial need determined in accordance with the provision given in R7-3-304(B);
  5. Maintain satisfactory progress in a course of study as defined by the institution and not be in default or owe a repayment on a federal grant or loan. Refer to 34 CFR 692.
- B.** Financial Need Determination Procedures. The financial need of eligible students will be determined annually, or more often if need be, by the financial aid officer of the institution the student is attending, or will attend, using the Federal Methodology (FM) system of need analysis approved by the Commission and the U.S. Department of Education. A student must be considered to have substantial need.
- C.** A student is considered to have substantial financial need when:
1. The student has an expected family contribution of \$2,140 or less as a result of the student's FM need analysis for the program year; or,
  2. The difference between the student's cost of education and the student's expected family contribution is at least \$100.

**Historical Note**

Adopted effective September 19, 1996, under an exemption from the Administrative Procedure Act pursuant to A.R.S. § 15-1852(C) (Supp. 96-3). Amended by exempt rulemaking at 5 A.A.R. 2046, effective June 1, 1999 (Supp. 99-2).

**R7-3-305. Arizona LEAP Award Procedures**

- A.** Eligible students who wish to apply for a LEAP award will provide to the financial aid office the information needed for the financial need analysis as specified in R7-3-304(B).
- B.** The financial aid office will:
1. Determine whether or not the student meets the eligibility requirements for an Arizona LEAP award as outlined in R7-3-304(A);
  2. Determine the financial need of the student using the need analysis specified in R7-3-309(B);
  3. Exercise due diligence in determining that the student:
    - a. Satisfies verification procedures which may be required for federal Title IV financial aid programs;
    - b. Satisfies requirements listed under 34 CFR 692.4.
  4. Recommending the amount of the LEAP award in accordance with the following guidelines:
    - a. Awards may be made only to students who meet the criteria of R7-3-304(A);
    - b. The total of all LEAP awards to a student may not

exceed \$2,500 for the program year;

- c. The financial aid officer will determine, based on student need, an award of no more than \$2,500 nor less than \$100 (round all awards to the nearest \$1.00).
  - d. The financial aid officer must ensure that all applications are received in a timely fashion so disbursement of funds to students will be made before a semester or training period ends.
  - e. Sign the application form.
5. Send the application form to:  
Arizona Commission For Postsecondary Education  
2020 North Central Avenue, Suite 275  
Phoenix, Arizona 85004-4503  
(Attention: Financial Aid Director)
6. Receive approved applications, assure that LEAP award funds are disbursed to the student, and retain on file disbursement records (signed receipts, canceled checks, etc.) which verify that the student received the funds. No disbursement may be made to a student who, as a result of a change in status, no longer meets the eligibility requirements outlined in R7-3-304.
7. Maintain adequate fiscal control, accounting, and financial aid records at the institution in accordance with approved state and federal procedures.
8. Provide to the Commission such financial and other information as may be required to meet federal reporting and auditing requirements.
- C.** The Arizona Commission for Postsecondary Education will:
1. Receive the application for the Arizona LEAP award;
  2. Verify that the student is eligible and that there are sufficient funds in the LEAP program account to fund the award;
  3. Approve applications which meet these criteria;
  4. Return applications that do not meet the criteria or are in any way incomplete to the financial aid office;
  5. Disburse funds to the institution's financial aid officer for the approved applications.

**Historical Note**

Adopted effective September 19, 1996, under an exemption from the Administrative Procedure Act pursuant to A.R.S. § 15-1852(C) (Supp. 96-3). Amended by exempt rulemaking at 5 A.A.R. 2046, effective June 1, 1999 (Supp. 99-2).

**R7-3-306. Award Alterations**

- A.** The Commission will attempt to accommodate any changes which institutional financial aid officers wish to make in individual student awards. These changes might include, for example, cancellation of award, reduction in award level, or increase in award level.
1. Increased LEAP Awards: A student's LEAP award may be increased if the earlier award for that program year is less than the maximum amount specified, and if the student is eligible for such an increase. To increase a LEAP award, the institutional financial aid officer will simply submit to the Commission another LEAP application form, and provide updated financial aid information on the form. In no case may a student receive more than a total of \$2,500 in LEAP awards for a program year.
  2. Reversions: A student's LEAP award may be reduced or canceled. If a student officially or unofficially withdraws or is expelled from the institution, or if the student drops below the minimum number of hours, the institution financial aid officer must attempt to recover all of LEAP

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award funds possible in accordance with the repayment policies of that institution.

3. The reversion procedure includes the following steps:
  - a. Funds are recovered from the student;
  - b. The financial aid officer completes the LEAP Reversion Form;
  - c. The financial aid officer forwards the completed LEAP Reversion Form(s) and the Transmittal Form to the Commission.
4. Reverted LEAP funds recovered by the Commission are redeposited in the secured LEAP program account and credited to the institution's LEAP Program Fund account. Such funds are then available to the institution to be used to make new LEAP awards.

**Historical Note**

Adopted effective September 19, 1996, under an exemption from the Administrative Procedure Act pursuant to A.R.S. § 15-1852(C) (Supp. 96-3). Amended by exempt rulemaking at 5 A.A.R. 2046, effective June 1, 1999 (Supp. 99-2).

**R7-3-307. Administrative Costs**

No federal LEAP funds may be used to administer the Arizona LEAP Program. Therefore, administrative expenses will be paid from nonfederal state appropriated or institutional program funds provided such payment does not reduce state appropriated matching funds necessary to receive the maximum federal LEAP funds.

**Historical Note**

Adopted effective September 19, 1996, under an exemption from the Administrative Procedure Act pursuant to A.R.S. § 15-1852(C) (Supp. 96-3). Amended by exempt rulemaking at 5 A.A.R. 2046, effective June 1, 1999 (Supp. 99-2).

**R7-3-308. Arizona LEAP Institutional Review**

Commission staff members will review Institutional LEAP Program records for each program year, and each institution participating in the LEAP program will be visited at least once every two years. The purpose of the visit is to review, with institution financial aid and fiscal officers, the LEAP student records which state and federal regulations require be kept. Those records include documentation which verifies that:

1. The student is a resident of the state of Arizona as prescribed by Arizona Revised Statutes.
2. The student is currently enrolled at least half-time in an eligible course or program.
3. The student has a demonstrated need for financial assistance as determined by a Federal Methodology needs analysis system approved by the Commission and the U.S. Department of Education.
4. The student has received the LEAP funds approved for the award (for example, a canceled check, a written receipt, a signed roster, etc.).
5. The institutional financial aid officer must assure that the total amount of financial aid awarded to a student, from all sources, added to the amount of the family contribution, is limited by and does not exceed the student's total cost of education. The LEAP award limits and the treatment of any additional funds which were received after the institutional aid awards were made shall be consistent with the federal regulations which govern the Federal Title IV, Campus-based programs.
6. Repayments and refunds of LEAP disbursements which have been made to students shall be made in accordance with the written policies of the institution. These written policies must be consistent with applicable federal regulations and a copy must be filed at the Commission office at the beginning of each LEAP program year.
7. Verify that the institution has a Certified Letter of Eligibility and a valid Program Participation Agreement from the Department of Education cited in 34 CFR 668.

**Historical Note**

Adopted effective September 19, 1996, under an exemption from the Administrative Procedure Act pursuant to A.R.S. § 15-1852(C) (Supp. 96-3). Amended by exempt rulemaking at 5 A.A.R. 2046, effective June 1, 1999 (Supp. 99-2).

**R7-3-309. Definitions**

The following definitions are taken from the Federal Regulations which govern the LEAP program and apply to this Plan as well.

1. "Academic year" means a period of time, usually eight to nine months, during which a full-time student would normally be expected to complete the equivalent of two semesters (24 semester hours), two trimesters (24 trimester hours), three quarters (36 quarter hours), or 900 clock hours of instruction.
2. "Act" means the Higher Education Act of 1998, as amended, of Title IV.
3. "Board" means the Arizona Board of Regents.
4. "CFR" means the Code of Federal Regulations.
5. "Clock hour" means a period of time which is the equivalent of a 50 to 60 minute class, lecture, or recitation, or a 50 to 60 minute period of faculty-supervised laboratory, shop training, or internship.
6. "Commission" means the Commission for Postsecondary Education.
7. "Cost of education" means the cost of attending an institution as defined by the institution.
8. "Dependent student" is a student who does not qualify as an Independent Student.
9. "Eligible course or program" is one which is properly approved by an accrediting agency recognized by the U.S. Department of Education as being an integral part of the curriculum of the institution, is of postsecondary level, and is at least one semester in length at a college or university, or six months in length, or a minimum of 600 clock hours at a proprietary institution.
10. "Expected family contribution of a dependent student" means the sum of amounts which reasonably may be expected from the student to meet the student's costs of education and the amount which reasonably may be expected to be made available to the student by the student's parents for such purpose. Amount is calculated based upon the Federal methodology need analysis for current program year.
11. "Expected Family Contribution of an Independent Student" means the amount which reasonably may be expected from the student or their spouse, or both, to meet the student's cost of education. Amount is calculated based upon the Federal methodology need analysis for current program year.
12. "Federal methodology" means the methodology now mandated by federal regulation for determining financial need for federally funded programs.
13. "Full-time undergraduate student" means a student who has not attained the baccalaureate or first professional degree and who is carrying a full-time academic work load, other than by correspondence, measured in terms of:
  - a. Course work or other required activities as determined by the institution in which the student is enrolled, or by the state whose agency is administering

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- ing the program authorized by the Act, which amounts to the equivalent for institutions utilizing trimester, semester, or quarter hour systems, or which consists of a program requiring a minimum of 24 clock hours per week in a program of at least six months or 600 clock hours for those institutions that do not utilize such systems.
- b. The tuition and fees customarily charged for full-time study by the institution.
14. "Full-time graduate student" is a student who has attained a baccalaureate or first professional degree, has been accepted by the graduate college, and is enrolled in an approved graduate level program at an accredited university or college for a minimum of nine semester, trimester, or quarter hours during a normal length term or five hours during a summer session.
  15. "Independent" means an independent student as defined by federal regulations.
  16. "Program funds" means the awards; reversions (reverted/retained); and un-utilized Funds:
    - a. Awards: Awarded LEAP Funds are dollars given in the form of grants to eligible students attending eligible postsecondary institutions.
    - b. Reversions:
      - i. Reverted LEAP funds are funds that have been awarded and because student is no longer eligible are returned to the Commission for re-use at a later date.
      - ii. Reverted Retained LEAP funds are those funds that institutions have kept and not transferred back to the Commission after the student who has been awarded is considered ineligible for LEAP award.
    - c. Un-utilized: Un-utilized LEAP Program Funds are those Funds that have never been awarded to a student by an eligible institution.
  17. "Public or private nonprofit institution of higher education" means an educational institution which:
    - a. Admits as regular students only persons having a certificate of graduation from a school providing secondary education, or the recognized equivalent of such a certificate.
    - b. Is legally authorized to provide a program of education beyond secondary education.
    - c. Provides an educational program for which it awards an associate, baccalaureate, or professional degree or at least a two-year program which is acceptable for full credit towards a baccalaureate degree, or at least a six-month vocational program which leads to a certificate or degree and prepares students for gainful employment in a recognized occupation.
    - d. Is accredited by a nationally recognized accrediting agency or association or, if not so accredited,
      - i. Is an institution with respect to which the Commission has determined that there is satisfactory assurance, considering the resources available to the institution, the period of time, if any, during which it has operated, the effort it is making to meet accreditation standards, and the purpose for which this determination is being made, that the institution will meet the accreditation standards of such an agency or association within a reasonable time, or
      - ii. Is an institution whose credits are accepted on transfer, by not less than three institutions which are so accredited, for credit on the same basis as if transferred from an institution so accredited. This term also includes a public or nonprofit private educational institution which, in lieu of the requirement in this subsection 309(A)(16)(d)(i) admits as regular students persons who are beyond the age of compulsory school attendance in the state in which the institution is located and who have the ability to benefit from the training offered by the institution.
  18. "Nonprofit" as applied to a school, agency, organization, or institution means a school, agency, organization, or institution owned and operated by one or more nonprofit corporations or associations no part of the net earnings of which may lawfully inure to the benefit of any private shareholder or individual.
  19. "Parent" means the student's mother or father, or both, legal guardians or legally adoptive parents. This does not include foster parents.
  20. "Part-time undergraduate student" is a student who is enrolled at least half-time, but less than full-time, in an eligible program at an eligible and participating Arizona institution. In no case will this be less than six semester, trimester or quarter hours per academic term (including one summer session), or less than 12 clock hours per week for institutions which utilize a clock hour system.
  21. "Part-time graduate student" is a student who has attained a baccalaureate or first professional degree, has been accepted by the graduate college, and is enrolled in an approved graduate level program at an accredited university or college for a minimum of six semester, trimester, or quarter hours during any term, including summer sessions.
  22. "Postsecondary education institution" means an educational institution which offers courses or training programs which are beyond the high school level in scope and complexity and which are open to the general public. Major categories are public universities, private colleges and universities, community colleges and proprietary institutions.
  23. "Program Year" means the consecutive period which begins on July 1 and runs through June 30 of any given year.
  24. "Proprietary institution of higher education" means an educational institution:
    - a. Which provides not less than a six-month or 600 clock hour program of training to prepare students for gainful employment in a recognized occupation;
    - b. Which admits as regular students only persons having a certificate of graduation from a school providing secondary education or the recognized equivalent of such a certificate, or persons who are beyond the age of compulsory school attendance and who have the ability to benefit from the training offered;
    - c. Which is legally authorized by the state in which it is located to provide a program of education beyond secondary education;
    - d. Which is accredited by a nationally recognized accrediting agency or association approved by the U.S. Commissioner of Education for this purpose;
    - e. Which is not a public or other nonprofit institution; and
    - f. Which has been in existence for at least two years. The term also includes any proprietary institution which offers degrees at the associate, baccalaureate

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or graduate level, and which has an agreement with the U.S. Secretary of Education containing the terms and conditions which the Secretary determines to be necessary to ensure that the availability of assistance to students at the school under this program has not resulted, and will not result, in an increase in the tuition, fees, or other changes to students.

25. "State" means, in addition to the several states of the Union, the District of Columbia, the Commonwealth of Puerto Rico, Guam, American Samoa, and Trust Territory of the Pacific Islands, and the Virgin Islands.

**Historical Note**

Adopted effective September 19, 1996, under an exemption from the Administrative Procedure Act pursuant to A.R.S. § 15-1852(C) (Supp. 96-3). Amended by exempt rulemaking at 5 A.A.R. 2046, effective June 1, 1999 (Supp. 99-2).

**ARTICLE 4. ARIZONA PRIVATE POSTSECONDARY EDUCATION STUDENT FINANCIAL ASSISTANCE PROGRAM****R7-3-401. Purpose**

The purpose of the Arizona Private Postsecondary Education Student Financial Assistance Program is to enhance the educational opportunities of citizens wishing to attend Arizona private postsecondary colleges or universities by providing financial assistance to eligible students attending eligible postsecondary institutions.

**Historical Note**

Adopted effective September 19, 1996, under an exemption from the Administrative Procedure Act pursuant to A.R.S. § 15-1852(C) (Supp. 96-3). Amended by exempt rulemaking at 5 A.A.R. 2006, effective May 24, 1999 (Supp. 99-2).

**R7-3-402. Definitions**

- A. "Award year" means the period from July 1 through June 30 of the succeeding year.
- B. "Commission" means the Commission for Postsecondary Education.
- C. "Eligible postsecondary institution" means any private postsecondary institution:
  - 1. Licensed to provide baccalaureate degrees in Arizona by the Arizona State Board for Private Postsecondary Education; and
  - 2. Accredited by an accrediting body recognized by the United States Department of Education.
- D. "Eligible student" means an individual who:
  - 1. Has obtained an associate degree from a community college under the jurisdiction of the Arizona State Board of Directors for Community Colleges; and
  - 2. Enrolls as a full-time undergraduate student at an eligible postsecondary institution.
- E. "Enrollment" means the establishment and maintenance of an individual's status as a student in an eligible postsecondary institution, regardless of the definition used at that institution.
- F. "FAFSA" means Free Application for Federal Student Aid.
- G. "Financial need" means the cost of attendance less expected family contribution, determined from the student's FAFSA form, minus any grant or scholarship aid.
- H. "Full-time student" means an individual who is enrolled in at least 12 credit hours per semester or an equivalent calculation.
- I. "Undergraduate student" means an individual who has not earned a baccalaureate or professional degree and who is enrolled in a postsecondary educational program which leads to, or is creditable toward, a baccalaureate degree.

- J. "Student financial assistance" means awarding a grant of money to an eligible, undergraduate student for payment of tuition and fees, as defined and allowed under United States Department of Education Title IV student assistance analysis, at an eligible postsecondary institution.

**Historical Note**

Adopted effective September 19, 1996, under an exemption from the Administrative Procedure Act pursuant to A.R.S. § 15-1852(C) (Supp. 96-3). Amended by exempt rulemaking at 5 A.A.R. 2006, effective May 24, 1999 (Supp. 99-2).

**R7-3-403. Administration and Allocation of Funds**

- A. The Commission shall administer the Arizona Private Postsecondary Education Student Financial Assistance Program in accordance with A.R.S. § 15-1854 and the rules promulgated thereunder. Administration shall include but not be limited to the award of vouchers to eligible students approved by the Commission.
- B. The Commission shall maintain financial records of all disbursements made under the Program. These records shall include the amount of each student grant and the award year for which it was disbursed.
- C. The Commission shall allocate private postsecondary education student financial assistance grant funds to eligible students based on methodology approved by the Commission under these rules.
- D. Any funds which have been allocated to a student, but are not used by that student, shall be reallocated by the Commission in a subsequent award year.
- E. Student financial assistance will be awarded to renewal students as first priority and then to new students in the order of receipt of completed applications. In the event that there are more new eligible students in an award year than available vouchers for new students, awards shall be made in the following priority:
  - 1. Date of receipt of a completed application,
  - 2. Highest grade point averages for the associate degree.
- F. Student financial assistance in the amount up to \$1,500 may be disbursed to an eligible student for an award year. An amount representing the student financial assistance award shall be paid to the eligible institution towards tuition and fee charges following:
  - 1. Receipt by the Commission of an institutional certification of full-time attendance by the eligible student; and
  - 2. The initial expiration of the institution's refund time period for United States Department of Education Title IV student assistance during the award year. The institution shall then repay the Commission the applicable proportion of the annual award if the eligible student is not enrolled full-time on the date of the expiration of the institution's refund policy during any subsequent portion of the award year.
- G. Student financial assistance in the amount up to \$750 may be awarded to an eligible student for half of an award year. An amount representing the student financial assistance award shall be paid to the eligible institution towards tuition and fee charges following:
  - 1. Receipt by the Commission of an institutional certification of full-time attendance by the eligible student; and
  - 2. The expiration of the institution's refund time period for United States Department of Education Title IV student financial assistance.

**Historical Note**

Adopted effective September 19, 1996, under an exemption from the Administrative Procedure Act pursuant to

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A.R.S. § 15-1852(C) (Supp. 96-3). Amended by exempt rulemaking at 5 A.A.R. 2006, effective May 24, 1999 (Supp. 99-2).

**R7-3-404. Student Eligibility**

- A. To be considered for an initial private postsecondary education student financial assistance, an eligible student, as defined in R7-3-402(D) and R7-3-402(G), shall submit a complete private postsecondary education student financial assistance program application to the Commission. The application shall contain:
1. Assurance of acceptance at an eligible institution;
  2. Assurance of attendance as a full-time student;
  3. Written authorization to inspect any of the academic or financial records of the student which are in the possession or under the control of the institution, which records are necessary to the proper administration of the provision of the Program and the regulations promulgated thereunder;
  4. A signed statement certifying the student's understanding that the award will be used for tuition and fee expenses only; and
  5. Agreement to reimburse the Commission the total amount of Program awards in the event the student fails to receive a baccalaureate degree within a three-year period of the receipt of the initial student financial assistance award.
- B. To be eligible for a renewal of a private postsecondary education student financial assistance, a student shall:
1. Meet the conditions of R7-3-402(D);
  2. Provide verification of full-time enrollment and satisfactory academic progress as determined by the institution for the previous award year; and
  3. Not have exceeded a cumulative total of \$3,000 in awards.

**Historical Note**

Adopted effective September 19, 1996, under an exemption from the Administrative Procedure Act pursuant to A.R.S. § 15-1852(C) (Supp. 96-3). Amended by exempt rulemaking at 5 A.A.R. 2006, effective May 24, 1999 (Supp. 99-2).

**R7-3-405. Termination of Award**

- A. Student financial assistance shall be terminated if:
1. A student has withdrawn from the PFAP program; or
  2. A student has been dismissed from the institution for academic or other reasons; or
  3. A student is not in attendance for more than 12 consecutive months.
- B. The remaining student financial assistance award money designated for that student shall no longer be available to that student. This money shall be available for awards to other eligible students.

**Historical Note**

Adopted by exempt rulemaking at 5 A.A.R. 2006, effective May 24, 1999 (Supp. 99-2).

**ARTICLE 5. ARIZONA FAMILY COLLEGE SAVINGS PROGRAM****R7-3-501. Definitions**

- A. "Account year" means the period beginning on October 1 and ending on September 30 of each year.
- B. "A.R.S." means Arizona Revised Statutes.
- C. "Cash" means currency, bills and coin in circulation, or converting a negotiable instrument to cash by endorsing and presenting to a financial institution for deposit. An automatic transfer, cashier's check, certified check, money order, payroll

deposit, traveler's check, personal check, and wire transfer will be treated as cash. Deposits will also be accepted by credit card.

- D. "Code" means the Internal Revenue Service Code of 1986, as amended, or the corresponding provision of any future United States Internal Revenue law.
- E. "Commission" means the Commission for Postsecondary Education as defined in A.R.S. § 15-1871.
- F. "Committee" means the Family College Savings Program Oversight Committee as defined in A.R.S. § 15-1871.
- G. "Distributee" means the designated beneficiary or the account owner who receives or is treated as receiving a distribution from an account. If a distribution is made directly to the designated beneficiary or to an eligible educational institution for the benefit of the designated beneficiary, the designated beneficiary is the distributee. In all other circumstances, the account owner is the distributee.
- H. "Eligible educational institution" means an institution of higher education that qualifies under § 529 of the Code as an eligible educational institution.
- I. "Negotiable instrument" means negotiable instrument as defined in A.R.S. § 47-3104.
- J. "Qualified Tuition Program" means a qualified tuition program as defined in § 529 of the Code.

**Historical Note**

Adopted effective October 31, 1997, under an exemption from the Administrative Procedure Act pursuant to A.R.S. § 15-1852(C) (Supp. 97-4). Amended effective December 21, 1998, under an exemption from the Administrative Procedure Act pursuant to A.R.S. § 15-1852(C) (Supp. 98-4). Amended by exempt rulemaking at 6 A.A.R. 917, effective February 10, 2000 (Supp. 00-1). Amended by exempt rulemaking at 8 A.A.R. 486, effective January 9, 2002 (Supp. 02-1). Amended by exempt rulemaking at 8 A.A.R. 3743, effective August 8, 2002 (Supp. 02-3). Amended by exempt rulemaking at 9 A.A.R. 3886, effective August 14, 2003 (Supp. 03-3).

**R7-3-502. Fees**

- A. Application fee. The application fee is \$10. Application fees shall be forwarded to the Commission at the end of the month in which the account is opened. A financial institution may waive the application fee but will nevertheless be responsible for tendering to the Commission \$10 for each new account opened; said tender to be made at the end of the month in which the account is opened. The Committee shall review the application fee every 24 months and recommend to the Commission whether the application fee should be adjusted.
- B. Administrative fee. For each account opened, the financial institution shall pay to the Commission a one-time fee of \$3 at the end of the month in which the account was opened. The Committee shall review the administrative fee every 24 months and recommend to the Commission whether the administrative fee should be adjusted. The financial institution shall not charge the account owner the administrative fee.
- C. Marketing fee. The financial institution shall pay to the Commission an annual marketing fee. The marketing fee shall be paid at the beginning of each calendar year as a \$200 flat fee. If a financial institution begins participating in the Arizona Family College Savings Program after the beginning of a calendar year, the financial institution shall pay a pro-rated marketing fee based upon the month in which it begins participation in the Program regardless of the day in the month. The Committee shall review the marketing fee every 12 months and recommend to the Commission whether the marketing fee should be adjusted. The Commission may

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review the marketing fee prior to the committee's required 12-month review. The financial institution shall not charge the account owner the marketing fee.

**Historical Note**

Adopted effective October 31, 1997, under an exemption from the Administrative Procedure Act pursuant to A.R.S. § 15-1852(C) (Supp. 97-4). Amended by exempt rulemaking at 9 A.A.R. 3886, effective August 14, 2003 (Supp. 03-3).

**R7-3-503. RFP Process**

The Commission may require any and all information for participation, including the ability of the investment instruments to track estimated costs of higher education as calculated by the Commission.

**Historical Note**

Adopted effective October 31, 1997, under an exemption from the Administrative Procedure Act pursuant to A.R.S. § 15-1852(C) (Supp. 97-4).

**R7-3-504. Changing Designated Beneficiary**

An account owner may change the designated beneficiary so long as the new designated beneficiary is a member of the family, as defined in A.R.S. § 15-1871(8), of the previously named designated beneficiary. The account owner must certify and provide to the financial institution the name, address, social security number, and relationship of the new designated beneficiary to the previously named designated beneficiary. The change shall be effective upon the financial institution's receipt of such certification.

**Historical Note**

Adopted effective October 31, 1997, under an exemption from the Administrative Procedure Act pursuant to A.R.S. § 15-1852(C) (Supp. 97-4). Section repealed; new Section adopted effective December 21, 1998, under an exemption from the Administrative Procedure Act pursuant to A.R.S. § 15-1852(C) (Supp. 98-4).

**R7-3-505. Account Balance Limitations**

- A. For each designated beneficiary, the balance in all qualified tuition programs, as defined in § 529 of the Code, shall not exceed the lesser of:
  1. The product (rounded down to the nearest multiple of \$1000) of 7 and the average one year's undergraduate tuition, fees, room and board at the ten independent four year eligible educational institutions as measured and last published by the College Board's Independent College 500 Index that have the largest total direct charges. For purposes of this subsection, "total direct charges" means the charges determined for each eligible educational institution by multiplying the eligible educational institution's undergraduate enrollment by the reported tuition, fees, room and board for an on-campus student at the eligible educational institution; or
  2. The cost in current dollars of qualified higher education expenses the account owner reasonably anticipates the designated beneficiary will incur.
- B. No person shall make any contribution to a qualified tuition program during an account year that would cause the sum of the account balances in all qualified tuition programs of the designated beneficiary as of the first day of the account year plus contributions made during the account year less withdrawals during the account year to or from any such account to exceed the maximum allowable balance set forth in subsection (A). Any excess contributions with respect to a designated beneficiary shall be promptly withdrawn as a non-qualified

withdrawal or transferred to another account in accordance with A.R.S. § 15-1875(F).

- C. No financial institution shall accept for deposit in any account a contribution if the contribution would cause the sum of the values (as of the beginning of an account year) of all qualified tuition programs of the designated beneficiary that are managed by the financial institution and contributions to such accounts less withdrawals from such accounts during the account year to exceed the maximum allowable balance set forth in subsection (A).
- D. Each year, the Commission shall review the amounts set forth in subsection (A).
- E. Persons making a contribution to an account shall certify that as to the account's designated beneficiary, and to the best of the contributor's knowledge, the contribution shall not cause the balances in all qualified tuition programs to exceed the account balance limitations described in subsection (A).
- F. If the Commission determines that contributions have been made to program accounts in violation of subsection (B) or (C), it shall notify the designated beneficiary and the account owners of all accounts of such designated beneficiary. The account owners shall have 60 days after receipt of such notice to reduce the balances of the qualified tuition programs through distributions and/or changes in beneficiaries to a level less than or equal to the maximum account balance described in subsection (A). If the balances are not appropriately reduced, the Commission will disqualify such accounts in reverse order of their date of opening until the sum of the balances in the accounts does not exceed the maximum allowable balance set forth in subsection (A). This subsection shall not apply to any contribution made at a time when such contributions did not cause the account balance limits to be exceeded.

**Historical Note**

Adopted effective October 31, 1997, under an exemption from the Administrative Procedure Act pursuant to A.R.S. § 15-1852(C) (Supp. 97-4). Section repealed; new Section adopted effective December 21, 1998, under an exemption from the Administrative Procedure Act pursuant to A.R.S. § 15-1852(C) (Supp. 98-4). Amended by exempt rulemaking at 6 A.A.R. 917, effective February 10, 2000 (Supp. 00-1). Amended by exempt rulemaking at 7 A.A.R. 5699, effective November 26, 2001 (Supp. 01-4). Amended by exempt rulemaking at 9 A.A.R. 3886, effective August 14, 2003 (Supp. 03-3).

**R7-3-506. Withdrawals; Reporting of Non-qualified Withdrawals; Penalties**

- A. An account owner may withdraw funds from an account at any time. The designated beneficiary of an account shall not have any authority to withdraw funds from an account unless the account is structured to give the designated beneficiary such right of withdrawal upon matriculation or upon incurring qualified higher education expenses.
- B. Withdrawals.
  1. Qualified Withdrawals.  
In order to make a qualified withdrawal, the account owner or the account owner's designee must complete a certification, on a form approved by the Commission, declaring that the funds will be used for the purposes set forth in A.R.S. § 15-1871(11). The form shall include a statement advising the designated beneficiary and account owner of their obligations to report, in accordance with R7-3-506(B)(3)(c), refunds received from an eligible educational institution. In addition to the certification, a withdrawal shall be deemed qualified only if:
    - a. The financial institution is provided with a copy of

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- an invoice from the eligible educational institution, and the distribution is made directly to the eligible educational institution; or
- b. The financial institution is provided with a copy of an invoice from the eligible educational institution, and the distribution is made in the form of a check payable to both the designated beneficiary and the eligible educational institution; or
  - c. Within 30 days following the withdrawal, substantiation that the withdrawal was actually expended for qualified higher education expenses is submitted to the financial institution.
2. **Withdrawal Based on Death, Disability, or Scholarship.**  
A penalty-free withdrawal may be made as a result of the designated beneficiary's death, disability, or scholarship, if written substantiation thereof is provided. Such written substantiation must come from a party other than the designated beneficiary or the account owner. In the case of a scholarship, the withdrawal may not exceed the amount of the scholarship.
  3. **Non-Qualified or Unsubstantiated Withdrawals.**  
Pursuant to A.R.S. § 15-1875(H), the Commission has authority to assess penalties for non-qualified withdrawals. If an account owner fails to certify that a withdrawal is qualified or penalty-free, as defined in R7-3-506(B)(1) and (2), above, or if a financial institution has reason to believe that a withdrawal is non-qualified, the financial institution shall withhold from such withdrawal an amount equal to 10% of that portion of that withdrawal which constitutes income under § 72 of the Code. If an account owner seeks to make a withdrawal in accordance with R7-3-506(B)(1)(c) and does not provide the required substantiation at the time of the withdrawal, the withdrawal shall be limited so that the balance remaining in the account is sufficient to pay the 10% of earnings penalty. If the financial institution is not provided with the required substantiation within 30 days, the withdrawal shall be treated as a non-qualified withdrawal, the penalty shall be assessed at that time, and the financial institution shall withdraw the penalty from the account.
    - a. If the withdrawal has not been declared, by the party making the withdrawal, to be non-qualified, the amount of any penalty shall be remitted to the Commission with the financial institution's first monthly report following the date that the withdrawal is determined to be non-qualified. If the withdrawal has been declared to be non-qualified, the amount of said withholding may be remitted to the Commission with the financial institution's required monthly report.
    - b. If the withdrawal has not been declared, by the party making the withdrawal, to be non-qualified, the financial institution shall report any such withholding, in writing, to the Commission with the financial institution's first monthly report following the date that the withdrawal is determined to be non-qualified. The report shall include identification of the account owner, beneficiary, date of withdrawal, amount of withdrawal, and a brief description as to why the financial institution believes the withdrawal to be non-qualified. If the withdrawal has been declared to be non-qualified, the report may be submitted to the Commission with the financial institution's required monthly report. The financial institution shall notify the account owner and beneficiary, in writing, of any withholding.
  - c. If a qualified withdrawal is made from an account in any calendar year, within 60 days after the end of such year and within 60 days after the end of the following year, any designated beneficiary or account owner who received a partial or total refund from the eligible educational institution attended by the designated beneficiary or the eligible educational institution that the designated beneficiary had expected to attend shall provide to the financial institution a signed statement identifying the amount of any refunds received. In addition, the designated beneficiary or account owner shall provide an explanation as to what portion, if any, of the refund is allocable to a qualified withdrawal. If all or a portion of a refund is allocable to a qualified withdrawal, the designated beneficiary (or the account owner) may provide the financial institution with substantiation of qualified higher education expenses for which the refund was used or substantiation that the refund was made by reason of scholarship, or the death, or disability of the designated beneficiary. To the extent that a refund allocable to a qualified withdrawal was not used to pay qualified higher education expenses or made on account of death, disability, or scholarship of the designated beneficiary, it shall be considered a non-qualified withdrawal subject to the penalty described in R7-3-506(B)(3). The financial institution shall withdraw the penalty from the account from which the original qualified withdrawal was made, if sufficient funds are available in the account, or attempt to collect the penalty by billing the designated beneficiary or account owner for the penalty, if sufficient funds are not available in the account.
  4. **Substantiation Procedures.**  
Before treating any withdrawal as qualified or penalty-free based on substantiation provided, the financial institution shall review the substantiation to confirm that substantiation is provided for the amount of a withdrawal that the account owner or designated beneficiary asserts is qualified or penalty-free, that the substantiation complies with the program rules, and, in the case of a withdrawal to pay qualified higher education expenses, that the substantiated expenditures are of a nature and in amounts that can be treated as qualified higher education expenses. The financial institution may seek additional information from the account owner, the designated beneficiary, or the eligible educational institution before approving or rejecting substantiation, and the financial institution may seek guidance from staff of the Commission. If the financial institution determines that substantiation is inadequate, it shall promptly notify the account owner and defer making any distribution with respect to any inadequately substantiated request until proper substantiation is provided or the account owner instructs the financial institution to make the requested distribution and either withhold the penalty from the distribution or from other funds in the account.
  5. **Distributions Made after December 31, 2001.**  
R7-3-506(B)(1) through (4) shall not apply to any withdrawals made after December 31, 2001, except to the extent that any provision contained therein is required for the Family College Savings Program to qualify as a qualified tuition program under § 529 of the Code. A financial institution shall not be required to collect a penalty on any withdrawal made after December 31, 2001. Withdrawals

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may be made pursuant to forms prepared or used by the financial institution and meeting the requirements of R7-3-501 through R7-3-507, if any, and any requirements for the Family College Savings Program to qualify as a qualified tuition program under § 529 of the Code. To the extent that A.R.S. § 15-1875 requires provisions that will generally enable the Commission to determine whether withdrawals are qualified or nonqualified withdrawals, a financial institution shall require an account owner to state whether the account owner expects that the withdrawal will be a qualified or nonqualified withdrawal.

- C. The account owner may dispute any withholding made by a financial institution under subsection (B) by submitting written notice, to the Commission, within 30 days from the date of such withholding. The Commission shall make a written determination regarding the dispute within 30 days of the receipt of its notice from the account owner. If the account owner disagrees with the Commission's determination, the matter shall be adjudicated in accordance with A.R.S. § 41-1092 et seq.

**Historical Note**

Adopted effective December 21, 1998, under an exemption from the Administrative Procedure Act pursuant to A.R.S. § 15-1852(C) (Supp. 98-4). Amended by exempt rulemaking at 6 A.A.R. 917, effective February 10, 2000 (Supp. 00-1). Amended by exempt rulemaking at 6 A.A.R. 2486, effective June 7, 2000 (Supp. 00-2). Amended by exempt rulemaking at 8 A.A.R. 3743, effective August 8, 2002 (Supp. 02-3). Amended by exempt rulemaking at 9 A.A.R. 3886, effective August 14, 2003 (Supp. 03-3).

**R7-3-507. Oversight of Financial Institutions**

- A. Disclaimer of state liability. Every document pertaining to the Family College Savings Program shall clearly indicate that "The account is not insured by the state of Arizona and neither the principal deposited nor the investment return is guaranteed by the state of Arizona." A rubber stamp may be used to imprint this language on deposit slips, account statements, payroll stubs, or other documents pertaining to the Family College Savings Program. This language may also be handwritten or typed or provided by any other method to facilitate compliance.
- B. No Investment Direction. A financial institution shall not permit an account owner to move funds, once deposited, that in any way would result in investment direction under § 529 of the Code.
- C. Reporting Requirements.
1. At least quarterly, every financial institution shall provide each account owner with a statement. The statement shall list a beginning balance, all activity during the quarter, including any interest paid or dividends earned and any penalties charged, and an ending balance. Additionally, the statement for the fourth quarter shall include the following information: an annual beginning balance, an annual total of the interest earned or dividends paid, an annual total of any penalties charged, and a year-end balance.
  2. Within the time-frames established by the Code, financial institutions, at the request of the Commission, shall provide Form 1099Q to all distributees.

3. A copy of the statement described in (C)(1) and (2) shall be sent to the Commission. Additionally, each financial institution shall provide the Commission with the information required by A.R.S. § 15-1874(F).

- D. Access to books and records. No contractor shall have access to the books and records of a financial institution or Program Manager unless the Commission or its designee first approves, with or without modification, such request for access.
- E. Non-renewal. The Commission's failure to renew a contract with a financial institution shall not be construed as "good cause" as referred to in A.R.S. § 15-1874(I).
- F. Marketing programs.

1. Any financial institution or group of financial institutions that wishes to engage in its own marketing program may do so provided that any proposed marketing program is first submitted to the Commission for review. If, within 30 days, the Commission does not notify the financial institution or group of financial institutions, in writing, that the proposed marketing program is rejected or requires modifications, the proposed marketing program shall be deemed approved.
2. Any financial institution or group of financial institutions that chooses to engage in its own marketing program may petition the Commission for a credit against future marketing fees.

**Historical Note**

Adopted effective December 21, 1998, under an exemption from the Administrative Procedure Act pursuant to A.R.S. § 15-1852(C) (Supp. 98-4). Amended by exempt rulemaking at 8 A.A.R. 3743, effective August 8, 2002 (Supp. 02-3). Amended by exempt rulemaking at 9 A.A.R. 3886, effective August 14, 2003 (Supp. 03-3).

**R7-3-508. IRS Regulations, Rulings, Notices, and Other Guidance**

- A. If (i) the Internal Revenue Service issues on or after February 27, 2002, any regulation, ruling, notice or other precedential guidance on procedures or activities that a qualified tuition program may adopt or undertake without jeopardizing its exemption under § 529 of the Code, (ii) such guidance is less restrictive than any rule contained in Title 7, Chapter 3, Article 5, and (iii) the more restrictive rule was not mandated by A.R.S. §§ 15-1871 to 15-1877, then the more restrictive rule shall be deemed liberalized to the maximum extent possible without violating A.R.S. §§ 15-1871 through 15-1877 or any requirements for a program to qualify as a qualified tuition program under § 529 of the Code.
- B. If (i) the Internal Revenue Service issues on or after February 27, 2002, any regulation, ruling, notice or other precedential guidance on procedures or activities that a qualified tuition program shall or shall not adopt or undertake to avoid jeopardizing its exemption under § 529 of the Code and (ii) the rules contained in Title 7, Chapter 3, Article 5 or the statutes contained in A.R.S. §§ 15-1871 to 15-1877 do not include such requirement or prohibition, then these rules shall be deemed amended to the maximum extent possible without violating A.R.S. §§ 15-1871 through 15-1877 to adopt such requirement or prohibition.

**Historical Note**

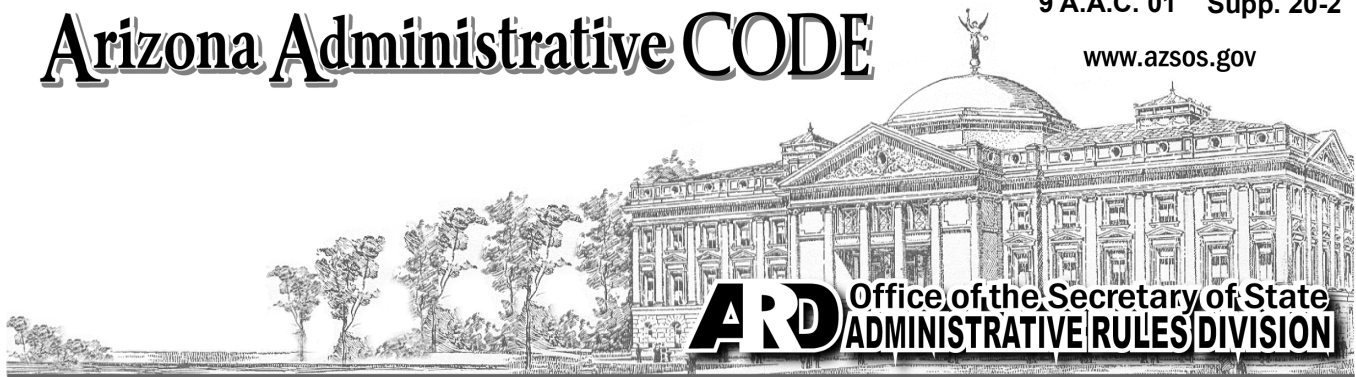
New Section made by exempt rulemaking at 8 A.A.R. 3743, effective August 8, 2002 (Supp. 02-3).



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## TITLE 9. HEALTH SERVICES

### CHAPTER 1. DEPARTMENT OF HEALTH SERVICES - ADMINISTRATION

The table of contents on the first page contains quick links to the referenced page numbers in this Chapter. Refer to the notes at the end of a Section to learn about the history of a rule as it was published in the *Arizona Administrative Register*.

Sections, Parts, Exhibits, Tables or Appendices codified in this supplement. The list provided contains quick links to the updated rules.

This Chapter contains rule Sections that were filed to be codified in the *Arizona Administrative Code* between the dates of April 1, 2020 through June 30, 2020.

<a href="#">R9-1-101.</a>	<a href="#">Definitions .....</a>	<a href="#">2</a>	<a href="#">R9-1-203.</a>	<a href="#">Petition for Department Rulemaking and Petition</a>	
<a href="#">R9-1-102.</a>	<a href="#">Response to a Recommended Decision .....</a>	<a href="#">2</a>		<a href="#">for Review of a Department Practice or Substantive</a>	
<a href="#">R9-1-103.</a>	<a href="#">Rehearing or Review of a Final Administrative</a>			<a href="#">Policy Statement .....</a>	<a href="#">4</a>
	<a href="#">Decision .....</a>	<a href="#">2</a>	<a href="#">R9-1-301.</a>	<a href="#">Definitions .....</a>	<a href="#">4</a>
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#### The release of this Chapter in Supp. 20-2 replaces Supp. 13-2, 1-14 pages

Please note that the Chapter you are about to replace may have rules still in effect after the publication date of this supplement. Therefore, all superseded material should be retained in a separate binder and archived for future reference.



## Administrative Rules Division

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## CHAPTER 1. DEPARTMENT OF HEALTH SERVICES - ADMINISTRATION

**ARTICLE 1. RULES OF PRACTICE AND PROCEDURE****R9-1-101. Definitions**

In addition to the definitions in A.R.S. §§ 41-1001 and 41-1092, the following definitions apply in this Chapter, unless otherwise specified:

1. "Calendar day" means each day, not including the day of the act, event, or default from which a designated period of time begins to run, but including the last day of the period unless it is a Saturday, Sunday, statewide furlough day, or legal holiday, in which case the period runs until the end of the next day that is not a Saturday, Sunday, statewide furlough day, or legal holiday.
2. "Department" means the Arizona Department of Health Services.
3. "Director" means the Director of the Arizona Department of Health Services.
4. "Recommended decision" means the written ruling made by an administrative law judge regarding a contested case or appealable agency action within 20 days after a hearing under A.R.S. § 41-1092.08.

**Historical Note**

Adopted effective April 13, 1990 (Supp. 90-2). Amended by final rulemaking at 8 A.A.R. 3296, effective July 15, 2002 (Supp. 02-3). Amended by final expedited rulemaking at 26 A.A.R. 1224, with an immediate effective date of June 3, 2020 (Supp. 20-2).

**R9-1-102. Response to a Recommended Decision**

- A. The Director may mail a copy of a recommended decision to each party.
- B. A party has ten calendar days from the date the Director mails the recommended decision to submit a response that states each reason why the Director should accept, reject, or modify the recommended decision with information supporting the reason.
- C. The Director may consider a response in subsection (B) in determining whether to accept, reject, or modify the recommended decision.

**Historical Note**

Adopted effective April 13, 1990 (Supp. 90-2). Section repealed; new Section made by final rulemaking at 8 A.A.R. 3296, effective July 15, 2002 (Supp. 02-3). Amended by final expedited rulemaking at 26 A.A.R. 1224, with an immediate effective date of June 3, 2020 (Supp. 20-2).

**R9-1-103. Rehearing or Review of a Final Administrative Decision**

- A. A party who is aggrieved by a final administrative decision may file with the Director, not later than 30 calendar days after service of the final administrative decision, a written motion for rehearing or review of the final administrative decision specifying the grounds for rehearing or review.
- B. A party filing a motion for rehearing or review under this Section may amend the motion at any time before it is ruled upon by the Director.
- C. Any other party may file a response to the motion for rehearing or review in subsection (A) within 15 calendar days after the date the motion for rehearing or review is filed with the Director.
- D. The Director may require that the parties file supplemental memoranda explaining the issues raised in a motion or response in subsection (A) or (C) and may permit oral argument.

- E. The Director may grant a rehearing or review of the final administrative decision for any of the following reasons materially affecting the requesting party's rights:
  1. Irregularity in the proceedings of the hearings or an abuse of discretion that deprived the party of a fair hearing,
  2. Misconduct by the administrative law judge or the prevailing party,
  3. Accident or surprise that could not have been prevented by ordinary prudence,
  4. Newly discovered material evidence that could not with reasonable diligence have been discovered and produced at the original hearing,
  5. Excessive or insufficient penalties,
  6. Error in the admission or rejection of evidence or other errors of law occurring at the hearing, or
  7. That the decision is not supported by the evidence or is contrary to law.
- F. The Director shall rule on the motion for rehearing or review within 15 calendar days after a response to the motion is filed. If no response to the motion for rehearing or review is filed, the Director shall rule on the motion for rehearing or review within five calendar days after the expiration of the response period in subsection (C).
- G. An order issued by the Director granting a rehearing or review shall specify the grounds for the rehearing or review.

**Historical Note**

Adopted effective April 13, 1990 (Supp. 90-2). Section repealed; new Section made by final rulemaking at 8 A.A.R. 3296, effective July 15, 2002 (Supp. 02-3). Amended by final expedited rulemaking at 26 A.A.R. 1224, with an immediate effective date of June 3, 2020 (Supp. 20-2).

**R9-1-104. Repealed****Historical Note**

Adopted effective April 13, 1990 (Supp. 90-2). Section repealed by final rulemaking at 8 A.A.R. 3296, effective July 15, 2002 (Supp. 02-3).

**R9-1-105. Repealed****Historical Note**

Adopted effective April 13, 1990 (Supp. 90-2). Section repealed by final rulemaking at 8 A.A.R. 3296, effective July 15, 2002 (Supp. 02-3).

**R9-1-106. Repealed****Historical Note**

Adopted effective April 13, 1990 (Supp. 90-2). Section repealed by final rulemaking at 8 A.A.R. 3296, effective July 15, 2002 (Supp. 02-3).

**R9-1-107. Repealed****Historical Note**

Adopted effective April 13, 1990 (Supp. 90-2). Section repealed by final rulemaking at 8 A.A.R. 3296, effective July 15, 2002 (Supp. 02-3).

**R9-1-108. Repealed****Historical Note**

Adopted effective April 13, 1990 (Supp. 90-2). Section repealed by final rulemaking at 8 A.A.R. 3296, effective July 15, 2002 (Supp. 02-3).

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**R9-1-109. Repealed****Historical Note**

Adopted effective April 13, 1990 (Supp. 90-2). Section repealed by final rulemaking at 8 A.A.R. 3296, effective July 15, 2002 (Supp. 02-3).

**R9-1-110. Repealed****Historical Note**

Adopted effective April 13, 1990 (Supp. 90-2). Section repealed by final rulemaking at 8 A.A.R. 3296, effective July 15, 2002 (Supp. 02-3).

**R9-1-111. Repealed****Historical Note**

Section repealed, new Section adopted effective April 13, 1990 (Supp. 90-2). Section repealed by final rulemaking at 8 A.A.R. 3296, effective July 15, 2002 (Supp. 02-3).

**R9-1-112. Repealed****Historical Note**

Section repealed, new Section adopted effective April 13, 1990 (Supp. 90-2). Section repealed by final rulemaking at 8 A.A.R. 3296, effective July 15, 2002 (Supp. 02-3).

**R9-1-113. Repealed****Historical Note**

Amended Regulation 10-71. Section repealed, new Section adopted effective April 13, 1990 (Supp. 90-2). Section repealed by final rulemaking at 8 A.A.R. 3296, effective July 15, 2002 (Supp. 02-3).

**R9-1-114. Repealed****Historical Note**

Amended Regulation 1-74. Section repealed, new Section adopted effective April 13, 1990 (Supp. 90-2). Section repealed by final rulemaking at 8 A.A.R. 3296, effective July 15, 2002 (Supp. 02-3).

**R9-1-115. Repealed****Historical Note**

Amended Regulation 10-71. Section repealed, new Section adopted effective April 13, 1990 (Supp. 90-2). Section repealed by final rulemaking at 8 A.A.R. 3296, effective July 15, 2002 (Supp. 02-3).

**R9-1-116. Repealed****Historical Note**

Amended Regulation 10-71. Section repealed, new Section adopted effective April 13, 1990 (Supp. 90-2). Section repealed by final rulemaking at 8 A.A.R. 3296, effective July 15, 2002 (Supp. 02-3).

**R9-1-117. Repealed****Historical Note**

Amended Regulation 10-71. Section repealed, new Section adopted effective April 13, 1990 (Supp. 90-2). Section repealed by final rulemaking at 8 A.A.R. 3296, effective July 15, 2002 (Supp. 02-3).

**R9-1-118. Repealed****Historical Note**

Amended Regulation 10-71. Section repealed, new Section adopted effective April 13, 1990 (Supp. 90-2). Section repealed by final rulemaking at 8 A.A.R. 3296, effective July 15, 2002 (Supp. 02-3).

**R9-1-119. Repealed****Historical Note**

Amended Regulation 10-71 and 1-74. Section repealed, new Section adopted effective April 13, 1990 (Supp. 90-2). Section repealed by final rulemaking at 8 A.A.R. 3296, effective July 15, 2002 (Supp. 02-3).

**R9-1-120. Repealed****Historical Note**

Amended Regulation 10-71. Section repealed, new Section adopted effective April 13, 1990 (Supp. 90-2). Section repealed by final rulemaking at 8 A.A.R. 3296, effective July 15, 2002 (Supp. 02-3).

**R9-1-121. Repealed****Historical Note**

Section repealed, new Section adopted effective April 13, 1990 (Supp. 90-2). Section repealed by final rulemaking at 8 A.A.R. 3296, effective July 15, 2002 (Supp. 02-3).

**R9-1-122. Repealed****Historical Note**

Amended Regulation 10-71 and 1-74. Repealed effective April 13, 1990 (Supp. 90-2).

**R9-1-123. Repealed****Historical Note**

Amended Regulation 10-71. Repealed effective April 13, 1990 (Supp. 90-2).

**R9-1-124. Repealed****Historical Note**

Repealed effective April 13, 1990 (Supp. 90-2).

**R9-1-125. Repealed****Historical Note**

Former Section R9-1-125 renumbered as Section R9-1-126, new Section R9-1-125 adopted effective May 12, 1977 (Supp. 77-3). Repealed effective April 13, 1990 (Supp. 90-2).

**R9-1-126. Repealed****Historical Note**

Former Section R9-1-125 renumbered as Section R9-1-126 effective May 12, 1977 (Supp. 77-3). Repealed effective April 13, 1990 (Supp. 90-2).

**ARTICLE 2. PUBLIC PARTICIPATION IN RULEMAKING****R9-1-201. Definitions**

In addition to the definitions in R9-1-101, the following definitions apply in this Article, unless otherwise specified:

1. "Amendment" means a change to a rule, including added or deleted text.
2. "Arizona Administrative Code" means the publication described in A.R.S. § 41-1012.
3. "Citation" means the number that identifies a rule.
4. "Rulemaking record" means a file maintained by the Department as specified in A.R.S. § 41-1029.
5. "Text" means a letter, number, symbol, table, or punctuation in a rule.

**Historical Note**

Adopted effective April 13, 1990 (Supp. 90-2). Section repealed; new Section made by final rulemaking at 8 A.A.R. 3296, effective July 15, 2002 (Supp. 02-3).

## CHAPTER 1. DEPARTMENT OF HEALTH SERVICES - ADMINISTRATION

Amended by final rulemaking at 12 A.A.R. 3699, effective November 11, 2006 (Supp. 06-3). Amended by final expedited rulemaking at 26 A.A.R. 1224, with an immediate effective date of June 3, 2020 (Supp. 20-2).

**R9-1-202. Rulemaking Record**

Except on a state holiday, an individual may review a rulemaking record at the Office of Administrative Counsel and Rules, Monday through Friday, from 8:00 a.m. until 5:00 p.m.

**Historical Note**

Adopted effective April 13, 1990 (Supp. 90-2). Section repealed; new Section made by final rulemaking at 8 A.A.R. 3296, effective July 15, 2002 (Supp. 02-3). Amended by final expedited rulemaking at 26 A.A.R. 1224, with an immediate effective date of June 3, 2020 (Supp. 20-2).

**R9-1-203. Petition for Department Rulemaking and Petition for Review of a Department Practice or Substantive Policy Statement**

- A. A petition to the Department for rulemaking under A.R.S. § 41-1033 shall include:
1. The name and address of the individual who submits the petition;
  2. An identification of the rulemaking, including:
    - a. A statement of the rulemaking sought,
    - b. The Arizona Administrative Code citation of each existing rule included in the petition, and
    - c. A description of each new rule included in the petition;
  3. The specific text of each new rule or amendment;
  4. The reasons for requesting the rulemaking, supported by:
    - a. Statistical data;
    - b. If the statistical data refers to exhibits, the exhibits;
    - c. An identification of the persons who would be affected by the rulemaking and the type of effect; and
    - d. Other information supporting the rulemaking;
  5. The signature of the individual who submits the petition;
  6. The date the petition is signed; and
  7. A copy of each existing rule included in the petition.
- B. A petition to the Department under A.R.S. § 41-1033 for review of a Department practice or substantive policy statement that allegedly constitutes a rule shall include:
1. The name and address of the individual who submits the petition,
  2. An identification of a Department practice or substantive policy statement that allegedly constitutes a rule,
  3. The signature of the individual who submits the petition,
  4. The date the petition is signed, and
  5. A copy of the Department's substantive policy statement or a description of the Department's practice.
- C. The Department shall notify an individual who submits a petition according to A.R.S. § 41-1033 of the Department's decision in writing within 60 calendar days after receipt of the petition.
- D. If the Department denies a petition submitted according to A.R.S. § 41-1033, the individual who submitted the petition may proceed according to A.R.S. §§ 41-1033 or 41-1034.

**Historical Note**

Adopted effective April 13, 1990 (Supp. 90-2). Section repealed; new Section made by final rulemaking at 8 A.A.R. 3296, effective July 15, 2002 (Supp. 02-3). Amended by final rulemaking at 12 A.A.R. 3699, effective November 11, 2006 (Supp. 06-3). Amended by

final expedited rulemaking at 26 A.A.R. 1224, with an immediate effective date of June 3, 2020 (Supp. 20-2).

**R9-1-204. Repealed****Historical Note**

Adopted effective April 13, 1990 (Supp. 90-2). Section repealed by final rulemaking at 8 A.A.R. 3296, effective July 15, 2002 (Supp. 02-3).

**R9-1-205. Repealed****Historical Note**

Adopted effective April 13, 1990 (Supp. 90-2). Section repealed by final rulemaking at 8 A.A.R. 3296, effective July 15, 2002 (Supp. 02-3).

**R9-1-206. Repealed****Historical Note**

Adopted effective April 13, 1990 (Supp. 90-2). Section repealed by final rulemaking at 8 A.A.R. 3296, effective July 15, 2002 (Supp. 02-3).

**ARTICLE 3. DISCLOSURE OF MEDICAL RECORDS, PAYMENT RECORDS, AND PUBLIC HEALTH RECORDS****R9-1-301. Definitions**

In addition to the definitions in R9-1-101, the following definitions apply in this Article, unless otherwise specified:

1. "Behavioral health services" means the same as in A.R.S. § 36-401.
2. "Business day" means the same as in A.R.S. § 10-140.
3. "Commercial purpose" means the same as in A.R.S. § 39-121.03.
4. "Consent" means permission by an individual or by the individual's parent, legal guardian, or other health care decision maker to have medical services provided to the individual.
5. "Court of competent jurisdiction" means a court with the authority to enter an order.
6. "De-identified" means a public health record from which the information listed in 45 CFR 164.514(b)(2)(i) for an individual and the individual's relatives, employers, or household members has been removed.
7. "Disclose" means to release, transfer, provide access to, or divulge information in any other manner.
8. "Disclosure" means the release, transfer, provision of access to, or divulging of information in any other manner by the person holding the information.
9. "Disease" means the same as in R9-6-101.
10. "Documentation" means written supportive evidence.
11. "Emancipated minor" means an individual less than age 18 who:
  - a. Is determined to be independent of parents or legal guardians under A.R.S. Title 12, Chapter 15, Article 1;
  - b. Meets the requirements for recognition as an emancipated minor in A.R.S. § 12-2455;
  - c. Has the ability to make a contract under A.R.S. § 44-131 or to consent to medical services under A.R.S. § 44-132; or
  - d. Is married or is a U.S. armed forces enlisted member.
12. "Employee" means an individual who works for the Department for compensation.
13. "Enlisted member" means the same as in 32 U.S.C. 101.

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14. "Epidemic" means that a disease affects a disproportionately large number of individuals in a population, community, or region at the same time.
15. "Estate" means the same as in A.R.S. § 14-1201.
16. "Halfway house" means a residential setting that temporarily provides shelter, food, and other services to an individual after the individual completes a confinement in a correctional facility, as defined in A.R.S. § 13-2501, or a stay in a health care institution, as defined in A.R.S. § 36-401.
17. "Health care decision maker" means the same as in A.R.S. § 12-2291.
18. "Human Subjects Review Board" means individuals designated by the Director to:
  - a. Review human subjects research that is conducted, funded, or sponsored by the Department for consistency with 45 CFR Part 46, Subpart A, dealing with the protection of the human subjects;
  - b. Review requests for Department information from external entities conducting or planning to conduct human subjects research; and
  - c. Establish guidelines for the submission and review of human subjects research.
19. "Incapacitated person" means the same as in A.R.S. § 14-5101.
20. "Incidence" means the rate of cases of a disease or an injury in a population, community, or region during a specified period.
21. "Individually identifiable health information" means the information described in 42 U.S.C. 1320d.
22. "Injury" means trauma or damage to a part of the human body.
23. "Legal guardian" means an individual:
  - a. Appointed by a court of competent jurisdiction under A.R.S. Title 8, Chapter 4, Article 12 or A.R.S. Title 14, Chapter 5;
  - b. Appointed by a court of competent jurisdiction under another state's laws for the protection of minors and incapacitated persons; or
  - c. Appointed for a minor or an incapacitated person in a probated will.
24. "Medical records" means the same as in A.R.S. § 12-2291.
25. "Medical services" means the same as in A.R.S. § 36-401.
26. "Minor" means the same as in A.R.S. § 36-798.
27. "Outbreak" means an unexpected increase in the incidence of a disease as determined by the Department or a health agency, as defined in A.R.S. § 36-671.
28. "Parent" means a biological or adoptive mother or father of an individual.
29. "Patient" means an individual receiving behavioral health services, medical services, nursing services, or health-related services, as defined in A.R.S. § 36-401.
30. "Payment records" means the same as in A.R.S. § 12-2291.
31. "Personal representative" means the same as in A.R.S. § 14-1201.
32. "Probated will" means a will that has been proved as valid in a court of competent jurisdiction.
33. "Public health records" means information created, obtained, or maintained by the Department for:
  - a. Public health surveillance to monitor the incidence and spread of a disease or an injury;
  - b. Public health investigation to identify and examine outbreaks or epidemics of disease or the incidence of injury;
  - c. Public health intervention to respond and contain outbreaks or epidemics of disease or the incidence of injury;
  - d. A system of public health statistics, as defined in A.R.S. § 36-301;
  - e. A system of vital records, as defined in A.R.S. § 36-301; or
  - f. Health oversight activities, which include the following:
    - i. Supervision of the health care system,
    - ii. Determining eligibility for health-related government benefit programs,
    - iii. Determining compliance with health-related government regulatory programs, or
    - iv. Determining compliance with civil rights laws for which health-related information is relevant; or
  - g. Other public health activities required or authorized by state or federal law.
34. "Research" means the same as in 45 CFR 164.501.
35. "State" means the same as in A.R.S. § 36-841.
36. "Surviving spouse" means the individual:
  - a. To whom a deceased individual was married at the time of death, and
  - b. Who is currently alive.
37. "Third person" means a person other than:
  - a. The individual identified by medical records; or
  - b. The individual's parent, legal guardian, or other health care decision maker.
38. "Treatment" means a procedure or method to cure, improve, or palliate a disease or an injury.
39. "Valid authorization" means written permission to disclose individually identifiable health information that contains all the elements described in 45 CFR 164.508(c)(1).
40. "Volunteer" means an individual who works for the Department without compensation.
41. "Will" means the same as in A.R.S. § 14-1201.

**Historical Note**

New Section made by final rulemaking at 12 A.A.R. 3699, effective November 11, 2006 (Supp. 06-3).  
 Amended by final expedited rulemaking at 26 A.A.R. 1224, with an immediate effective date of June 3, 2020 (Supp. 20-2).

**R9-1-302. Medical Records or Payment Records Disclosure**

- A.** Except as provided in subsection (B), an employee or volunteer shall not disclose to a third person medical records or payment records containing individually identifiable health information obtained or accessed as a result of the employment or volunteering.
- B.** Unless otherwise prohibited by law, an employee or volunteer may disclose to a third person medical records or payment records containing individually identifiable health information:
  1. With the valid authorization of the individual identified by the information in the medical records or payment records, if the individual:
    - a. Is at least age 18 or an emancipated minor, and
    - b. Is not an incapacitated person;
  2. With the valid authorization of the parent, legal guardian, or other health care decision maker of the individual identified by the information in the medical records or payment records, if the individual is a minor or an incapacitated person.

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- tified by the information in the medical records or payment records, if the individual is:
- a. Less than age 18, other than an emancipated minor; or
  - b. An incapacitated person;
3. With the valid authorization of the individual identified by the information in the medical records or payment records, regardless of age, if:
    - a. The information to be disclosed resulted from the consent given by the individual under A.R.S. § 36-663 or A.R.S. § 44-132.01 and,
    - b. The individual is not an incapacitated person;
  4. With the valid authorization of the individual identified by information in the medical records or payment records if:
    - a. The information to be disclosed resulted from the individual's treatment under A.R.S. § 44-133.01;
    - b. The individual was at least age 12 at the time of the treatment under A.R.S. § 44-133.01 as established by documentation, such as a copy of the individual's:
      - i. Driver license issued by a state, or
      - ii. Birth certificate; and
    - c. The individual is not an incapacitated person;
  5. If the individual identified by the information in the medical records or payment records is deceased, upon the written request to the Department according to subsection (D) for disclosure of the deceased individual's medical records or payment records to:
    - a. The deceased individual's health care decision maker at the time of death;
    - b. The personal representative of the deceased individual's estate; or
    - c. If the deceased individual's estate has no personal representative, a person listed in A.R.S. § 12-2294(D);
  6. At the direction of the Human Subjects Review Board, if the medical records or payment records are sought for research and the disclosure meets the requirements of 45 CFR 164.512(i)(2); or
  7. As required by an order issued by a court of competent jurisdiction.
- C.** For purposes of subsection (B)(1), an individual less than age 18 who claims emancipated minor status shall submit to the Department a valid authorization signed by the individual less than age 18 and:
1. A copy of an order emancipating the individual issued by the Superior Court of Arizona;
  2. If the individual was an emancipated minor in a state other than Arizona:
    - a. Documentation establishing that the individual is at least age 16, such as a copy of the individual's:
      - i. Driver license issued by a state, or
      - ii. Birth certificate; and
    - b. Documentation of the individual's emancipation, such as a copy of:
      - i. An order emancipating the individual issued by a court of competent jurisdiction of a state other than Arizona,
      - ii. A real property purchase agreement signed by the individual as the buyer or the seller in a state other than Arizona,
      - iii. An order for the individual to pay child support issued by a court of competent jurisdiction of a state other than Arizona, or
      - iv. A loan agreement with a financial institution, such as a bank, savings and loan association, a credit union, or a consumer lender, signed by the individual as the borrower in a state other than Arizona;
  3. A copy of the individual's marriage certificate issued by a state;
  4. If the individual is a homeless minor, as described in A.R.S. § 44-132, documentation such as:
    - a. A statement on the letterhead of a homeless shelter, as defined in A.R.S. § 16-121, or halfway house that:
      - i. Is dated within 10 calendar days before the date the Department receives the document,
      - ii. States the homeless shelter or halfway house is the individual's primary residence,
      - iii. Is signed by an authorized signer for the homeless shelter or halfway house, and
      - iv. States the authorized signer's title or position at the homeless shelter or halfway house; or
    - b. A statement signed by the individual that:
      - i. The individual does not live with the individual's parents, and
      - ii. The individual lacks a fixed nighttime residence;
  5. If the individual is a U.S. armed forces enlisted member, a copy of the individual's U.S. armed forces:
    - a. Enlistment document, or
    - b. Identification card; or
  6. If the individual is a U.S. armed forces veteran, as defined in 38 U.S.C. 101, a copy of the individual's discharge certificate.
- D.** A request to the Department under subsection (B)(5) to disclose medical records or payment records shall include:
1. The name of the individual identified by the information in the medical records or payment records;
  2. A statement that the individual identified by the information in the medical records or payment records is deceased;
  3. The description and dates of the medical records or payment records requested;
  4. The name, address, and telephone number of the person requesting the medical records or payment records disclosure;
  5. Whether the person requesting the medical records or payment records disclosure:
    - a. Was the deceased individual's health care decision maker at the time of death,
    - b. Is the personal representative of the deceased individual's estate, or
    - c. Is a person listed in A.R.S. § 12-2294(D);
  6. The signature of the individual requesting the medical records or payment records disclosure;
  7. Documentation that the individual identified by the information in the medical records or payment records is deceased, such as a copy of:
    - a. The individual's death certificate,
    - b. A published obituary notice for the individual, or
    - c. Written notification of the individual's death; and
  8. Documentation establishing the relationship to the deceased individual indicated under subsection (D)(5), which includes the following:
    - a. Appointment as the deceased individual's legal guardian by a court of competent jurisdiction,



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- b. Appointment as the personal representative of the deceased individual's estate by a court of competent jurisdiction,
    - c. The deceased individual's birth certificate naming the person requesting the medical records or payment records as a parent,
    - d. The birth certificate of the person requesting the medical records or payment records naming the deceased individual as a parent, or
    - e. If the person requesting the medical records or payment records disclosure is the deceased individual's surviving spouse:
      - i. A copy of the person's marriage certificate naming the deceased individual as spouse, and
      - ii. A copy of the deceased individual's probated will naming the person as the deceased individual's surviving spouse.
  - E. The Department shall send a response to a request for medical records or payment records disclosure under subsection (B)(5) that meets the requirements of subsection (D):
    - 1. By regular mail,
    - 2. To the address provided under subsection (D)(4), and
    - 3. Within 30 days after the date the Department receives the request.
- Historical Note**  
 New Section made by final rulemaking at 12 A.A.R. 3699, effective November 11, 2006 (Supp. 06-3).  
 Amended by final expedited rulemaking at 26 A.A.R. 1224, with an immediate effective date of June 3, 2020 (Supp. 20-2).
- R9-1-303. Public Health Records Disclosure**
- A. A.R.S. Title 39, Chapter 1, Article 2, governs the Department's disclosure of public health records, except for:
    - 1. Disclosure of public health records under A.R.S. §§ 36-104(9) and 36-105;
    - 2. Disclosure of vital records, as defined in A.R.S. 36-301, under A.R.S. §§ 36-324, 36-342, and 36-351;
    - 3. At the direction of the Human Subjects Review Board, disclosure of public health records that are not de-identified when:
      - a. The public health records are sought for research, and
      - b. The disclosure meets the requirements of 45 CFR 164.512(i)(2);
    - 4. Disclosure of medical marijuana records under A.R.S. § 36-2810; or
    - 5. Other disclosures prohibited by state or federal law.
  - B. For disclosure of public health records under A.R.S. Title 39, Chapter 1, Article 2, an individual shall submit to the Department a public records request that contains:
    - 1. The request date;
    - 2. The requester's name, and if applicable, the requester's mailing address, e-mail address, and telephone number;
    - 3. If applicable, the name, address, and telephone number of the requester's organization;
    - 4. A specific identification of the public health records to be disclosed, including the description and dates of the records;
    - 5. Whether the public health records identified in subsection (B)(4) will be used for commercial purposes;
    - 6. If the requester indicates under subsection (B)(5) that the public health records will be used for commercial purposes, an explanation of each commercial purpose;
    - 7. The requester's signature; and
    - 8. If the requester indicates under subsection (B)(5) that the public health records will be used for a commercial purpose:
      - a. A jurat, as defined in A.R.S. § 41-311, completed by an Arizona notary; or
      - b. A notarization from another state indicating that the notary:
        - i. Verified the signer's identity,
        - ii. Observed the signing of the document, and
        - iii. Heard the signer swear or affirm the truthfulness of the document.
  - C. Within 15 business days after the Department receives a public records request that meets the requirements in subsection (B) or at a later time agreed upon by the Department and the individual requesting the records, the Department shall respond to the request by:
    - 1. Sending by regular mail or electronic mail to the address provided in subsection (B)(2):
      - a. An acknowledgement that the Department received the public records request;
      - b. A list of categories of public health records that are not subject to disclosure; and
      - c. For the public health records requested that are subject to disclosure, a statement that the Department will notify the individual when disclosure will be provided; or
    - 2. Providing:
      - a. A list of categories of public health records that are not subject to disclosure; and
      - b. For the public health records requested that are subject to disclosure, disclosure of the records.
  - D. The Department shall ensure that public health records disclosed pursuant to a public records request are de-identified.
  - E. For copies of public health records disclosed pursuant to a public records request:
    - 1. If the copies are for a commercial purpose, the Department shall charge:
      - a. The amount determined according to A.R.S. § 39-121.03, and
      - b. Based on the requester's explanation under subsection (B)(6);
    - 2. If the copies are not for a commercial purpose, the Department shall charge twenty-five cents per page; or
    - 3. If the copies are for a purpose stated in A.R.S. § 39-122(A), the Department shall not impose a charge.
- Historical Note**  
 New Section made by final rulemaking at 12 A.A.R. 3699, effective November 11, 2006 (Supp. 06-3).  
 Amended by final expedited rulemaking at 26 A.A.R. 1224, with an immediate effective date of June 3, 2020 (Supp. 20-2).
- R9-1-304. Reserved**
  - R9-1-305. Reserved**
  - R9-1-306. Reserved**
  - R9-1-307. Reserved**
  - R9-1-308. Reserved**
  - R9-1-309. Reserved**
  - R9-1-310. Reserved**

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**R9-1-311. Repealed****Historical Note**

Amended by final rulemaking at 8 A.A.R. 3296, effective July 15, 2002 (Supp. 02-3). Section repealed by final rulemaking at 12 A.A.R. 3699, effective November 11, 2006 (Supp. 06-3).

**R9-1-312. Repealed****Historical Note**

Amended by final rulemaking at 8 A.A.R. 3296, effective July 15, 2002 (Supp. 02-3). Section repealed by final rulemaking at 12 A.A.R. 3699, effective November 11, 2006 (Supp. 06-3).

**R9-1-313. Repealed****Historical Note**

Section repealed by final rulemaking at 8 A.A.R. 3296, effective July 15, 2002 (Supp. 02-3).

**R9-1-314. Repealed****Historical Note**

Section repealed by final rulemaking at 8 A.A.R. 3296, effective July 15, 2002 (Supp. 02-3).

**R9-1-315. Repealed****Historical Note**

Section repealed by final rulemaking at 8 A.A.R. 3296, effective July 15, 2002 (Supp. 02-3).

**ARTICLE 4. CODES AND STANDARDS REFERENCED****R9-1-401. Reserved****R9-1-402. Reserved****R9-1-403. Reserved****R9-1-404. Reserved****R9-1-405. Reserved****R9-1-406. Reserved****R9-1-407. Reserved****R9-1-408. Reserved****R9-1-409. Reserved****R9-1-410. Reserved****R9-1-411. Scope and Applicability**

- A.** Codes and standards referenced elsewhere in this Title are listed in this Article for convenience in making periodic revisions as new editions become available. Before applying referenced codes and standards, the effective date shown at the end of the applicable regulation within this Article should be checked and the Department or the Secretary of State contacted to assure that the proper edition of the applicable regulation is being utilized.
- B.** Other jurisdictions -- federal, county, city or other state agencies -- may have applicable requirements which may be additional (such as local zoning ordinances, state and federal occupational safety and health standards) or more restrictive than the minimum requirements established by these rules and regulations (such as local building codes and county health standards).
- It is the responsibility of the applicant or licensee, or his agent, to assure that he is in compliance with all such requirements.

- C.** Where conflicts occur among the standards established in this Title, the following rules of construction shall apply:
1. Standards specified in the narrative portions of the regulations shall govern over the standards adopted by reference.
  2. If a conflict occurs among the standards adopted by reference, the more restrictive standard shall govern over the less restrictive.
- D.** Provisions in the structural codes and standards listed in R9-1-412, relating to purpose, scope, enforcement, exceptions and other administrative matters shall be applied except that:
1. Provisions specifying penalties are excluded from the provisions adopted as regulations.
  2. Provisions relating to buildings, structures or facilities subject to licensure by the Department existing at the time an applicable code is adopted, or at the time an existing facility first becomes subject to such provisions, shall be administered in accordance with the following:
    - a. Readily correctable deficiencies (those deficiencies posing a hazard which can be corrected to comply with a code adopted by reference within the period ending one year after the expiration of the institution's then existing license) shall be corrected as soon as practicable and before the expiration of the institution's then existing license or, if the Department determines additional time is needed, before the expiration of the next provisional license. The period of time for correction shall begin with the notification by the Department that a deficiency or deficiencies exist as a result of a code adopted by reference and that the deficiency, or each such deficiency, is determined by the Department to pose a hazard to the welfare of patients or employees of the facility. Following such notice the licensee shall meet a reasonable timetable for correction fixed by the Department which shall specify the periods for:
      - i. Submission of a satisfactory written plan for correction of the deficiencies, if necessary.
      - ii. Submission of preliminary drawings, if necessary.
      - iii. Submission of working drawings, if necessary.
      - iv. Completion of the modification or construction.
    - b. Major deficiencies (those deficiencies posing a hazard which cannot be corrected to comply with a code adopted by reference within the maximum period allowable by subparagraph (2)(a)) shall be corrected within three years after being notified by the Department that a major deficiency or major deficiencies exist as a result of a code adopted by reference and that the deficiency or each such deficiency is determined by the Department to pose a hazard to the welfare of patients or employees of the facility. Following such notice the licensee shall meet a reasonable timetable for correction fixed by the Department. The time for completion of construction shall not exceed three years and shall specify the periods for:
      - i. Submission of a satisfactory written plan for correction of the deficiencies, if necessary.
      - ii. Submission of preliminary drawings, if necessary.
      - iii. Submission of working drawings, if necessary.
      - iv. Completion of the modification or construction.
    - c. If the plan for correction shows that the entire building in which major deficiencies exist will be replaced with a newly-constructed building, the

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Department may allow up to two additional years for the completion of construction if it determines that maximum time period allowable under subparagraph (2)(b) is insufficient.

#### R9-1-412. Physical Plant Health and Safety Codes and Standards

A. The following physical plant health and safety codes and standards are incorporated by reference as modified, are on file with the Department, and include no future editions or amendments:

1. Guidelines for Design and Construction of Health Care Facilities (2010 ed.), published by the American Society for Healthcare Engineering and available from The Facility Guidelines Institute at [www.fgiguide.org](http://www.fgiguide.org);
2. The following National Fire Codes (2012), published by and available from the National Fire Protection Association, 1 Batterymarch Park, Quincy, MA 02269, and at [www.nfpa.org/catalog](http://www.nfpa.org/catalog):
  - a. NFPA70 National Electrical Code,
  - b. NFPA101 Life Safety Code, and
  - c. 2012 Supplements;
3. International Building Code (2012), published by and available from the International Code Council, Inc., Publications, 4051 W. Flossmoor Road, Country Club Hills, IL 60478-5795, and at [www.iccsafe.org](http://www.iccsafe.org), with the following modifications:
  - a. Section 101.1 is modified by deleting “of [NAME OF JURISDICTION]”;
  - b. Section 101.2 is modified by deleting the “Exception”;
  - c. Sections 103.1 through 103.3 are deleted;
  - d. Sections 104.1 through 104.11.2 are deleted;
  - e. Sections 105.1 through 105.7 are deleted;
  - f. Sections 106.1 through 106.3 are deleted;
  - g. Sections 107.1 through 107.5 are deleted;
  - h. Sections 108.1 through 108.4 are deleted;
  - i. Sections 109.1 through 109.6 are deleted;
  - j. Sections 110.1 through 110.6 are deleted;
  - k. Sections 111.1 through 111.4 are deleted;
  - l. Sections 112.1 through 112.3 are deleted;
  - m. Sections 113.1 through 113.3 are deleted;
  - n. Sections 114.1 through 114.4 are deleted;
  - o. Sections 115.1 through 115.3 are deleted;
  - p. Sections 116.1 through 116.5 are deleted;
  - q. Section 3401.3 is modified by deleting “International Residential Code,” “International Energy Conservation Code,” and “International Property Maintenance Code”; and
  - r. Appendices A, B, C, D, K, L, and M are deleted;
4. International Mechanical Code (2012), published by and available from the International Code Council, Inc., Publications, 4051 W. Flossmoor Road, Country Club Hills, IL 60478-5795, and at [www.iccsafe.org](http://www.iccsafe.org), with the following modifications:
  - a. Section 101.1 is modified by deleting “of [NAME OF JURISDICTION]”;
  - b. Sections 103.1 through 103.4 are deleted,
  - c. Sections 104.1 through 104.7 are deleted,
  - d. Sections 105.1 through 105.4 are deleted,
  - e. Sections 106.1 through 106.5.3 are deleted,
  - f. Sections 107.1 through 107.6 are deleted,
  - g. Sections 108.1 through 108.7.3 are deleted,
  - h. Sections 109.1 through 109.7 are deleted,
  - i. Sections 110.1 through 110.4 are deleted, and
  - j. Appendix B is deleted;
5. International Plumbing Code (2012), published by and available from the International Code Council, Inc., Publications, 4051 W. Flossmoor Road, Country Club Hills, IL 60478-5795, and at [www.iccsafe.org](http://www.iccsafe.org), with the following modifications:
  - a. Section 101.1 is modified by deleting “of [NAME OF JURISDICTION]”;
  - b. Sections 103.1 through 103.4 are deleted,
  - c. Sections 104.1 through 104.7 are deleted,
  - d. Sections 105.1 through 105.4 are deleted,
  - e. Sections 106.1 through 106.6.3 are deleted,
  - f. Sections 107.1 through 107.7 are deleted,
  - g. Sections 108.1 through 108.7.3 are deleted,
  - h. Sections 109.1 through 109.7 are deleted,
  - i. Sections 110.1 through 110.4 are deleted, and
  - j. Appendix A is deleted;
6. International Fire Code (2012), published by and available from the International Code Council, Inc., Publications, 4051 W. Flossmoor Road, Country Club Hills, IL 60478-5795, and at [www.iccsafe.org](http://www.iccsafe.org), with the following modifications:
  - a. Section 101.1 is modified by deleting “of [NAME OF JURISDICTION]”;
  - b. Sections 103.1 through 103.4.1 are deleted,
  - c. Sections 104.1 through 104.11.3 are deleted,
  - d. Sections 105.1 through 105.7.16 are deleted,
  - e. Sections 106.1 through 106.4 are deleted,
  - f. Sections 108.1 through 108.3 are deleted,
  - g. Sections 109.1 through 109.4.1 are deleted,
  - h. Sections 110.1 through 110.4 are deleted,
  - i. Sections 111.1 through 111.4 are deleted,
  - j. Section 112.1 is deleted,
  - k. Sections 113.1 through 113.5 are deleted, and
  - l. Appendix A is deleted;
7. ICC/A117.1-2009, American National Standard: Accessible and Usable Buildings and Facilities (2009), published by and available from the International Code Council, Inc., Publications, 4051 W. Flossmoor Road, Country Club Hills, IL 60478-5795, and at [www.iccsafe.org](http://www.iccsafe.org);
8. International Fuel Gas Code (2012), published by and available from the International Code Council, Inc., Publications, 4051 W. Flossmoor Road, Country Club Hills, IL 60478-5795, and at [www.iccsafe.org](http://www.iccsafe.org), with the following modifications:
  - a. Section 101.1 is modified by deleting “of [NAME OF JURISDICTION]”;
  - b. Section 101.2 is modified by deleting the “Exception”;
  - c. Sections 103.1 through 103.4 are deleted,
  - d. Sections 104.1 through 104.7 are deleted,
  - e. Sections 105.1 through 105.5 are deleted,
  - f. Sections 106.1 through 106.6.3 are deleted,
  - g. Sections 107.1 through 107.6 are deleted,
  - h. Sections 108.1 through 108.7.3 are deleted,
  - i. Sections 109.1 through 109.7 are deleted, and
  - j. Sections 110.1 through 110.4 are deleted; and
9. International Private Sewage Disposal Code (2012), published by and available from the International Code Council, Inc., Publications, 4051 W. Flossmoor Road, Country Club Hills, IL 60478-5795, and at [www.iccsafe.org](http://www.iccsafe.org), with the following modifications:
  - a. Section 101.1 is modified by deleting “of [NAME OF JURISDICTION]”;
  - b. Sections 103.1 through 103.4 are deleted,
  - c. Sections 104.1 through 104.7 are deleted,
  - d. Sections 105.1 through 105.4 are deleted,

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- e. Sections 106.1 through 106.4.3 are deleted,
- f. Sections 107.1 through 107.7 are deleted,
- g. Sections 108.1 through 108.7.2 are deleted,
- h. Sections 109.1 through 109.7 are deleted, and
- i. Sections 110.1 through 110.4 are deleted.

- B.** The Department shall not assess any penalty or fee specified in the physical plant health and safety codes and standards that are incorporated by reference in this Section.

**Historical Note**

Amended effective December 12, 1975 (Supp. 75-2).  
 Amended effective February 12, 1981 (Supp. 81-1).  
 Amended effective January 5, 1987 (Supp. 87-1).  
 Amended effective April 4, 1994 (Supp. 94-2). Amended effective April 3, 1996 (Supp. 96-2). Amended by final rulemaking at 6 A.A.R. 4724, effective November 28, 2000 (Supp. 00-4). Amended by final rulemaking at 8 A.A.R. 4459, effective October 2, 2002 (Supp. 02-4).  
 Amended by final rulemaking at 13 A.A.R. 4505, effective February 2, 2008 (Supp. 07-4). Amended by exempt rulemaking at 19 A.A.R. 1800, effective October 1, 2013 (Supp. 13-2).

**R9-1-413. Repealed****Historical Note**

Amended effective February 12, 1981 (Supp. 81-1).  
 Section repealed by final rulemaking at 8 A.A.R. 5077, effective November 22, 2002 (Supp. 02-4).

**R9-1-414. Repealed****Historical Note**

Adopted effective May 26, 1978 (Supp. 78-3). Section repealed by final rulemaking at 8 A.A.R. 5077, effective November 22, 2002 (Supp. 02-4).

**R9-1-415. Repealed****Historical Note**

Amended effective February 12, 1981 (Supp. 81-1).  
 Correction, subsection (A) DHEW Publication number from (FDA) 48-2091 to (FDA) 78-2091 (Supp. 83-3).  
 Section repealed by final rulemaking at 8 A.A.R. 5077, effective November 22, 2002 (Supp. 02-4).

**R9-1-416. Repealed****Historical Note**

Amended effective February 12, 1981 (Supp. 81-1).  
 Section repealed by final rulemaking at 8 A.A.R. 5077, effective November 22, 2002 (Supp. 02-4).

**R9-1-417. Repealed****Historical Note**

Amended effective February 12, 1981 (Supp. 81-1).  
 Section repealed by final rulemaking at 8 A.A.R. 5077, effective November 22, 2002 (Supp. 02-4).

**R9-1-418. Repealed****Historical Note**

Repealed effective February 12, 1981 (Supp. 81-1).

**ARTICLE 5. SLIDING FEE SCHEDULES****R9-1-501. Definitions**

In this Article, unless otherwise specified:

1. "Administrative fee" means a fee payable by an uninsured individual that is established and charged according to R9-1-506(E).

2. "AHCCCS" means the Arizona Health Care Cost Containment System.
3. "Business day" means the same as in A.R.S. § 10-140.
4. "Calendar year" means January 1 through December 31.
5. "Child" means an individual under age 19.
6. "Consideration" means valuable compensation for something received or to be received.
7. "Correctional facility" means the same as in A.R.S. § 13-2501.
8. "Costs of producing rental income" means payments made by a rental-income recipient that are attributable to the premises or the portion of the premises generating the income, including payments for:
  - a. Property taxes,
  - b. Insurance premiums,
  - c. Mortgage principal and interest,
  - d. Utilities, and
  - e. Maintenance and repair.
9. "Costs of producing self-employment income" means payments made by a self-employment-income recipient that are attributable to generating the income, including payments for:
  - a. Equipment, machinery, and real estate;
  - b. Labor;
  - c. Inventory;
  - d. Raw materials;
  - e. Insurance premiums;
  - f. Rent; and
  - g. Utilities.
10. "Current federal poverty guidelines" means the most recent annual update of the U.S. Department of Health and Human Services' Poverty Guidelines published in the Federal Register.
11. "Deduction" means a dollar amount subtracted from a payment, before an individual receives the payment, for:
  - a. Federal income tax,
  - b. Social Security tax,
  - c. Medicare tax,
  - d. State income tax,
  - e. Insurance other than OASDI,
  - f. Pension, or
  - g. Other dollar amounts required by law or authorized by the individual to be subtracted.
12. "Department" means the Department of Health Services.
13. "Detention facility" means a place of confinement, including:
  - a. A juvenile facility under the jurisdiction of:
    - i. A county board of supervisors, or
    - ii. A county jail district authorized by A.R.S. Title 48, Chapter 25;
  - b. A juvenile secure care facility under the jurisdiction of the Department of Juvenile Corrections; or
  - c. A facility for individuals who are not United States citizens and who are in the custody of the U.S. Immigration and Customs Enforcement, Department of Homeland Security.
14. "Earned income" means work-related payments received by an individual, including:
  - a. Wages,
  - b. Commissions and fees,
  - c. Salary,
  - d. Profit from self-employment,
  - e. Profit from rent received from an individual or entity, and
  - f. Any other work-related monetary payments received by an individual.

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15. "Family income" means the dollar amount determined according to R9-1-503(B).
16. "Family member" means an individual, determined according to R9-1-502, whose income is included in family income.
17. "Fee percentage" means a part of a provider's usual charges for medical services that is:
  - a. Expressed in hundredths, and
  - b. Established by a provider in a sliding fee schedule for medical services rendered to an uninsured individual.
18. "Fetus" means the same as in A.R.S. § 36-2152.
19. "Flat fee" means a dollar amount that is:
  - a. Established by a provider in a sliding fee schedule for a medical service or group of medical services rendered to an uninsured individual, and
  - b. Less than the provider's usual charges for the medical service or group of medical services.
20. "Gift" means money, real property, personal property, a service, or anything of value other than unearned income for which the recipient does not provide consideration of equal or greater value.
21. "Hospital services" means the same as in A.A.C. R9-10-201.
22. "Income" means combined earned and unearned income.
23. "Inpatient services" means hospital services provided to an individual who will receive the services for 24 consecutive hours or more.
24. "Interrupted income" means income that stops for at least 30 continuous days during the current calendar year and then resumes.
25. "KidsCare" means the children's health insurance program, a federally funded program administered by AHC-CCS under A.R.S. Title 36, Chapter 29, Article 4.
26. "Lowest contracted charge" means the smallest reimbursement a provider has agreed to accept for a medical service:
  - a. Determined by the provider's review of all the contracts between the provider and third party payors as defined in A.R.S. § 36-125.07(C), that:
    - i. Cover the medical service, and
    - ii. Are in effect at the time the medical service is provided to an uninsured individual; and
  - b. Subject to limitations of federal or state laws, rules, or regulations.
27. "Medical services" means the same as in A.R.S. § 36-401.
28. "Medicare tax" means the dollar amount subtracted from a payment for the health care insurance program for the aged and disabled under Title XVIII of the Social Security Act, 42 U.S.C. 1395 et seq.
29. "New income" means income that begins at least 30 days after the start of the current calendar year.
30. "OASDI" means old age, survivors, and disability insurance.
31. "Profit" means the remainder after subtracting:
  - a. The costs of producing rental income from the rent received from an individual or entity, or
  - b. The costs of producing self-employment income from the self-employment.
32. "Provider" means an individual or entity that:
  - a. Provides medical services;
  - b. Participates in a program that requires participants to use a sliding fee schedule, such as a program authorized under A.R.S. §§ 36-104(16), 36-2907.06, 36-2172, or 36-2174;
- c. Includes:
  - i. A dentist licensed under A.R.S. Title 32, Chapter 11;
  - ii. A physician licensed under A.R.S. Title 32, Chapter 13 or Chapter 17;
  - iii. A registered nurse practitioner defined in A.R.S. § 32-1601 and licensed under A.R.S. Title 32, Chapter 15;
  - iv. A physician assistant licensed under A.R.S. Title 32, Chapter 25 and practicing according to A.R.S. § 32-2531;
  - v. A health care institution licensed under A.R.S. Title 36, Chapter 4; or
  - vi. An office or facility that is exempt from licensing under A.R.S. § 36-402(A)(3); and
- d. Excludes an individual or entity when the individual or entity provides:
  - i. Inpatient services,
  - ii. Medical services at a correctional facility, or
  - iii. Medical services at a detention facility.
33. "Secure care" means the same as in A.R.S. § 41-2801.
34. "Self employment" means earning income from one's own business, trade, or profession rather than receiving a salary or wages from an employer.
35. "Sliding fee" means flat fee or fee percentage that increases or decreases based on one or more factors.
36. "Sliding fee schedule" means a document containing a provider's flat fees or fee percentages based on:
  - a. Family members determined according to R9-1-502, and
  - b. Family income determined according to R9-1-503.
37. "Social Security tax" means the dollar amount subtracted from a payment for OASDI under Title II of the Social Security Act, 42 U.S.C. 401 et seq.
38. "State health benefits risk pool" means:
  - a. A state-established organization qualifying under 26 U.S.C. 501(c)(26);
  - b. A state-established qualified high risk pool described in Section 2744(c)(2) of the Public Health Service Act, 42 U.S.C. 300gg-44(c)(2); or
  - c. A state-sponsored arrangement, for which the state specifies the membership, primarily established and maintained to provide health insurance coverage for state residents with a medical condition or a history of a medical condition that:
    - i. Prevents them from obtaining coverage for the condition through insurance or from a health maintenance organization, or
    - ii. Enables them to obtain coverage for the condition only at a rate substantially more than the rate available through the state-sponsored arrangement.
39. "Support payment" means a dollar amount, received at regular intervals by an individual, for food, shelter, furniture, clothing, and medical expenses.
40. "Terminated income" means income received during the current calendar year that stops and will not resume.
41. "Training stipend" means a dollar amount, received at regular intervals by an individual, during a course or program for the development of the individual's skills.
42. "Unearned income" means payments received by an individual that are not gifts and not earned income, including:
  - a. Unemployment insurance;
  - b. Workers' compensation;
  - c. Disability payments;
  - d. Social Security payments;

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- e. Public assistance payments, excluding food stamps;
  - f. Periodic insurance or annuity payments;
  - g. Retirement or pension payments;
  - h. Strike benefits from union funds;
  - i. Training stipends;
  - j. Child support payments;
  - k. Alimony payments;
  - l. Military family allotments or other support payments from a relative or other individual not residing with the recipient;
  - m. Investment income;
  - n. Royalty payments;
  - o. Periodic payments from estates or trusts; and
  - p. Any other monetary payments received by an individual that are not gifts, earned income, capital gains, lump-sum inheritance or insurance payments, or payments made to compensate for personal injury.
43. "Uninsured individual" means an individual who does not have health care coverage under any of the following:
- a. A group health plan as defined in Section 2792(a)(1) of the Public Health Service Act, 42 U.S.C. 300gg-91(a)(1), including a small employer's group health plan under A.R.S. Title 20, Chapter 13 or under the laws of another state;
  - b. A church plan as defined in section 3(33) of the Employee Retirement Income Security Act of 1974 (ERISA), 29 U.S.C. 1002(33);
  - c. Medicare, the health insurance program for the aged and disabled under Title XVIII of the Social Security Act, 42 U.S.C. 1395 et seq.;
  - d. Medicaid, the program that pays for medical assistance for certain individuals and families with low incomes and resources, through AHCCCS or another state's Medicaid agency, under Title XIX of the Social Security Act, 42 U.S.C. 1396 et seq., excluding a state program for distribution of pediatric vaccines under 42 U.S.C. 1396s;
  - e. Civilian Health and Medical Program of the Uniformed Services (CHAMPUS) or Tricare, the medical and dental care programs for members of the armed forces, certain former members, and their dependents under 10 U.S.C. 1071 et seq. and 32 CFR 199;
  - f. A medical care program of the Indian Health Service or of a tribal organization;
  - g. The Federal Employees Health Benefits Program for U.S. government employees, certain former employees, and their family members under 5 U.S.C. 8901 et seq. and 5 CFR 890 and 891;
  - h. Peace Corps plans under Section 5(e) of the Peace Corps Act, 22 U.S.C. 2504(e), including:
    - i. Medical and dental care for Peace Corps applicants, Peace Corps volunteers, and minor children living with Peace Corps volunteers under 32 CFR 728.59;
    - ii. Form PC-127C authorization for payment for evaluation of the Peace Corps related conditions of former Peace Corps volunteers;
    - iii. Treatment of the Peace Corps related conditions of former Peace Corps volunteers under 32 CFR 728.53; and
    - iv. CorpsCare coverage for the non-Peace Corps related conditions of former Peace Corps volunteers and their dependents.
  - i. A state health benefits risk pool;
  - j. An individual policy or contract issued by:
    - i. An insurer for medical expenses, including a preferred provider arrangement;
    - ii. A health care services organization under A.R.S. Title 20, Chapter 4, Article 9 or a health maintenance organization as defined in Section 2792(b)(3) of the Public Health Service Act, 42 U.S.C. 300gg-91(b)(3); or
    - iii. A nonprofit hospital, medical, dental, or optometric service corporation as defined in A.R.S. § 20-822, including Blue Cross Blue Shield of Arizona, or organized under the laws of another state;
  - k. An individual policy or contract made available through the Healthcare Group of Arizona administered by AHCCCS under A.R.S. §§ 36-2912, 36-2912.01, and 36-2912.02;
  - l. A health insurance plan of a state or of a political subdivision as defined in A.R.S. § 35-511 or determined under the laws of another state;
  - m. A policy or contract issued to a member of a bona fide association as defined in section 2791(d)(3) of the Public Health Service Act, 42 U.S.C. 300gg-91(d)(3); or
  - n. KidsCare or another state's children's health insurance program under Title XXI of the Social Security Act, 42 U.S.C. 1397aa et seq.
44. "Variable income" means income in a dollar amount that changes from payment to payment.

**Historical Note**

New Section made by final rulemaking at 12 A.A.R. 3990, effective December 4, 2006 (Supp. 06-4).

**R9-1-502. Family Member Determination**

A provider shall determine the family members of an uninsured individual seeking medical services.

- 1. A family with one member consists of:
  - a. A non-pregnant child who does not live with:
    - i. A parent;
    - ii. A spouse;
    - iii. An individual with whom the child has a common biological or adopted child;
    - iv. A biological or adopted child; or
    - v. A biological or adopted child of an individual with whom the child has a common biological or adopted child; or
  - b. A non-pregnant individual who is at least age 19 who does not live with:
    - i. A spouse;
    - ii. An individual with whom the individual who is at least age 19 has a common biological or adopted child;
    - iii. A biological or adopted child; or
    - iv. A biological or adopted child of an individual with whom the individual who is at least age 19 has a common biological or adopted child.
- 2. A family with two or more members consists of:
  - a. An individual and:
    - i. The biological or adopted children who live with the individual; and
    - ii. If the individual or a child under subsection (2)(a)(i) is pregnant, each fetus;
  - b. Two individuals, who have a common biological or adopted child and who live together, and:
    - i. The common biological or adopted children living with the two individuals;

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- ii. The biological or adopted children of either individual living with the two individuals; and
- iii. If an individual or a child under subsection (2)(b)(i) or subsection (2)(b)(ii) is pregnant, each fetus; or
- c. Two individuals, who are married to each other, who live together, and who do not have a common biological or adopted child, and
  - i. The biological or adopted children of either individual living with the two individuals; and
  - ii. If an individual or a child under subsection (2)(c)(i) is pregnant, each fetus.

**Historical Note**

New Section made by final rulemaking at 12 A.A.R. 3990, effective December 4, 2006 (Supp. 06-4).

**R9-1-503. Family Income Determination**

- A. A provider shall establish flat fees or fee percentages for medical services rendered to uninsured individuals with family incomes, including earned and unearned income, equal to or less than 200 percent of the current federal poverty guidelines.
- B. A provider shall determine an uninsured individual's family income by:
  - 1. Multiplying a weekly payment received by a family member, before deductions, by 52;
  - 2. Multiplying a biweekly payment received by a family member, before deductions, by 26;
  - 3. Multiplying a monthly payment received by a family member, before deductions, by 12;
  - 4. For variable income received by a family member:
    - a. Adding at least four payments, before deductions;
    - b. Dividing the sum obtained in subsection (B)(4)(a) by the number of payments included; and
    - c. Multiplying the quotient obtained in subsection (B)(4)(b) by 52, 26, or 12 as applicable;
  - 5. Counting the actual payments received by a family member, before deductions, for:
    - a. Interrupted income,
    - b. New income, and
    - c. Terminated income; and
  - 6. Adding the dollar amounts calculated under subsections (B)(1) through (B)(5).

**Historical Note**

New Section made by final rulemaking at 12 A.A.R. 3990, effective December 4, 2006 (Supp. 06-4).

**R9-1-504. Sliding Fee Schedule Submission and Contents**

- A. By April 1 of each year, a provider shall submit to the Department the provider's sliding fee schedule, including:
  - 1. A sliding fee schedule with fee percentages,
  - 2. A sliding fee schedule with flat fees, or
  - 3. A sliding fee schedule with fee percentages and a sliding fee schedule with flat fees.
- B. A sliding fee schedule with fee percentages shall contain:
  - 1. A statement that the sliding fee schedule applies to charges for all medical services provided to uninsured individuals by or through the provider;
  - 2. The current federal poverty guidelines;
  - 3. For an uninsured individual with a family income equal to or less than 100 percent of the current federal poverty guidelines, a 100 percent reduction; and
  - 4. For uninsured individuals with family incomes more than 100 percent of the current federal poverty guidelines but not more than 200 percent of the current federal poverty guidelines, at least three fee percentage levels that increase as family income increases.

- C. A sliding fee schedule with flat fees shall contain:
  - 1. The requirements listed in subsections (B)(1) and (B)(2);
  - 2. The flat fee for each medical service or group of medical services;
  - 3. For an uninsured individual with a family income equal to or less than 100 percent of the current federal poverty guidelines, a \$0 flat fee for each medical service or group of medical services included under subsection (C)(2); and
  - 4. For uninsured individuals with family incomes more than 100 percent of the current federal poverty guidelines but not more than 200 percent of the current federal poverty guidelines, at least three flat fee levels that increase as family income increases for each medical service or group of medical services included under subsection (C)(2).

**Historical Note**

New Section made by final rulemaking at 12 A.A.R. 3990, effective December 4, 2006 (Supp. 06-4).

**R9-1-505. Sliding Fee Schedule Approval Time-frames**

- A. The overall time-frame described in A.R.S. § 41-1072(2) for a request for sliding fee schedule approval is 32 days.
  - 1. A provider and the Department may agree in writing to extend the substantive review time-frame and the overall time-frame.
  - 2. An extension of the substantive review time-frame and the overall time-frame shall not exceed eight days.
- B. The administrative completeness review time-frame described in A.R.S. § 41-1072(1) for a request for sliding fee schedule approval is 11 days, beginning on the day the Department receives the request.
  - 1. Except as provided in subsections (B)(3) and (B)(4), the Department shall mail to a provider a written notice of administrative completeness when the provider's request for sliding fee schedule approval is complete.
  - 2. If a request for sliding fee schedule approval is incomplete, the Department shall mail to the provider a written notice of administrative deficiencies that:
    - a. Lists the missing documents or incomplete information, and
    - b. Suspends the administrative completeness review time-frame and the overall time-frame from the date on the notice of administrative deficiencies:
      - i. Until the date the Department receives a complete request for sliding fee schedule approval; or
      - ii. For 60 days, whichever comes first.
  - 3. If the Department does not receive all the additional documents or information required under subsection (B)(1) within 60 days after the date on the notice of administrative deficiencies, the Department deems the request for sliding fee schedule approval withdrawn.
  - 4. If the Department approves a sliding fee schedule during the administrative completeness review time-frame, the Department does not issue a separate written notice of administrative completeness.
- C. The substantive review time-frame described in A.R.S. § 41-1072(3) for a request for sliding fee schedule approval is 21 days, beginning on the date on the Department's notice of administrative completeness under subsection (B)(1).
  - 1. The Department shall mail to a provider a written notice granting or denying approval according to A.R.S. § 41-1076 by the last day of the substantive review time-frame and the overall time-frame.
  - 2. If the Department issues to a provider a written request for additional information according to A.R.S. § 41-

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1075(A), the request for additional information suspends the substantive review time-frame and the overall time-frame from the date on the request for additional information:

- a. Until the date the Department receives all the information requested; or
  - b. For 60 days, whichever comes first.
3. If the Department does not receive all the information requested under subsection (C)(2) within 60 days after the postmark date of the request for additional information, the Department shall deny sliding fee schedule approval.
- D. If a time-frame's last day falls on a Saturday, Sunday, or state service holiday listed in A.A.C. R2-5-402, the Department considers the next business day the time-frame's last day.

**Historical Note**

New Section made by final rulemaking at 12 A.A.R. 3990, effective December 4, 2006 (Supp. 06-4).

**R9-1-506. Fees Payable by Uninsured Individuals Under a Sliding Fee Schedule**

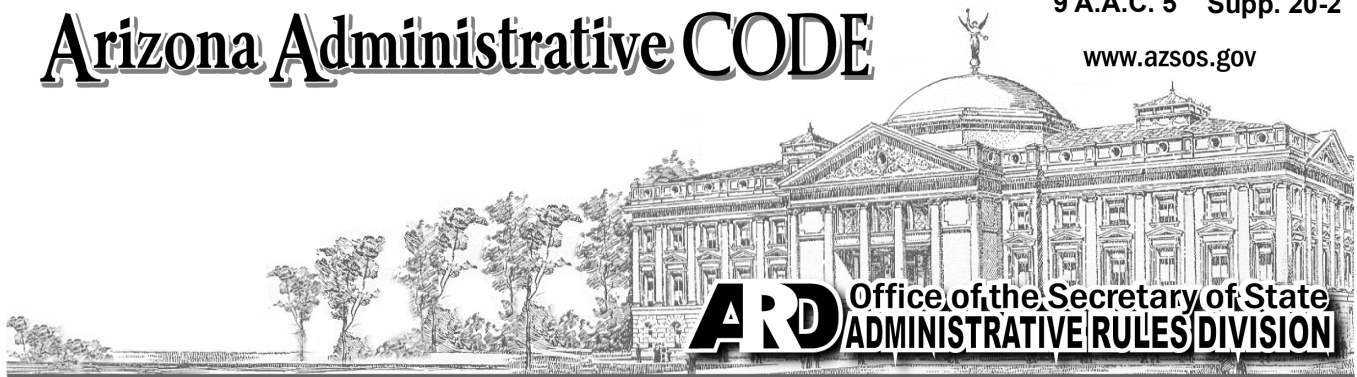
- A. A provider:
1. Shall not charge an uninsured individual with a family income equal to or less than 100 percent of the current federal poverty guidelines the fee determined according to subsection (C) or subsection (D), and
  2. May charge an individual described in subsection (A)(1) only the single administrative fee determined according to subsection (E).

- B. A provider may charge an uninsured individual with a family income more than 100 percent of the current federal poverty guidelines but not more than 200 percent of the current federal poverty guidelines the fee determined according to subsection (C), subsection (D), or subsection (E).
- C. If a provider uses a sliding fee schedule with fee percentages, an uninsured individual's fee for medical services shall not exceed the dollar amount calculated by applying the fee percentage for the individual's family income to the lowest contracted charge for each medical service provided.
- D. If a provider uses a sliding fee schedule with flat fees, an uninsured individual's fee for medical services shall not exceed the lowest contracted charge for each medical service provided.
- E. A provider may:
1. Establish a single administrative fee that does not exceed \$25; and
  2. Charge the administrative fee to:
    - a. Uninsured individuals with a family income equal to or less than 100 percent of the current federal poverty guidelines; and
    - b. Uninsured individuals with family incomes more than 100 percent of the current federal poverty guidelines but not more than 200 percent of the current federal poverty guidelines only in lieu of the fee calculated under subsection (C) or subsection (D).

**Historical Note**

New Section made by final rulemaking at 12 A.A.R. 3990, effective December 4, 2006 (Supp. 06-4).





## TITLE 9. HEALTH SERVICES

### CHAPTER 5. DEPARTMENT OF HEALTH SERVICES - CHILD CARE FACILITIES

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This Chapter contains rule Sections that were filed to be codified in the *Arizona Administrative Code* between the dates of April 1, 2020 through June 30, 2020 (Supp. 20-2).

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#### The release of this Chapter in Supp. 20-2 replaces Supp. 18-4, 1-40 pages

Please note that the Chapter you are about to replace may have rules still in effect after the publication date of this supplement. Therefore, all superseded material should be retained in a separate binder and archived for future reference.



## Administrative Rules Division

The Arizona Secretary of State electronically publishes each A.A.C. Chapter with a digital certificate. The certificate-based signature displays the date and time the document was signed and can be validated in Adobe Acrobat Reader.

**TITLE 9. HEALTH SERVICES****CHAPTER 5. DEPARTMENT OF HEALTH SERVICES - CHILD CARE FACILITIES**

*Chapter 5 consisting of Sections R9-5-101, R9-5-201 through R9-5-211, R9-5-301 through R9-5-308, R9-5-401 through R9-5-404, R9-5-501 through R9-5-222, R9-5-601 through R9-5-614 adopted effective December 12, 1986.*

*Former Chapter 5 consisting of Sections R9-5-110 through R9-5-113, R9-5-211 through R9-5-218, R9-5-311 through R9-5-313, R9-5-411 through R9-5-425 repealed effective December 12, 1986.*

*Heading of Chapter permanently changed from "Department of Health Services - Day Care Centers" to "Department of Health Services - Child Care Facilities" effective October 4, 1990 (Supp. 90-4).*

*Heading of Chapter changed by emergency action from "Department of Health Services - Day Care Centers" to "Department of Health Services - Child Care Facilities" effective July 9, 1990, pursuant to A.R.S. § 41-1026, valid for only 90 days (Supp. 90-3).*

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**ARTICLE 10. REPEALED**

*Article 10, consisting of Sections R9-5-1001 through R9-5-1006, repealed by final rulemaking at 10 A.A.R. 1282, effective September 1, 2004 (Supp. 04-1).*

Section		
R9-5-1001.	Repealed .....	40
R9-5-1002.	Repealed .....	40
R9-5-1003.	Repealed .....	40
R9-5-1004.	Repealed .....	41
R9-5-1005.	Repealed .....	41
R9-5-1006.	Repealed .....	41

## CHAPTER 5. DEPARTMENT OF HEALTH SERVICES - CHILD CARE FACILITIES

## ARTICLE 1. GENERAL

**R9-5-101. Definitions**

In addition to the definitions in A.R.S. § 36-881, the following definitions apply in this Chapter unless otherwise specified:

1. "Abuse" has the same meaning as in A.R.S. § 8-201.
2. "Accident" means an unexpected occurrence that:
  - a. Causes injury to an enrolled child,
  - b. Requires attention from a staff member, and
  - c. May or may not be an emergency.
3. "Accommodation school" has the same meaning as in A.R.S. § 15-101.
4. "Accredited" means approved by the:
  - a. New England Commission of Institution of Higher Education,
  - b. Middle States Commission of Higher Education,
  - c. North Central the Higher Learning Commission,
  - d. Northwest Commission on Colleges and Universities,
  - e. Commission on Colleges, or
  - f. Western Association of Schools and Colleges.
5. "Activity" means an action planned by a licensee and performed by an enrolled child while supervised by a staff member.
6. "Activity area" means a specific indoor or outdoor space or room of a licensed facility that is designated by a licensee for use by an enrolled child for an activity.
7. "Adaptive device" means equipment used to augment an individual's use of the individual's arms, legs, sight, hearing, or other physical part or function.
8. "Administrative completeness review time-frame" has the same meaning as in A.R.S. § 41-1072.
9. "Adult" means an individual who is at least 18 years of age.
10. "Age-appropriate" means consistent with a child's age and age-related stage of physical growth and mental development.
11. "Agency" means any board, commission, department, office, or other administrative unit of the federal government, the state, or a political subdivision of the state.
12. "Applicant" means a person or governmental agency requesting one of the following:
  - a. A license, or
  - b. Approval of a change affecting a license under R9-5-208.
13. "Application" means the documents that an applicant is required to submit to the Department for licensure or approval of a request for a change affecting a license.
14. "Assistant teacher-caregiver" means a staff member who aids a teacher-caregiver in planning, developing, or conducting child care activities.
15. "Association" means a group of individuals other than a corporation, limited liability company, partnership, joint venture, or public school who has established a governing board and bylaws to operate a facility.
16. "Beverage" means a liquid for drinking, including water.
17. "Business organization" has the same meaning as "entity" in A.R.S. § 10-140.
18. "Calendar day" means each day, not including the day of the act, event, or default from which a designated period of time begins to run, but including the last day of the period unless it is a Saturday, Sunday, or legal holiday, in which case the period runs until the end of the next day that is not a Saturday, Sunday, or legal holiday.
19. "Calendar week" means a seven-day period beginning on Sunday at 12:00 a.m. and ending on Saturday at 11:59 p.m.
20. "C.C.P." means Certified Childcare Professional, a credential awarded by the National Early Childhood Program Accreditation.
21. "C.D.A." means Child Development Associate, a credential awarded by the Council for Professional Recognition.
22. "Change in ownership" means a transfer of controlling legal or controlling equitable interest and authority in a facility resulting from a sale or merger of a facility.
23. "Charter school" has the same meaning as in A.R.S. § 15-101.
24. "Child care experience" means an individual's documented work with children in:
  - a. A child care facility or a child care group home that was licensed, certified, or approved by a state in the United States or by one of the Uniformed Services of the United States;
  - b. A public school, a charter school, a private school, or an accommodation school;
  - c. A public or private educational institution authorized under the laws of another state where instruction was provided for any grade or combination of grades between pre-kindergarten and grade 12; or
  - d. One of the following professional fields:
    - i. Nursing,
    - ii. Social work,
    - iii. Psychology,
    - iv. Child development, or
    - v. A closely-related field.
25. "Child care services" means the range of activities and programs provided by a licensee to an enrolled child, including personal care, supervision, education, guidance, and transportation.
26. "Child with special needs" means:
  - a. A child with a health care provider's diagnosis and record of a physical or mental condition that substantially limits the child in providing self-care or performing manual tasks or any other major life function such as walking, seeing, hearing, speaking, breathing, or learning;
  - b. A child with a "developmental disability" as defined in A.R.S. § 36-551; or
  - c. A "child with a disability" as defined in A.R.S. § 15-761.
27. "Clean" means to remove dirt or debris by methods such as washing with soap and water, vacuuming, wiping, dusting, or sweeping.
28. "Closely-related field" means any educational instruction or occupational experience pertaining to the growth, development, physical or mental care, or education of children.
29. "Communicable disease" has the same meaning as in A.A.C. R9-6-101.
30. "Compensation" means money or other consideration, including goods, services, vouchers, time, government or public expenditures, government or public funding, or another benefit, that is received as payment.
31. "Corporal punishment" means any physical action used to discipline a child that inflicts pain to the body of the child, or that may result in physical injury to the child.
32. "CPR" means cardiopulmonary resuscitation.
33. "Credit hour" means an academic unit earned at an accredited college or university:
  - a. By attending a one-hour class session each calendar week during a semester or equivalent shorter course term, or

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- b. Completing practical work for a course as determined by the accredited college or university.
- 34. "Designated agent" means an individual who meets the requirements in A.R.S. § 36-889(D).
- 35. "Developmentally-appropriate" means consistent with a child's physical, emotional, social, cultural, and cognitive development, based on the child's age and family background and the child's personality, learning style, and pattern and timing of growth.
- 36. "Discipline" means the on-going process of helping a child develop self-control and assume responsibility for the child's own actions.
- 37. "Documentation" means information in written, photographic, electronic, or other permanent form.
- 38. "Electronic signature" has the same meaning as in A.R.S. § 41-351(9).
- 39. "Emergency" means a potentially life-threatening occurrence involving an enrolled child or staff member that requires an immediate response or medical treatment.
- 40. "Endanger" means to expose an individual to a situation where physical injury or mental injury to the individual may occur.
- 41. "Enrolled" means placed by a parent and accepted by a licensee for child care services.
- 42. "Evening and nighttime care" means child care services provided between the hours of 8:00 p.m. and 5:00 a.m.
- 43. "Facility" has the same meaning as "child care facility" in A.R.S. § 36-881.
- 44. "Facility director" means an individual who is designated by a licensee as the individual responsible for the daily onsite operation of a facility.
- 45. "Facility premises" means property that is:
  - a. Designated on an application for a license by the applicant; and
  - b. Licensed for child care services by the Department under A.R.S. Title 36, Chapter 7.1, Article 1, and this Chapter.
- 46. "Fall zone" means the surface under and around a piece of equipment onto which a child falling from or exiting from the equipment would be expected to land.
- 47. "Field trip" means an activity planned by a staff member for an enrolled child:
  - a. At a location or area that is not licensed for child care services by the Department, or
  - b. At a child care facility in which the child is not enrolled.
- 48. "Final construction drawings" means facility plans that include the architectural, structural, mechanical, electrical, fire protection, plumbing, and technical specifications of the physical plant and the facility premises and that have been approved by local government for the construction, alteration, or addition of a facility.
- 49. "Food" means a raw, cooked, or processed edible substance, ice, beverage, or ingredient used or intended for use or for sale in whole or in part for human consumption, or chewing gum.
- 50. "Food preparation" means processing food for human consumption by cooking or assembling the food, but does not include distributing prepackaged food or whole fruits or vegetables.
- 51. "Full-day care" means child care services provided for six or more hours per day between the hours of 5:00 a.m. and 8:00 p.m.
- 52. "Governmental agency" has the same meaning as in A.R.S. § 44-7002.
- 53. "Guidance" means the ongoing direction, counseling, teaching, or modeling of generally accepted social behavior through which a child learns to develop and maintain the self-control, self-reliance, and self-esteem necessary to assume responsibilities, make daily living decisions, and live according to generally accepted social behavior.
- 54. "Hazard" means a source of endangerment.
- 55. "Health care provider" means a physician, physician assistant, or registered nurse practitioner.
- 56. "High school equivalency diploma" means:
  - a. A document issued by the State Board of Education under A.R.S. § 15-702 to an individual who passes a general educational development test or meets the requirements of A.R.S. § 15-702(B);
  - b. A document issued by another state to an individual who passes a general educational development test or meets the requirements of a state statute equivalent to A.R.S. § 15-702(B); or
  - c. A document issued by another country to an individual who has completed that country's equivalent of a 12th grade education, as determined by the Department based upon information obtained from American or foreign consulates or embassies or other governmental agencies.
- 57. "Hours of operation" means the specific time during a day for which a licensee is licensed to provide child care services.
- 58. "Illness" means physical manifestation or signs of sickness, such as pain, vomiting, rash, fever, discharge, or diarrhea.
- 59. "Immediate" or "immediately" means without restriction, delay, or hesitation.
- 60. "Inaccessible" means:
  - a. Out of an enrolled child's reach, or
  - b. Locked.
- 61. "Infant" means:
  - a. A child 12 months of age or younger, or
  - b. A child 18 months of age or younger who is not yet walking.
- 62. "Infant care" means child care services provided to an infant.
- 63. "Infestation" means the presence of lice, pinworms, scabies, or other parasites.
- 64. "Inspection" means:
  - a. Examination of a facility by the Department to determine compliance with A.R.S. Title 36, Chapter 7.1, Article 1, and this Chapter;
  - b. Review of facility documents, records, or reports by the Department; or
  - c. Examination of a facility by a local governmental agency.
- 65. "Lesson plan" means a written description of the activities scheduled in each activity area for a day.
- 66. "License" means the written authorization issued by the Department to operate a facility in Arizona.
- 67. "Licensed applicator" who complies with A.A.C. R3-8-201(C).
- 68. "Licensed capacity" means the maximum number of enrolled children for whom a licensee is authorized by the Department to provide child care services in a facility or a part of a facility at any given time.
- 69. "Licensee" means a person or governmental agency to whom the Department has issued a license to operate a facility in Arizona.
- 70. "Local" means under the jurisdiction of a city or county in Arizona.

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71. "Mat" means a foam pad that has a waterproof cover and is of sufficient size and thickness to accommodate the height, width, and weight of a reclining child's body.
72. "Medication" means a substance prescribed by a physician, physician assistant, or registered nurse practitioner or available without a prescription for the treatment or prevention of illness or infestation.
73. "Menu" means:
  - a. A written description of the food that a facility provides and serves as a meal or snack, or
  - b. The combination of food that a facility provides and serves as a meal or snack.
74. "Motor vehicle" has the same meaning as in A.R.S. § 28-101.
75. "N.A.C." means the National Administrator Credential, a credential issued by the National Institute of Child Care Management.
76. "Name" means, for an individual, the individual's first name and the individual's last name.
77. "Naptime" means any time during hours of operation, other than evening and nighttime hours, that is designated by a licensee for the rest or sleep of enrolled children.
78. "Neglect" has the same meaning as in A.R.S. § 8-201.
79. "One-year-old" means a child who is not an infant and at least 12 months of age but not yet two years of age.
80. "Outbreak" has the same meaning as in A.A.C. R9-6-101.
81. "Overall time-frame" has the same meaning as in A.R.S. § 41-1072.
82. "Parent" means:
  - a. A natural or adoptive mother or father,
  - b. A legal guardian appointed by a court of competent jurisdiction, or
  - c. A "custodian" as defined in A.R.S. § 8-201.
83. "Part-day care" means child care services provided for fewer than six hours per day between the hours of 5:00 a.m. and 8:00 p.m.
84. "Perishable food" means food that becomes unfit for human consumption if not stored to prevent spoilage.
85. "Pesticide" has the same meaning as in A.R.S. § 32-3601.
86. "Pesticide label" means the written, printed, or graphic matter approved by the United States Environmental Protection Agency on, or attached to, a pesticide container.
87. "Physical injury" means temporary or permanent damage or impairment to a child's body.
88. "Physical plant" means a building that houses a facility, or the licensed areas within a building that houses a facility, including the architectural, structural, mechanical, electrical, plumbing, and fire protection elements of the building.
89. "Physician" means an individual licensed as a doctor of:
  - a. Allopathic medicine under A.R.S. Title 32, Chapter 13;
  - b. Naturopathic medicine under A.R.S. Title 32, Chapter 14;
  - c. Osteopathic medicine under A.R.S. Title 32, Chapter 17;
  - d. Homeopathic medicine under A.R.S. Title 32, Chapter 29; or
  - e. Allopathic, naturopathic, osteopathic, or homeopathic medicine under the law of another state.
90. "Physician assistant" means:
  - a. An individual who is licensed under A.R.S. Title 32, Chapter 25; or
  - b. An individual who is licensed as a physician assistant under the law of another state.
91. "Private pool" has the same meaning as "private residential swimming pool" in A.A.C. R18-5-201.
92. "Private school" has the same meaning as in A.R.S. § 15-101.
93. "Program" means a variety of activities organized and conducted by a staff member.
94. "Public pool" has the same meaning as "public swimming pool" in A.A.C. R18-5-201.
95. "Public school" has the same meaning as "school" in A.R.S. § 15-101.
96. "Registered nurse practitioner" means:
  - a. An individual who is licensed and certified as a "registered nurse practitioner" under A.R.S. § 32-1601, or
  - b. An individual who is licensed or certified as a registered nurse practitioner under the law of another state.
97. "Regular basis" means at recurring, fixed, or uniform intervals.
98. "Responsible party" means an individual or a group of individuals who:
  - a. Is assigned by a public school, charter school, or governmental agency; and
  - b. Has general oversight of the child care facility.
99. "Sanitize" means to use heat, chemical agents, or germicidal solutions to disinfect and reduce pathogen counts, including bacteria, viruses, mold, and fungi.
100. "School-age child" means a child who:
  - a. Meets one of the following:
    - i. Is five years old on or before January 1 of the current school year, or
    - ii. Is five years old on or before January 1 of the most recent school year; and
  - b. Meets one of the following:
    - i. Attends kindergarten or a higher level program in a public, charter, accommodation, or private school during the current school year;
    - ii. Attended kindergarten or a higher level program in a public, charter, accommodation, or private school during the most recent school year;
    - iii. Is home-schooled at a kindergarten or higher level during the current school year; or
    - iv. Was home-schooled at a kindergarten or higher level during the most recent school year.
101. "School-age child care" means child care services provided to a school-age child.
102. "School campus" means the contiguous grounds of a public, charter, accommodation, or private school, including the buildings, structures, and outdoor areas available for use by children attending the school.
103. "School governing board" has the same meaning as "governing board" in A.R.S. § 15-101.
104. "Screen time" means the use of electronic media to watch television or to watch a video, a DVD, or a movie at the facility or at another location or the use of electronic media or a computer for game-playing, entertainment, communication, or educational purposes.
105. "Semi-public pool" has the same meaning as "semipublic swimming pool" in A.A.C. R18-5-201.
106. "Service classification" means one of the following:
  - a. Full-day care;
  - b. Part-day care;
  - c. Evening and nighttime care;
  - d. Infant care;
  - e. One-year-old child care;

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- f. Two-year-old child care;
  - g. Three-year-old, four-year-old, and five-year-old child care;
  - h. School-age child care; or
  - i. Weekend care.
107. "Signatory" means an individual who is authorized by a school district governing board, school district superintendent, or governmental agency to sign a document on behalf of the school district governing board, school district superintendent, or governmental agency.
108. "Signed" means affixed with an individual's signature or with a symbol representing an individual's signature if the individual is unable to write the individual's name.
109. "Sippy cup" means a lidded drinking container that is designed to be leak proof or leak-resistant and from which a child drinks through a spout or straw.
110. "Space utilization" means the designated use of an area within a facility for specific child care services or activities.
111. "Staff" or "staff member" means the same as "child care personnel" as defined in A.R.S. § 36-883.02.
112. "Student-aide" means an individual less than 16 years of age who is participating in an educational, curriculum-based course of study; vocational education; or occupational development program and who, without being compensated by a licensee, is present at a facility to receive instruction from and supervision by staff in the provision of child care services.
113. "Substantive review time-frame" has the same meaning as in A.R.S. § 41-1072.
114. "Supervision" means:
- a. For an enrolled child, knowledge of and accountability for the actions and whereabouts of the enrolled child, including the ability to see or hear the enrolled child at all times, to interact with the enrolled child, and to provide guidance to the enrolled child; or
  - b. For an individual other than an enrolled child, knowledge of and accountability for the actions and whereabouts of the individual, including the ability to see and hear the individual when the individual is in the presence of an enrolled child and the ability to intervene in the individual's actions to prevent harm to enrolled children.
115. "Swimming pool" has the same meaning as in A.A.C. R18-5-201.
116. "Teacher-caregiver" means a staff member responsible for developing, planning, and conducting child care activities.
117. "Teacher-caregiver-aide" means a staff member who provides child care services under the supervision of a teacher-caregiver.
118. "Training" means child care-related conferences, seminars, lectures, workshops, classes, courses, or instruction.
119. "Tummy time" means a limited period-of-time no more than 20 minutes used to allow a non-crawling infant:
- a. To strengthen the infant's head, neck, and upper body muscles; and
  - b. To increase the infant's sensory perception, visual and hearing acuity, and social and emotional interaction.
120. "Volunteer" means a staff member who, without compensation, provides child care services that are the responsibility of a licensee.
121. "Working day" means a Monday, Tuesday, Wednesday, Thursday, or Friday that is not a state holiday, federal holiday, or a statewide furlough day.

**Historical Note**

Adopted effective December 12, 1986 (Supp. 86-6). Amended by adding a new paragraph (16) and renumbering accordingly effective July 7, 1988 (Supp. 88-3). Amended as an emergency effective July 3, 1989, pursuant to A.R.S. § 41-1026, valid for only 90 days; Emergency amendments readopted and amended effective September 28, 1989, pursuant to A.R.S. § 41-1026, valid for only 90 days (Supp. 89-3). Emergency amendments readopted effective December 27, 1989, pursuant to A.R.S. § 41-1026, valid for only 90 days (Supp. 89-4). Emergency expired. Emergency amendments readopted effective April 3, 1990, pursuant to A.R.S. § 41-1026, valid for only 90 days (Supp. 90-2). Emergency expired. Emergency amendments readopted effective July 9, 1990, pursuant to A.R.S. § 41-1026, valid for only 90 days (Supp. 90-3). Emergency amendments permanently adopted with changes effective October 4, 1990 (Supp. 90-4). Amended effective October 17, 1997 (Supp. 97-4). Amended by final rulemaking at 8 A.A.R. 4060, effective November 10, 2002 (Supp. 02-3). Amended by final rulemaking at 10 A.A.R. 1282, effective September 1, 2004 (Supp. 04-1). Amended by final rulemaking at 13 A.A.R. 3492, effective December 1, 2007 (Supp. 07-4). Amended by exempt rulemaking at 16 A.A.R. 1564, effective September 30, 2010 (Supp. 10-3). Amended by final expedited rulemaking at 24 A.A.R. 3429, effective December 5, 2018 (Supp. 18-4). Amended by final rulemaking at 26 A.A.R. 1265 with an immediate effective date of June 3, 2020 (Supp. 20-2).

**R9-5-102. Individuals to Act for Applicant or Licensee Regarding Document, Fingerprinting, and Department-provided Training Requirements**

When an applicant or licensee is required by this Chapter to provide information on or sign documents, possess a fingerprint clearance card, or complete Department-provided training, the following shall satisfy the requirement on behalf of the applicant or licensee:

1. If the applicant or licensee is an individual, the individual;
2. If the applicant or licensee is a business organization, a designated agent who meets the requirements in A.R.S. § 36-889(D);
3. If the applicant or licensee is a public school, an individual designated in writing as signatory for the public school by the school district governing board or school district superintendent;
4. If the applicant or licensee is a charter school, the person approved to operate the charter school by the school district governing board, the Arizona State Board of Education, or the Arizona State Board for Charter Schools; and
5. If the applicant or licensee is a governmental agency, the individual in the senior leadership position with the agency or an individual designated in writing as signatory by that individual.

**Historical Note**

New Section made by final rulemaking at 8 A.A.R. 4060, effective November 10, 2002 (Supp. 02-3). Amended by final rulemaking at 10 A.A.R. 1282, effective September 1, 2004 (Supp. 04-1). Amended by exempt rulemaking at 16 A.A.R. 1564, effective September 30, 2010 (Supp. 10-3).

## CHAPTER 5. DEPARTMENT OF HEALTH SERVICES - CHILD CARE FACILITIES

## ARTICLE 2. FACILITY LICENSURE

**R9-5-201. Application for a License**

- A.** An applicant for a license shall:
1. Be at least 21 years of age;
  2. If an individual, be a U.S. citizen or legal resident alien and a resident of Arizona;
  3. If a corporation, association, or limited liability company, be a domestic entity or a foreign entity qualified to do business in Arizona;
  4. If a partnership, have at least one partner who is a U.S. citizen or legal resident alien and a resident of Arizona;
  5. Submit to the Department an application packet containing:
    - a. An application on a form provided by the Department that contains:
      - i. The applicant's name;
      - ii. The applicant's date of birth;
      - iii. The facility's name, street address, city, state, zip code, mailing address, and telephone number;
      - iv. The requested service classifications;
      - v. Whether the applicant agrees to allow the Department to submit supplemental requests for information;
      - vi. A statement that the applicant has read and will comply with A.R.S. Title 36, Chapter 7.1, Article 1 and this Chapter;
      - vii. A statement that the information provided in the application packet is accurate and complete; and
      - viii. The applicant's signature and date the applicant signed the application;
    - b. A copy of the applicant's:
      - i. U.S. passport,
      - ii. Birth certificate,
      - iii. Naturalization documents, or
      - iv. Documentation of legal resident alien status;
    - c. A copy of the applicant's valid fingerprint clearance card issued according to A.R.S. Title 41, Chapter 12, Article 3.1;
    - d. A copy of the form required in A.R.S. § 36-883.02(C);
    - e. A certificate issued by the Department showing that the applicant has completed at least four hours of Department-provided training that included the Department's role in licensing and regulating child care facilities under A.R.S. Title 36, Chapter 7.1, Article 1, and this Chapter;
    - f. Except as provided in subsection (A)(5)(i), a site plan of the facility drawn to scale showing:
      - i. The drawing scale;
      - ii. The boundary dimensions of the property upon which the facility's physical plant is located;
      - iii. If more than one building is used for the facility, the location and perimeter dimensions of each building;
      - iv. The location of each driveway on the property;
      - v. The location and boundary dimensions of each parking lot on the property;
      - vi. The location and perimeter dimensions of each outdoor activity area;
      - vii. The location, type, and height of each fence and gate; and
      - viii. If applicable, the location of any swimming pool on the property;
    - g. Except as provided in subsection (A)(5)(i), a floor plan of each building to be used for child care services drawn to scale showing:
      - i. The drawing scale;
      - ii. The length and width dimensions for each indoor activity area;
      - iii. The requested licensed capacity and applicable service classification for each indoor activity area;
      - iv. The location of each diaper changing area;
      - v. The location of each hand washing, utility, and three-compartment sink, toilet, urinal, and drinking fountain; and
      - vi. The location and type of fire alarm system;
    - h. Except as provided in subsection (A)(5)(i):
      - i. A copy of a certificate of occupancy issued for the facility by the local jurisdiction;
      - ii. Documentation from the local jurisdiction that the facility was approved for occupancy; or
      - iii. If the documents in subsections (A)(5)(h)(i) and (ii) are not available, the seal of an architect registered as prescribed in A.R.S. § 32-121 on the site plan required in subsection (A)(5)(f) and the floor plan required in subsection (A)(5)(g) verifying compliance with current local building and fire codes, local zoning requirements, and this Chapter;
    - i. For an applicant providing child care services to three-year-old, four-year-old, five-year-old, or school-age children in a facility located in a public school, a set of final construction drawings or a school map showing:
      - i. The location of each school building;
      - ii. The location and dimensions of each outdoor activity area to be used by enrolled children;
      - iii. The length and width dimensions for each indoor activity area;
      - iv. The requested licensed capacity and applicable service classification for each indoor activity area; and
      - v. The location of each hand-washing sink, toilet, urinal, and drinking fountain to be used by enrolled children;
    - j. If the facility is located within one-fourth of a mile of agricultural land:
      - i. The names and addresses of the owners or lessees of each parcel of agricultural land located within one-fourth mile of the facility, and
      - ii. A copy of an agreement complying with A.R.S. § 36-882 for each parcel of agricultural land;
    - k. The applicable fee in R9-5-206;
    - l. If the applicant is a business organization, a form provided by the Department that contains:
      - i. The name, street address, city, state, and zip code of the business organization;
      - ii. The type of business organization;
      - iii. The name, date of birth, title, street address, city, state, and zip code of each controlling person;
      - iv. A copy of the business organization's articles of incorporation, articles of organization, partnership documents, or joint venture documents, if applicable;
      - v. Documentation of good standing issued by the Arizona Corporation Commission and dated no



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- earlier than three months before the date of the application; and
- vi. A statement signed by the applicant stating:
    - (1) That each controlling person has not been denied a certificate or license to operate a child care group home or child care facility in this state or another state, and
    - (2) That each controlling person has not had a certificate or license to operate a child care group home or child care facility revoked in this state or another state for endangering the health and safety of children;
  - m. If the applicant is a public school, a form provided by the Department that contains:
    - i. The name of the school district;
    - ii. The name, title, street address, city, state, and zip code of each responsible party, if the responsible party is an individual, or each individual in the group, if the responsible party is a group of individuals;
    - iii. A statement signed by the applicant stating:
      - (1) That each individual in subsection (A)(5)(m)(ii) has not been denied a certificate or license to operate a child care group home or child care facility in this state or another state, and
      - (2) That each individual in subsection (A)(5)(m)(ii) has not had a certificate or license to operate a child care group home or child care facility revoked in this state or another state for endangering the health and safety of children; and
    - iv. A letter from the school district governing board or school district superintendent designating a signatory, if applicable;
  - n. If the applicant is a charter school, a form provided by the Department that contains:
    - i. The name, title, street address, city, state, and zip code of each responsible party, if the responsible party is an individual, or each individual in the group, if the responsible party is a group of individuals;
    - ii. A statement signed by the applicant stating:
      - (1) That each individual in subsection (A)(5)(n)(i) has not been denied a certificate or license to operate a child care group home or child care facility in this state or another state, and
      - (2) That each individual in subsection (A)(5)(n)(i) has not had a certificate or license to operate a child care group home or child care facility revoked in this state or another state for endangering the health and safety of children; and
    - iii. A letter from the school district governing board in which the charter school is located, the Arizona State Board of Education, or the Arizona State Board for Charter Schools, approving the applicant to operate the charter school; and
  - o. If the applicant is a governmental agency, a form provided by the Department that contains:
    - i. The name, title, street address, city, state, and zip code of each responsible party, if the responsible party is an individual, or each individual in the group, if the responsible party is a group of individuals;
    - ii. A statement signed by the applicant stating:
      - (1) That each individual in subsection (A)(5)(o)(i) has not been denied a certificate or license to operate a child care group home or child care facility in this state or another state, and
      - (2) That each individual in subsection (A)(5)(o)(i) has not had a certificate or license to operate a child care group home or child care facility revoked in this state or another state for endangering the health and safety of children; and
    - iii. A letter from the individual in the senior leadership position with the agency designating a signatory.
- B.** The Department requires a separate license and a separate application for:
1. Each facility owned by the same person at a different location, and
  2. Each facility owned by a different person at the same location.
- C.** The Department does not require a separate application and license for a structure that is:
1. Located so that the structure and the facility:
    - a. Share the same street address, or
    - b. Can be enclosed by a single unbroken boundary line that does not encompass property owned or leased by another,
  2. Under the same ownership as the facility, and
  3. Intended to be used as a part of the facility.

**Historical Note**

Adopted effective December 12, 1986 (Supp. 86-6). Section repealed; new Section adopted effective October 17, 1997 (Supp. 97-4). Amended by final rulemaking at 8 A.A.R. 4060, effective November 10, 2002 (Supp. 02-3). Amended by exempt rulemaking at 15 A.A.R. 2096, effective January 1, 2010 (Supp. 09-4). Amended by exempt rulemaking at 16 A.A.R. 1564, effective September 30, 2010 (Supp. 10-3). Amended by final expedited rulemaking at 24 A.A.R. 3429, effective December 5, 2018 (Supp. 18-4).

**R9-5-202. Time-frames**

- A.** The overall time-frame for each type of approval granted by the Department under this Article is listed in Table 2.1. The applicant and the Department may agree in writing to extend the substantive review time-frame and the overall time-frame. An extension of the substantive review time-frame and the overall time-frame may not exceed 25% of the overall time-frame.
- B.** The administrative completeness review time-frame for each type of approval granted by the Department under this Article is listed in Table 2.1 and begins on the date that the Department receives an application packet.
1. An application packet for a license is not complete until the date, provided to the Department with the application packet or by written notice, that the child care facility is ready for an onsite licensing inspection.
  2. The Department shall send a notice of administrative completeness or deficiencies to the applicant within the administrative completeness review time-frame.
    - a. A notice of deficiencies shall list each deficiency and the items needed to complete the application packet.

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- b. The administrative completeness review time-frame and the overall time-frame are suspended from the date that the notice of deficiencies is issued until the date that the Department receives all of the missing items from the applicant.
- c. If an applicant for a license or an approval of a change affecting a license fails to submit to the Department all of the items listed in the notice of deficiencies within 180 calendar days after the date that the Department sent the notice of deficiencies, the Department shall consider the application or request for approval withdrawn.
3. If the Department issues a license or other approval to the applicant during the administrative completeness review time-frame, the Department shall not issue a separate written notice of administrative completeness.
- C. The substantive review time-frame for each type of approval granted by the Department under this Article is listed in Table 2.1 and begins on the date of the notice of administrative completeness.
- As part of the substantive review for a license application, the Department shall conduct an inspection that may require more than one visit to the facility.
  - As part of the substantive review for a request for approval of a change affecting a license that requires a change in the use of physical space at the facility, the Department shall conduct an evaluation of the request to determine compliance with applicable rules and statutes that may include an onsite inspection.
  - The Department shall send a license, a written notice of approval, or denial of a license or other request for approval to an applicant within the substantive review time-frame.
  - During the substantive review time-frame, the Department may make one comprehensive written request for additional information, unless the Department and the applicant have agreed in writing to allow the Department to submit supplemental requests for information.
    - If the Department determines that an applicant or a facility is not in substantial compliance with A.R.S. Title 36, Chapter 7.1, Article 1 and this Chapter, the Department shall send a comprehensive written request for additional information that includes a written statement of deficiencies stating each statute and rule upon which noncompliance is based.
    - An applicant shall submit to the Department all of the information requested in the comprehensive written request for additional information and documentation of the corrections required in the statement of deficiencies, if applicable, within 120 calendar days after the date of the comprehensive written request for additional information.
  - The substantive review time-frame and the overall time-frame are suspended from the date that the Department issues a comprehensive written request for additional information or a supplemental request for information until the date that the Department receives all of the information requested, including documentation of corrections required in a statement of deficiencies, if applicable.
  - If an applicant fails to submit to the Department all of the information requested in a comprehensive written request for additional information or a supplemental request for information, including documentation of corrections required in a statement of deficiencies, if applicable, within the time prescribed in subsection (C)(4)(b), the Department shall deny the application.
  - The Department shall issue a license or other approval if the Department determines that the applicant and facility are in substantial compliance with A.R.S. Title 36, Chapter 7.1, Article 1 and this Chapter, and the applicant submits documentation of corrections that is acceptable to the Department for any deficiencies.
  - If the Department determines that a license or other approval is to be denied, the Department shall send to the applicant a written notice of denial complying with A.R.S. § 36-888 and stating the reasons for denial and all other information required by A.R.S. §§ 36-888 and 41-1076.

**Historical Note**

Adopted effective December 12, 1986 (Supp. 86-6). Section repealed; new Section adopted effective October 17, 1997 (Supp. 97-4). Amended by final rulemaking at 8 A.A.R. 4060, effective November 10, 2002 (Supp. 02-3). Amended by exempt rulemaking at 16 A.A.R. 1564, effective September 30, 2010 (Supp. 10-3). Amended by final expedited rulemaking at 24 A.A.R. 3429, effective December 5, 2018 (Supp. 18-4).

**Table 1. Renumbered****Historical Note**

New Table made by final rulemaking at 8 A.A.R. 4060, effective November 10, 2002 (Supp. 02-3). Table 1 renumbered to Table 2.1 by exempt rulemaking at 16 A.A.R. 1564, effective September 30, 2010 (Supp. 10-3).

**Table 2.1. Time-frames (in calendar days)**

Type of Approval	Statutory Authority	Overall Time-Frame	Administrative Completeness Review Time-Frame	Substantive Review Time-Frame
License under R9-5-201	A.R.S. § 36-882	120	30	90
Approval of Change Affecting License under R9-5-208	A.R.S. §§ 36-882 and 36-883	75	30	45

**Historical Note**

Table 2.1 renumbered from Table 1 and amended by exempt rulemaking at 16 A.A.R. 1564, effective September 30, 2010 (Supp. 10-3). Table 2.1 heading amended by final expedited rulemaking at 24 A.A.R. 3429, effective December 5, 2018 (Supp. 18-4).

**R9-5-203. Fingerprinting and Central Registry Requirements**

- A. A licensee shall ensure that a staff member completes, signs, dates, and submits to the licensee, before the staff member's

starting date of employment or volunteer service:

- The form required in A.R.S. § 36-883.02(C); and
- If required by A.R.S. § 8-804, the form in A.R.S. § 8-804(I).

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- B. Except as provided in A.R.S. § 41-1758.03, a licensee shall ensure that each staff member submits to the licensee a copy of:
1. The staff member's valid fingerprint clearance card issued under A.R.S. Title 41, Chapter 12, Article 3.1; or
  2. The fingerprint clearance card application that the staff member submitted to the Department of Public Safety under A.R.S. § 41-1758.02 within seven working days after the staff member's starting date of employment or volunteer service.
- C. A licensee shall ensure that each staff member submits to the licensee a copy of the staff member's valid fingerprint clearance card each time the fingerprint clearance card is issued or renewed.
- D. If a staff member possesses a fingerprint clearance card that was issued before the staff member became a staff member at the facility, a licensee shall:
1. Contact the Department of Public Safety within seven working days after the individual becomes a staff member to determine whether the fingerprint clearance card is valid; and
  2. Document this determination, including the name of the staff member, the date of contact with the Department of Public Safety, and whether the fingerprint clearance card is valid.
- E. If required by A.R.S. § 8-804, before an individual's starting date of employment or volunteer service, a licensee shall comply with the submission requirements in A.R.S. § 8-804(C) for the individual.
- F. A licensee shall not allow an individual to be a staff member if the individual:
1. Has been denied a fingerprint clearance card under A.R.S. Title 41, Chapter 12, Article 3.1 and has not received an interim approval under A.R.S. § 41-619.55;
  2. Receives an interim approval under A.R.S. § 41-619.55 but is subsequently denied a good cause exception under A.R.S. § 41-619.55 and a fingerprint clearance card under A.R.S. Title 41, Chapter 12, Article 3.1;
  3. Is a parent or guardian of a child adjudicated to be a dependent child as defined in A.R.S. § 8-201;
  4. Has been denied or had revoked a certificate to operate a child care group home or a license to operate a child care facility for care of children in this state or another state;
  5. Has been denied or had revoked a certification to work in a child care facility or a child care group home in this state or another state;
  6. If applicable, has stated on the form required in A.R.S. § 8-804(I) that the individual is currently under investigation for an allegation of abuse or neglect or has a substantiated allegation of abuse or neglect and has not subsequently received a central registry exception according to A.R.S. § 41-619.57; or
  7. If applicable, is disqualified from employment or volunteer service as a staff member according to A.R.S. § 8-804 and has not subsequently received a central registry exception according to A.R.S. § 41-619.57.

**Historical Note**

Adopted effective December 12, 1986 (Supp. 86-6). Section repealed; new Section adopted effective October 17, 1997 (Supp. 97-4). Amended by final rulemaking at 8 A.A.R. 4060, effective November 10, 2002 (Supp. 02-3).

Amended by exempt rulemaking at 16 A.A.R. 1564, effective September 30, 2010 (Supp. 10-3). Amended by exempt rulemaking at 19 A.A.R. 2612, effective August 1, 2013 (Supp. 13-3). Amended by final expedited

1. For a child care facility with a licensed capacity of five to

rulemaking at 24 A.A.R. 3429, effective December 5, 2018 (Supp. 18-4).

**R9-5-204. Child Care Service Classifications**

- A. The Department licenses child care facilities using the following service classifications:
1. Full-day care;
  2. Part-day care;
  3. Evening and nighttime care;
  4. Infant care;
  5. One-year-old child care;
  6. Two-year-old child care;
  7. Three-year-old, four-year-old, and five-year-old child care;
  8. School-age child care; and
  9. Weekend care.
- B. The Department shall designate on a facility's license each service classification that the facility is licensed to provide.
- C. A licensee shall not provide child care services in a service classification for which the licensee is not licensed.

**Historical Note**

Adopted effective December 12, 1986 (Supp. 86-6). Section repealed; new Section adopted effective October 17, 1997 (Supp. 97-4). Former Section R9-5-204 repealed; new Section R9-5-204 renumbered from R9-5-205 and amended by final rulemaking at 8 A.A.R. 4060, effective November 10, 2002 (Supp. 02-3). Amended by exempt rulemaking at 16 A.A.R. 1564, effective September 30, 2010 (Supp. 10-3).

**R9-5-205. Submission of Licensure Fees**

A licensee shall submit to the Department, every three years and no more than 60 calendar days before the anniversary date of the facility's license:

1. A form provided by the Department that contains:
  - a. The licensee's name,
  - b. The facility's name and license number, and
  - c. Whether the licensee intends to submit the applicable fee:
    - i. With the form, or
    - ii. According to the payment plan in subsection (2)(b), and
2. Either:
  - a. The applicable fee in R9-5-206, or
  - b. One-half of the applicable fee in R9-5-206 with the form and the remainder of the applicable fee due no later than 120 calendar days after the anniversary date of the facility's license.

**Historical Note**

Adopted effective December 12, 1986 (Supp. 86-6). Section repealed; new Section adopted effective October 17, 1997 (Supp. 97-4). Former Section R9-5-205 renumbered to R9-5-204; new Section R9-5-205 renumbered from R9-5-206 and amended by final rulemaking at 8 A.A.R. 4060, effective November 10, 2002 (Supp. 02-3). Amended by exempt rulemaking at 15 A.A.R. 2096, effective January 1, 2010 (Supp. 09-4). Section repealed; new Section made by exempt rulemaking at 16 A.A.R. 1564, effective September 30, 2010 (Supp. 10-3). Amended by final expedited rulemaking at 24 A.A.R. 3429, effective December 5, 2018 (Supp. 18-4).

**R9-5-206. Licensure Fees**

- A. Except as provided in subsection (B), the fees for an applicant submitting an application or a licensee submitting licensure fees are:
- 10 children, \$1,000;

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2. For a child care facility with a licensed capacity of 11 to 59 children, \$4,000; and
  3. For a child care facility with a licensed capacity of 60 or more children, \$7,800.
- B.** If an applicant or licensee participates in a Department-approved program, the Department may discount the fee in subsection (A), based on available funding.
- C.** The fee for a licensee requesting an increase in a facility's licensed capacity is the difference between the applicable fee in this Section for the new licensed capacity and the applicable fee in this Section for the current licensed capacity, prorated from the date the licensee submitted the request for the increase for the number of months remaining before the facility's license anniversary date specified in R9-5-205.

**Historical Note**

Adopted effective December 12, 1986 (Supp. 86-6).  
 Amended effective July 7, 1988 (Supp. 88-3). Section repealed; new Section adopted effective October 17, 1997 (Supp. 97-4). Former Section R9-5-206 renumbered to R9-5-205; new Section R9-5-206 renumbered from R9-5-207 and amended by final rulemaking at 8 A.A.R. 4060, effective November 10, 2002 (Supp. 02-3). Former R9-5-206 renumbered to R9-5-208; new R9-5-206 renumbered from R9-5-210 and amended by exempt rulemaking at 16 A.A.R. 1564, effective September 30, 2010 (Supp. 10-3).  
 Amended by exempt rulemaking at 16 A.A.R. 2350, effective December 1, 2010 (Supp. 10-4).

**R9-5-207. Invalid License**

If a licensee does not submit the licensure fee as required in R9-5-205(2), the facility license is no longer valid and the facility is operating without a license.

**Historical Note**

Adopted effective December 12, 1986 (Supp. 86-6). Section repealed; new Section adopted effective October 17, 1997 (Supp. 97-4). Former Section R9-5-207 renumbered to R9-5-206; new Section R9-5-207 made by final rulemaking at 8 A.A.R. 4060, effective November 10, 2002 (Supp. 02-3). Section repealed; new Section made by exempt rulemaking at 16 A.A.R. 1564, effective September 30, 2010 (Supp. 10-3).

**R9-5-208. Changes Affecting a License**

- A.** At least 30 calendar days before the date of a change in a facility's name, a licensee shall send the Department written notice of the name change and the Department shall issue an amended license that incorporates the name change but retains the anniversary date of the current license.
- B.** At least 30 calendar days before the date of an intended change in a facility's service classification, space utilization, or licensed capacity, a licensee shall submit a written request for approval of the intended change to the Department that includes:
1. The licensee's name;
  2. The facility's name, street address, city, state, zip code, mailing address, and telephone number;
  3. The name, telephone number, and fax number of a point of contact for the request;
  4. The facility's license number;
  5. The type of change intended:
    - a. Service classification,
    - b. Space utilization, or
    - c. Licensed capacity;
  6. A narrative description of the intended change; and
  7. The following additional information, as applicable:
    - a. If the intended change affects an activity area, the following information about each affected activity area, as applicable:
      - i. Identification of the activity area,
      - ii. Current and intended square footage,
      - iii. Current and intended operating hours,
      - iv. Current and intended service classification,
      - v. Current and intended licensed capacity, and
      - vi. Whether the activity area has or will have a diaper changing area;
    - b. If the intended change is to increase licensed capacity, the square footage of the outdoor activity area; and
    - c. If the intended change includes an alteration or addition to the physical plant of a licensed facility, the following, as applicable:
      - i. If the facility is not located in a public school or if providing child care services to infants, one-year-old children, or two-year-old children in a facility located in a public school, the information required in R9-5-201(A)(5)(f) and (g) showing the intended change; or
      - ii. If the facility is located in a public school and provides child care only for three-year-old, four-year-old, or five-year-old, or school-age children, a set of final construction drawings or a school map, including the information required in R9-5-201(5)(i) showing the intended change.
- C.** If the intended change in subsection (B) includes an increase in the licensed capacity, a licensee shall submit the fee for an increase in licensed capacity in R9-5-206(C) with the written request for approval.
- D.** If requesting a diaper changing area outside an infant room or indoor activity area to allow privacy for diapering an enrolled child with special needs, submit a written request for an approval; and
1. For a license application, submit physical plant documents required by R9-5-201(A)(5)(g) that designate the location of the proposed diaper changing area;
  2. For a licensed facility, submit a drawing of the proposed diaper changing area to the Department before installing the diaper changing area. Within 30 calendar days after the date of the receipt of the request, the Department shall send written notice to the licensee of approval or disapproval. If the proposed diaper changing area:
    - a. Complies with A.R.S. Title 36, Chapter 7.1, Article 1 and this Chapter and provides privacy for the enrolled child with special needs, the Department shall approve the proposed diaper changing area; or
    - b. Does not comply with A.R.S. Title 36, Chapter 7.1, Article 1 or this Chapter or provide privacy for the enrolled child with special needs, the Department shall provide the licensee with the requirements necessary for the Department to approve the requested change; and
  3. Not use a diaper changing area located outside of an activity area until the Department approves the use of the diaper changing area;
- E.** The Department shall review a request submitted under subsection (B) according to R9-5-202. If the intended change is in compliance with A.R.S. Title 36, Chapter 7.1, Article 1 and this Chapter and any applicable fee is submitted, the Department shall send the licensee written approval of the requested change or an amended license that incorporates the change but retains the anniversary date of the current license.

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- F. A licensee shall not implement any change described under subsection (B) until the Department issues an approval or amended license.
- G. At least 30 days before the date of a change in ownership of a facility, a licensee shall send the Department written notice of the change. A new owner shall obtain a new license as prescribed in R9-5-201 before the new owner begins operating the facility.
- H. A licensee changing a facility's location shall apply for a new license as prescribed in R9-5-201.
- I. Within 30 calendar days after a change in a controlling person, a licensee shall send the Department written notice of the change that includes:
1. The name of the licensee;
  2. A description of the change made;
  3. The name, title, street address, city, state, and zip code of each controlling person;
  4. A statement that each controlling person has not been denied a certificate to operate a child care group home or a license to operate a child care facility for the care of children in this state or another state;
  5. A statement that each controlling person has not had a certificate to operate a child care group home or a license to operate a child care facility revoked in this state or another state for reasons that relate to endangerment of the health and safety of children;
  6. A statement that the information provided in the written notice is accurate and complete; and
  7. The signature of the licensee.
- J. If the change in subsection (I) is a change in a controlling person who is a designated agent, a licensee shall include a copy of one of the following for the designated agent:
1. A U.S. passport,
  2. A birth certificate,
  3. Naturalization documents, or
  4. Documentation of legal resident alien status.
- K. Within 30 calendar days after changing a responsible party, a licensee shall send the Department written notice of the change that includes:
1. The name of the licensee;
  2. A description of the change made;
  3. The name, title, street address, city, state, and zip code of each responsible party, if the responsible party is an individual, or each individual in the group, if the responsible party is a group of individuals; and
  4. A statement signed by the licensee stating:
    - a. That each individual in subsection (K)(3) has not been denied a certificate or license to operate a child care group home or child care facility in this state or another state, and
    - b. That each individual in subsection (K)(3) has not had a certificate or license to operate a child care group home or child care facility revoked in this state or another state for endangering the health and safety of children.

**Historical Note**

Adopted effective December 12, 1986 (Supp. 86-6). Section repealed; new Section adopted effective October 17, 1997 (Supp. 97-4). Amended by final rulemaking at 8 A.A.R. 4060, effective November 10, 2002 (Supp. 02-3). Former R9-5-208 renumbered to R9-5-209; new R9-5-208 renumbered from R9-5-206 and amended by exempt rulemaking at 16 A.A.R. 1564, effective September 30, 2010 (Supp. 10-3). Amended by exempt rulemaking at 16 A.A.R. 2350, effective December 1, 2010 (Supp. 10-4).

Amended by final expedited rulemaking at 24 A.A.R. 3429, effective December 5, 2018 (Supp. 18-4).

**R9-5-209. Inspections; Investigations**

- A. A licensee shall allow the Department immediate access to all areas of the facility affecting the health, safety, or welfare of an enrolled child or to which an enrolled child has access during hours of operation.
- B. A licensee shall permit the Department to interview each staff member or enrolled child as part of an investigation.

**Historical Note**

Adopted effective December 12, 1986 (Supp. 86-6). Section repealed; new Section adopted effective October 17, 1997 (Supp. 97-4). Amended by final rulemaking at 8 A.A.R. 4060, effective November 10, 2002 (Supp. 02-3). Former R9-5-209 renumbered to R9-5-210; new R9-5-209 renumbered from R9-5-208 and amended by exempt rulemaking at 16 A.A.R. 1564, effective September 30, 2010 (Supp. 10-3).

**R9-5-210. Denial, Revocation, or Suspension of License**

- A. The Department may deny, revoke, or suspend a license to operate a facility if an applicant or licensee:
1. Provides false or misleading information to the Department;
  2. Has been denied a certificate or license to operate a child care group home or child care facility in any state, unless the denial was based on the applicant's failure to complete the certification or licensing process according to a required time-frame;
  3. Has had a certificate or license to operate a child care group home or child care facility revoked or suspended in any state;
  4. Has been denied a fingerprint clearance card or has had a fingerprint clearance card revoked under A.R.S. Title 41, Chapter 12, Article 3.1;
  5. Fails to substantially comply with any provision in A.R.S. Title 36, Chapter 7.1, Article 1 or this Chapter; or
  6. Substantially complies with A.R.S. Title 36, Chapter 7.1, Article 1 and this Chapter, but refuses to carry out a plan acceptable to the Department to eliminate any deficiencies.
- B. In determining whether to deny, suspend, or revoke a license, the Department shall consider the threat to the health and safety of children in a facility based on such factors as:
1. Repeated violations of statutes or rules,
  2. A pattern of non-compliance,
  3. The type of violation,
  4. The severity of each violation, and
  5. The number of violations.

**Historical Note**

Adopted effective December 12, 1986 (Supp. 86-6). Amended subsection (A) effective July 7, 1988 (Supp. 88-3). Repealed effective October 17, 1997 (Supp. 97-4). New Section made by exempt rulemaking at 15 A.A.R. 2096, effective January 1, 2010 (Supp. 09-4). Former R9-5-210 renumbered to R9-5-206; new R9-5-210 renumbered from R9-5-209 and amended by exempt rulemaking at 16 A.A.R. 1564, effective September 30, 2010 (Supp. 10-3).

**R9-5-211. Repealed****Historical Note**

Adopted effective December 12, 1986 (Supp. 86-6). Repealed effective October 17, 1997 (Supp. 97-4).

**ARTICLE 3. FACILITY ADMINISTRATION**

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**R9-5-301. General Licensee Responsibilities**

- A.** A licensee shall:
1. Designate a facility director who acts on behalf of the licensee and is responsible for the daily onsite operation of a facility;
  2. Submit the name of the designated facility director in writing to the Department before a license is issued;
  3. Except as provided in subsection (A)(4), within 10 calendar days before changing a facility director, submit written notice of the change including the new designated facility director's name and starting date;
  4. If the licensee is not aware of a change in the facility director 10 calendar days before the effective date of the change, submit written notice of the change to the Department including the new designated facility director's name and starting date within 72 hours after becoming aware of the change.
- B.** A licensee shall ensure that a facility director:
1. Designates, in writing, an individual who meets the requirements of R9-5-401(2) to act on behalf of the facility director when the facility director is not present in the facility;
  2. Supervises or assigns a teacher-caregiver to supervise each staff member who does not meet the qualifications of R9-5-401(3);
  3. Prepares a dated attendance record for each day and ensures that each staff member documents on the attendance record the time of each arrival and departure of the staff member; and
  4. Maintains on the facility premises, the dated attendance record required in subsection (B)(3) for 12 months after the date on the attendance record.
- C.** A licensee shall develop and implement written facility policies and procedures required for the daily onsite operation of the facility as prescribed in A.R.S. Title 36, Chapter 7.1, Article 1 and this Chapter.
- D.** A licensee shall ensure that the following individuals are allowed immediate access to facility premises during hours of operation:
1. A parent of an enrolled child or an individual designated in writing by the parent of an enrolled child; or
  2. A representative of:
    - a. The Department,
    - b. The local health department,
    - c. Arizona Department of Child Safety, or
    - d. The local fire department or State Fire Marshal.
- E.** A licensee shall, with the exception of individuals listed in subsection (D)(2), ensure that a staff member supervises any individual that is not a staff member who is on facility premises where enrolled children are present.
- F.** A licensee shall ensure that a staff member submits, on or before the starting date of employment or volunteer services, one of the following as evidence of freedom from infectious active tuberculosis:
1. Documentation of a negative Mantoux skin test or other tuberculosis screening test recommended by the U.S. Centers for Disease Control and Prevention, administered within 12 months before the starting date of employment or volunteer service, that includes the date and the type of tuberculosis screening test; or
  2. If the staff member has had a positive Mantoux skin test or other tuberculosis screening test, a written statement that the staff member is free from infectious active tuberculosis that is signed and dated by a health care provider within six months before the starting date of employment or volunteer service.
- G.** A licensee shall ensure that a staff member who has current training in first aid and CPR, as required by R9-5-403(E), is present:
1. At all times during hours of operation on facility premises,
  2. On field trips, and
  3. While transporting enrolled children in the facility's motor vehicle or a vehicle designated by the licensee to transport enrolled children.
- H.** A licensee shall prohibit the use or possession of the following items when an enrolled child is on facility premises, during hours of operation, or in any motor vehicle used for transporting an enrolled child:
1. Any beverage containing alcohol;
  2. A controlled substance as listed in A.R.S. Title 36, Chapter 27, Article 2, except where used as a prescription medication in the manner prescribed;
  3. A dangerous drug as defined in A.R.S. § 13-3401, except where used as a prescription medication in the manner prescribed;
  4. A prescription medication as defined in A.R.S. § 32-1901, except where used in the manner prescribed; or
  5. A firearm as defined in A.R.S. § 13-105.
- I.** At least once a month, and at different times of the day, a licensee shall ensure that an unannounced fire and emergency evacuation drill is conducted and each staff member and enrolled child at the facility participates in the fire and emergency evacuation drill.
1. If child care services for a child with special needs are provided at a facility, the licensee shall provide for the enrolled child's participation in each fire and emergency evacuation drill according to the enrolled child's individualized plan as specified in R9-5-507(A)(1).
  2. A licensee shall document each fire and emergency evacuation drill and maintain the documentation on facility premises for 12 months after the date of the fire and emergency evacuation drill.
- J.** Every September, a licensee shall provide to parents of enrolled children information related to recommendations for influenza vaccinations for children.
- K.** A licensee shall not allow a staff member who lacks proof of immunity against a disease listed in A.A.C. R9-6-702(A) to be present in the facility between the start and end of an outbreak of the disease at the facility.
- L.** A licensee shall ensure that the Department is notified orally or in writing within 24 hours after an enrolled child's death at the child care facility during hours of operation.

**Historical Note**

Adopted effective December 12, 1986 (Supp. 86-6).  
 Amended effective July 7, 1988 (Supp. 88-3). Section repealed; new Section adopted effective October 17, 1997 (Supp. 97-4). Amended by final rulemaking at 13 A.A.R. 3492, effective December 1, 2007 (Supp. 07-4).  
 Amended by exempt rulemaking at 16 A.A.R. 1564, effective September 30, 2010 (Supp. 10-3). Amended by final expedited rulemaking at 24 A.A.R. 3429, effective December 5, 2018 (Supp. 18-4).

**R9-5-302. Statement of Child Care Services**

- A.** A licensee shall:
1. Designate a facility director who acts on behalf of the licensee and is responsible for the daily onsite operation of a facility;
  2. Submit the name of the designated facility director in writing to the Department before a license is issued;

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3. Except as provided in subsection (A)(4), within 10 calendar days before changing a facility director, submit written notice of the change including the new designated facility director's name and starting date;
  4. If the licensee is not aware of a change in the facility director 10 calendar days before the effective date of the change, submit written notice of the change to the Department including the new designated facility director's name and starting date within 72 hours after becoming aware of the change.
- B.** A licensee shall ensure that a facility director:
1. Designates, in writing, an individual who meets the requirements of R9-5-401(2) to act on behalf of the facility director when the facility director is not present in the facility;
  2. Supervises or assigns a teacher-caregiver to supervise each staff member who does not meet the qualifications of R9-5-401(3);
  3. Prepares a dated attendance record for each day and ensures that each staff member documents on the attendance record the time of each arrival and departure of the staff member; and
  4. Maintains on the facility premises, the dated attendance record required in subsection (B)(3) for 12 months after the date on the attendance record.
- C.** A licensee shall develop and implement written facility policies and procedures required for the daily onsite operation of the facility as prescribed in A.R.S. Title 36, Chapter 7.1, Article 1 and this Chapter.
- D.** A licensee shall ensure that the following individuals are allowed immediate access to facility premises during hours of operation:
1. A parent of an enrolled child or an individual designated in writing by the parent of an enrolled child; or
  2. A representative of:
    - a. The Department,
    - b. The local health department,
    - c. Arizona Department of Child Safety, or
    - d. The local fire department or State Fire Marshal.
- E.** A licensee shall, with the exception of individuals listed in subsection (D)(2), ensure that a staff member supervises any individual that is not a staff member who is on facility premises where enrolled children are present.
- F.** A licensee shall ensure that a staff member submits, on or before the starting date of employment or volunteer services, one of the following as evidence of freedom from infectious active tuberculosis:
1. Documentation of a negative Mantoux skin test or other tuberculosis screening test recommended by the U.S. Centers for Disease Control and Prevention, administered within 12 months before the starting date of employment or volunteer service, that includes the date and the type of tuberculosis screening test; or
  2. If the staff member has had a positive Mantoux skin test or other tuberculosis screening test, a written statement that the staff member is free from infectious active tuberculosis that is signed and dated by a health care provider within six months before the starting date of employment or volunteer service.
- G.** A licensee shall ensure that a staff member, who has current training in first aid and CPR, as required by R9-5-403 (E), is present:
1. At all times during hours of operation on facility premises,
  2. On field trips, and
3. While transporting enrolled children in the facility's motor vehicle or a vehicle designated by the licensee to transport enrolled children.
- H.** A licensee shall prohibit the use or possession of the following items when an enrolled child is on facility premises, during hours of operation, or in any motor vehicle used for transporting an enrolled child:
1. Any beverage containing alcohol;
  2. A controlled substance as listed in A.R.S. Title 36, Chapter 27, Article 2, except where used as a prescription medication in the manner prescribed;
  3. A dangerous drug as defined in A.R.S. § 13-3401, except where used as a prescription medication in the manner prescribed;
  4. A prescription medication as defined in A.R.S. § 32-1901, except where used in the manner prescribed; or
  5. A firearm as defined in A.R.S. § 13-105.
- I.** At least once a month, and at different times of the day, a licensee shall ensure that an unannounced fire and emergency evacuation drill is conducted and each staff member and enrolled child at the facility participates in the fire and emergency evacuation drill.
1. If child care services for a child with special needs are provided at a facility, the licensee shall provide for the enrolled child's participation in each fire and emergency evacuation drill according to the enrolled child's individualized plan as specified in R9-5-507(A)(1).
  2. A licensee shall document each fire and emergency evacuation drill and maintain the documentation on facility premises for 12 months after the date of the fire and emergency evacuation drill.
- J.** Every September, a licensee shall provide to parents of enrolled children information related to recommendations for influenza vaccinations for children.
- K.** A licensee shall not allow a staff member who lacks proof of immunity against a disease listed in A.A.C. R9-6-702(A) to be present in the facility between the start and end of an outbreak of the disease at the facility.
- L.** A licensee shall ensure that the Department is notified orally or in writing within 24 hours after an enrolled child's death at the child care facility during hours of operation.

**Historical Note**

Adopted effective December 12, 1986 (Supp. 86-6).  
 Amended subsection (A) effective July 7, 1988 (Supp. 88-3). Section repealed; new Section adopted effective October 17, 1997 (Supp. 97-4). Amended by exempt rulemaking at 16 A.A.R. 1564, effective September 30, 2010 (Supp. 10-3). Amended by final expedited rulemaking at 24 A.A.R. 3429, effective December 5, 2018 (Supp. 18-4).

**R9-5-303. Posting of Notices**

- A.** A licensee shall post in a place that can be conspicuously viewed by individuals entering or leaving the facility or activity area the:
1. Facility's license;
  2. Name of the facility director;
  3. Name of the individual designated to act on behalf of the facility director when the facility director is not present in the facility, as prescribed by R9-5-301(B)(1);
  4. Schedule of child care services fees and policy for refunding fees as prescribed by A.R.S. § 36-882(P);
  5. Breakfast, lunch, dinner, and snack menus for each calendar week at the beginning of the calendar week;

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6. Notice of the presence of any communicable disease or infestation listed in 9 A.A.C. 6, Article 2, Table 2, from the date of discovery through the incubation period of the communicable disease or infestation;
  7. Notice of the Department's intent to deny, revoke, or suspend as prescribed by A.R.S. § 36-888 at the expiration of time in the notice for the licensee to respond;
  8. Notice of an intermediate sanction imposed as prescribed by A.R.S. § 36-891.01 within 10 calendar days after the licensee received notice of the intermediate sanction;
  9. Notice of a legal injunction imposed as prescribed by A.R.S. § 36-886.01 when the licensee receives the legal injunction; and
  10. Notice of the availability of facility inspection reports for public viewing at the facility premises.
- B.** A licensee shall ensure that the licensed capacity of each indoor activity area is posted in that activity area.
- C.** Except as prescribed in A.R.S. § 36-898(C), a licensee shall post a notification of pesticide application in each activity area and in each entrance of a facility, at least 48 hours before a pesticide is applied on the facility's premises, containing:
1. The date and time of the pesticide application, and
  2. A statement that written pesticide information is available from the licensee upon request.

**Historical Note**

Adopted effective December 12, 1986 (Supp. 86-6). Section repealed; new Section adopted effective October 17, 1997 (Supp. 97-4). Amended by final rulemaking at 13 A.A.R. 3492, effective December 1, 2007 (Supp. 07-4).

Amended by exempt rulemaking at 16 A.A.R. 1564, effective September 30, 2010 (Supp. 10-3). Amended by final expedited rulemaking at 24 A.A.R. 3429, effective December 5, 2018 (Supp. 18-4).

**R9-5-304. Enrollment of Children**

- A.** A licensee shall require that a child be enrolled by the child's parent or an individual authorized in writing by the parent.
- B.** Except as required in A.R.S. § 36-3009, before an enrolled child receives child care services, a licensee shall require the enrolled child's parent to complete a Department-provided Emergency, Information, and Immunization Record card that is signed by the enrolled child's parent containing:
1. The child's name, home address, city, state, zip code, home telephone number, sex, and date of birth;
  2. The date of the child's enrollment;
  3. The name, home address, city, state, zip code, and contact telephone number of each parent of the child;
  4. The name and contact telephone number of at least two individuals authorized by the child's parent to collect the child from the facility in case of emergency, or if the child's parent cannot be contacted;
  5. The name and contact telephone number of the child's health care provider;
  6. The written authorization for emergency medical care of the enrolled child;
  7. The name of the individual to be contacted in case of injury or sudden illness of the child;
  8. The written instructions of a child's parent or health care provider for nutritional and dietary needs of the child including, if applicable, the request in R9-5-509(C)(9); and
  9. A written record completed by the child's parent or health care provider noting the child's susceptibility to illness, physical conditions of which a staff member should be aware, and any individual requirements for health maintenance.
- C.** A licensee shall maintain a current Emergency, Information, and Immunization Record card for each enrolled child on facility premises in a place that provides a staff member ready access to the card in event of an emergency at, or evacuation of, the facility.
- D.** When an enrolled child is disenrolled from a facility, the licensee shall:
1. Enter the date of disenrollment on the child's Emergency, Information, and Immunization Record card; and
  2. Maintain the records in subsection (D)(1) for 12 months after the date of disenrollment on facility premises in a place separate from the current Emergency, Information, and Immunization Record cards. If a licensee is a school governing board, a charter school, or a person operating multiple child care facilities, the licensee may maintain disenrollment records in a single central administrative office located in the same city, town, or school attendance area as the facility.

**Historical Note**

Adopted effective December 12, 1986 (Supp. 86-6). Amended effective July 7, 1988 (Supp. 88-3). Section repealed; new Section adopted effective October 17, 1997 (Supp. 97-4). Amended by exempt rulemaking at 16 A.A.R. 1564, effective September 30, 2010 (Supp. 10-3).

**R9-5-305. Child Immunization Requirements**

- A.** A licensee shall not permit an enrolled child to attend a facility until the facility receives:
1. An immunization record for the enrolled child with the information required in 9 A.A.C. 6, Article 7, documenting that the enrolled child has received all current, age-appropriate immunizations required under 9 A.A.C. 6, Article 7:
    - a. Provided by a health care provider, or
    - b. Generated from the Arizona State Immunization Information System, which is the Department's child immunization reporting system established in A.R.S. § 36-135; or
  2. An exemption affidavit for the enrolled child provided by the enrolled child's parent that contains:
    - a. A statement, signed by the enrolled child's health care provider, that the immunizations required by 9 A.A.C. 6, Article 7 would endanger the enrolled child's health or medical condition; or
    - b. A statement, signed by the enrolled child's parent, that the enrolled child is being raised in a religion whose teachings are in opposition to immunization.
- B.** A licensee shall attach an enrolled child's written immunization record or exemption affidavit, required in subsection (A), to the enrolled child's Emergency, Information, and Immunization Record card, required in R9-5-304(B).
- C.** A licensee shall ensure that a staff member updates an enrolled child's written immunization record required in subsection (A)(1)(a) each time the enrolled child's parent provides the licensee with a written statement from the enrolled child's health care provider that the enrolled child has received an age-appropriate immunization required by 9 A.A.C. 6, Article 7.
- D.** If an enrolled child's immunization record indicates that the enrolled child has not received an age-appropriate immunization required by 9 A.A.C. 6, Article 7, a licensee shall ensure that a staff member:
1. Notifies the enrolled child's parent in writing that the enrolled child may attend the facility for not more than 15 calendar days after the date of the notification unless the



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enrolled child's parent complies with the immunization requirements in 9 A.A.C. 6, Article 7; and

2. Documents on the enrolled child's Emergency, Information, and Immunization Record card the date on which the enrolled child's parent is notified of an immunization required by the Department.
- E. A licensee shall not allow an enrolled child who lacks proof of immunity against a disease listed in A.A.C. R9-6-702(A) to attend the child care facility between the start and end of an outbreak of the disease at the facility.
- F. If a parent of an enrolled child, excluded from a child care facility because of the lack of documented immunity to a disease during an outbreak of the disease at the child care facility, submits any of the documents in A.A.C. R9-6-704 as proof of the enrolled child's immunity to the disease, a licensee shall allow the enrolled child to attend the child care facility during the outbreak of the disease.

**Historical Note**

Adopted effective December 12, 1986 (Supp. 86-6).  
Amended effective July 7, 1988 (Supp. 88-3). Section repealed; new Section adopted effective October 17, 1997 (Supp. 97-4). Amended by exempt rulemaking at 16 A.A.R. 1564, effective September 30, 2010 (Supp. 10-3).  
Amended by final expedited rulemaking at 24 A.A.R. 3429, effective December 5, 2018 (Supp. 18-4).

**R9-5-306. Admission and Release of Children; Attendance Records**

- A. A licensee shall maintain a dated attendance form containing an enrolled child's name with the time of each admission and release of the enrolled child.
  1. Except as provided in subsection (A)(2), a licensee shall ensure that the attendance form is signed with at least a first initial of an individual's first name and the individual's last name by each enrolled child's parent or individual designated by the enrolled child's parent, each time the enrolled child is admitted or released.
  2. An electronic fingerprint verification or an electronic signature may be used in place of a signature of the enrolled child's parent or designated individual to admit or release the enrolled child.
  3. If an electronic signature is used to admit or release the enrolled child, the licensee shall adopt policies and procedures to ensure that the individual whose signature the electronic or digital method of identification represents is accountable for the use of the electronic or digital method;
  4. A licensee shall develop, document, and implement policies and procedures to ensure that the identity of an individual is known to the staff member or is verified with picture identification before releasing an enrolled child to the individual.
  5. A licensee shall not release the enrolled child to an individual other than the enrolled child's parent or other individual designated in writing by the enrolled child's parent except when the enrolled child's parent is unable to collect the enrolled child and authorizes the licensee by telephone to release the enrolled child to an individual not so designated.
    - a. The licensee shall verify the telephone authorization using a means of verification that has been agreed upon between the licensee and the enrolled child's parent at the time of enrollment.
    - b. The licensee shall document the means of verification in subsection (A)(5)(a) on the enrolled child's

Emergency, Information, and Immunization Record card.

6. A licensee shall not permit the self-admission or self-release of an enrolled child unless the enrolled child is of school age and the licensee has obtained and verified written permission from the enrolled child's parent.
7. A licensee shall maintain the attendance form on facility premises for 12 months after the date of attendance.
- B. A licensee shall:
  1. Develop, document, and implement policies and procedures to ensure that a staff member maintains daily documentation of the presence of an enrolled child in an activity area that includes a method to account for any temporary absences of the enrolled child from the activity area; and
  2. Maintain the documentation of the presence of enrolled children in an activity area required in subsection (B)(1) on facility premises for 12 months after the date of the documentation.

**Historical Note**

Adopted effective December 12, 1986 (Supp. 86-6).  
Amended subsection (B) effective July 7, 1988 (Supp. 88-3). Section repealed; new Section adopted effective October 17, 1997 (Supp. 97-4). Amended by exempt rulemaking at 16 A.A.R. 1564, effective September 30, 2010 (Supp. 10-3).

**R9-5-307. Suspected or Alleged Child Abuse or Neglect**

A licensee shall ensure that the licensee or a staff member documents and reports all suspected or alleged cases of child abuse or neglect.

1. The licensee or staff member shall report the suspected or alleged child abuse or neglect to the Arizona Department of Child Safety or to a local law enforcement agency as prescribed in A.R.S. § 13-3620. The licensee or staff member shall also send documentation to the Arizona Department of Child Safety and any local law enforcement agency previously notified within three calendar days of the initial report, and maintain documentation of a child abuse or neglect report on facility premises for 12 months after the date of a report.
2. The licensee or staff member shall report the suspected or alleged child abuse by a staff member to the Department and to a local law enforcement agency as prescribed in A.R.S. § 13-3620. A licensee or staff member shall also send documentation to the Department and to any law enforcement agency previously notified within three calendar days of the initial report, and maintain documentation of a child abuse report on facility premises for 12 months after the date of a report.

**Historical Note**

Adopted effective December 12, 1986 (Supp. 86-6). Section repealed; new Section adopted effective October 17, 1997 (Supp. 97-4). Amended by exempt rulemaking at 16 A.A.R. 1564, effective September 30, 2010 (Supp. 10-3).  
Amended by final expedited rulemaking at 24 A.A.R. 3429, effective December 5, 2018 (Supp. 18-4).

**R9-5-308. Insurance Requirements**

- A. A licensee shall secure and maintain the following minimum insurance coverage:
  1. General facility liability insurance of at least \$300,000; and
  2. Motor vehicle insurance coverage, required by A.R.S. Title 28, Chapter 9, Article 4, for each motor vehicle provided by a licensee to transport enrolled children.

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- B. A licensee shall maintain documentation of the insurance coverage required in subsection (A) on facility premises.
- C. A licensee shall provide a copy of documentation of insurance to the Department before issuance of a license and at any time that the licensee's insurance coverage expires, is canceled, or changes.

**Historical Note**

Adopted effective December 12, 1986 (Supp. 86-6).  
 Amended effective July 7, 1988 (Supp. 88-3). Section repealed; new Section adopted effective October 17, 1997 (Supp. 97-4). Amended by exempt rulemaking at 16 A.A.R. 1564, effective September 30, 2010 (Supp. 10-3).

**R9-5-309. Gas and Fire Inspections**

- A. An applicant shall obtain the following inspections of a facility and make any repairs or corrections stated on an inspection report before a license is issued by the Department:
  - 1. If there are gas pipes that run from a gas meter to an appliance or location on the facility premises, a gas inspection by a licensed plumber or individual authorized by the local jurisdiction that verifies there are no gas leaks in the gas pipes that run from the gas meter to any appliance or location on facility premises; and
  - 2. A fire inspection by a local fire department.
- B. If there are gas pipes that run from a gas meter to an appliance or location on the facility premises, a licensee shall ensure that a licensed plumber or individual authorized by the local jurisdiction conducts a gas inspection that verifies there are no gas leaks in the gas pipes that run from the gas meter to any appliance or location on facility premises at least once every 12 months after the issue date of the license.
- C. A licensee shall maintain on facility premises:
  - 1. A current fire inspection report including documentation of any repairs or corrections required by the fire inspection report; and
  - 2. If there are gas pipes that run from a gas meter to an appliance or location on the facility premises, a current gas inspection report including documentation of any repairs or corrections required by the gas inspection report.

**Historical Note**

Adopted effective October 17, 1997 (Supp. 97-4).  
 Amended by exempt rulemaking at 16 A.A.R. 1564, effective September 30, 2010 (Supp. 10-3).

**R9-5-310. Pesticides**

- A. A licensee shall make written pesticide information available to a parent, upon a parent's request, at least 48 hours before a pesticide application occurs on facility premises, containing:
  - 1. The brand, concentration, rate of application, and any use restrictions required by the label of the herbicide or specific pesticide;
  - 2. The date and time of the pesticide application;
  - 3. The pesticide label; and
  - 4. The name and telephone number of the pesticide business licensee and the name of the licensed applicator providing pesticide services.
- B. A licensee is exempt from the provisions in subsection (A), as prescribed by A.R.S. § 36-898(C).

**Historical Note**

New Section made by final rulemaking at 13 A.A.R. 3492, effective December 1, 2007 (Supp. 07-4).  
 Amended by exempt rulemaking at 16 A.A.R. 1564, effective September 30, 2010 (Supp. 10-3). Amended by final expedited rulemaking at 24 A.A.R. 3429, effective December 5, 2018 (Supp. 18-4).

**ARTICLE 4. FACILITY STAFF****R9-5-401. Staff Qualifications**

A licensee shall ensure that staff members meet the following qualifications for employment or volunteer service at a facility:

- 1. A facility director is 21 years of age or older and provides the licensee with documentation of one of the following:
  - a. At least 24 months of child care experience, a high school or high school equivalency diploma, and
    - i. Six credit hours or more in early childhood, child development, or a closely-related field from an accredited college or university; or
    - ii. At least 60 actual hours of instruction, provided in conferences, seminars, lectures, or workshops in early childhood, child development, or a closely-related field, and an additional 12 hours of instruction, provided in conferences, seminars, lectures, or workshops in the area of program administration, planning, development, or management;
  - b. At least 18 months of child care experience; and
    - i. An N.A.C., C.D.A., or C.C.P. credential; or
    - ii. At least 24 credit hours from an accredited college or university, including at least six credit hours in early childhood, child development, or a closely-related field;
  - c. At least six months of child care experience and an associate degree from an accredited college or university in early childhood, child development, or a closely-related field; or
  - d. At least three months of child care experience and a bachelor's degree from an accredited college or university in early childhood, child development, or a closely-related field;
- 2. A facility director's designee is 21 years of age or older and provides the licensee with documentation of one of the following:
  - a. At least 12 months of child care experience, a high school or high school equivalency diploma; and
    - i. Three credit hours or more in early childhood, child development, or a closely-related field from an accredited college or university; or
    - ii. At least 30 actual hours of instruction, provided in conferences, seminars, lectures, or workshops in early childhood, child development, or a closely-related field;
  - b. At least 12 months of child care experience; and
    - i. An N.A.C., C.D.A., or C.C.P. credential; or
    - ii. At least 24 credit hours from an accredited college or university, including at least six credit hours in early childhood, child development, or a closely-related field;
  - c. At least six months of child care experience and an associate degree from an accredited college or university in early childhood, child development, or a closely-related field; or
  - d. At least three months of child care experience and a bachelor's degree from an accredited college or university in early childhood, child development, or a closely-related field;
- 3. A teacher-caregiver is 18 years of age or older and provides the licensee with documentation of one of the following:
  - a. Six months of child care experience; and
    - i. A high school diploma or high school equivalency diploma; or

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- ii. At least 12 credit hours from an accredited college or university, including at least six credit hours in early childhood, child development, or a closely-related field;
- b. Associate or bachelor's degree from an accredited college or university in early childhood, child development, or a closely-related field; or
- c. N.A.C., C.D.A., or C.C.P. credential;
- 4. An assistant teacher-caregiver is 16 years of age or older and provides the licensee with documentation of one of the following:
  - a. Current and continuous enrollment in high school or a high school equivalency class;
  - b. High school or high school equivalency diploma;
  - c. Enrollment in vocational rehabilitation, as defined in A.R.S. § 23-501;
  - d. Employment as a teacher-caregiver aide for 12 months; or
  - e. Service as a volunteer in a child care facility for 12 months;
- 5. A teacher-caregiver aide is 16 years of age or older;
- 6. A student-aide provides the licensee with documentation of participation in:
  - a. An educational, curriculum-based course in child development, parenting, or guidance counseling; or
  - b. A vocational education or occupational development program; and
- 7. A volunteer is 15 years of age or older.

**Historical Note**

Adopted effective December 12, 1986 (Supp. 86-6). Section repealed; new Section adopted effective October 17, 1997 (Supp. 97-4). R9-5-401(1)(a) has been corrected to reflect staff qualifications on file and as published in the 97-4 Code Supplement (04-4). Amended by exempt rulemaking at 16 A.A.R. 1564, effective September 30, 2010 (Supp. 10-3).

**R9-5-402. Staff Records and Reports**

- A. A licensee shall maintain a file for each staff member containing:
  - 1. The staff member's name, date of birth, home address, and telephone number;
  - 2. The staff member's starting date of employment or volunteer service;
  - 3. The staff member's ending date of employment or volunteer service, if applicable;
  - 4. The name and telephone number of an individual to be notified in case of an emergency;
  - 5. The staff member's written statement attesting to current immunity against measles, rubella, diphtheria, mumps, and pertussis;
  - 6. The form required in A.R.S. § 36-883.02(C);
  - 7. Documents required by R9-5-203(A)(2) or (B);
  - 8. Documents required by R9-5-301;
  - 9. Documents required by R9-5-401, if applicable;
  - 10. If applicable:
    - a. The form required in A.R.S. § 8-804(I),
    - b. Documentation of the submission required in A.R.S. § 8-804 and the information received as a result of the submission, and
    - c. Documentation of training provided by a licensee as required by R9-5-403;
  - 11. A copy of any current license or certification required by A.R.S. Title 36, Chapter 7.1, Article 1, or this Chapter; and

- 12. Documentation of the requirements in A.R.S. § 36-883.02(D).

- B. A licensee shall ensure that, for a staff member who is currently working at the facility, the staff member's information required by:
  - 1. Subsections (A)(1) through (11) is maintained in a single location on facility premises, and
  - 2. Subsection (A)(12) is maintained and provided to the Department within two hours of the Department's request.
- C. A licensee shall ensure that, for an individual who is not currently working at the facility, the information required in subsections (A)(1) through (12) is:
  - 1. Maintained for 12 months after the date the individual last worked at the facility, and
  - 2. Provided to the Department within two hours of the Department's request.

**Historical Note**

Adopted effective December 12, 1986 (Supp. 86-6). Section repealed; new Section adopted effective October 17, 1997 (Supp. 97-4). Amended by exempt rulemaking at 16 A.A.R. 1564, effective September 30, 2010 (Supp. 10-3).

Amended by exempt rulemaking at 19 A.A.R. 2612, effective August 1, 2013 (Supp. 13-3). Amended by final expedited rulemaking at 24 A.A.R. 3429, effective December 5, 2018 (Supp. 18-4).

**R9-5-403. Training Requirements**

- A. Within 10 calendar days of the starting date of employment or volunteer service, a licensee shall provide, and each staff member who provides child care services shall complete, training for new staff members that includes all of the following:
  - 1. Facility philosophy and goals;
  - 2. Names and ages of and developmental expectations for enrolled children for whom the staff member will provide child care services;
  - 3. Health needs, nutritional requirements, any known allergies, and information about adaptive devices of enrolled children for whom the staff member will provide child care services;
  - 4. Lesson plans;
  - 5. Child guidance and methods of discipline;
  - 6. Hand washing techniques;
  - 7. Diapering techniques and toileting, if assigned to diaper changing duties;
  - 8. Food preparation, service, sanitation, and storage, if assigned to food preparation;
  - 9. If a staff member is assigned to feeding infants, the preparation, handling, and storage of infant formula and breast milk;
  - 10. Recognition of signs of illness and infestation;
  - 11. Child abuse or neglect detection, prevention, and reporting;
  - 12. Accident and emergency procedures;
  - 13. Staff responsibilities as required by A.R.S. Title 36, Chapter 7.1, Article 1 and this Chapter;
  - 14. Sun safety policies and procedures;
  - 15. Safety in outdoor activity areas;
  - 16. Transportation procedures, if applicable; and
  - 17. Field trip procedures, if applicable.
- B. A licensee shall ensure that:
  - 1. Each staff member who provides child care services completes 18 or more actual hours of training every 12 months after the effective date of this Chapter or the staff

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member's starting date of employment or volunteer service in at least two topics listed in this subsection:

- a. Child growth and development, including:
  - i. Infant growth and development, which may include sudden infant death syndrome prevention;
  - ii. Developmental psychology;
  - iii. Language development;
  - iv. Observation and child assessment;
  - v. Developmentally-appropriate activities;
  - vi. Child guidance and methods of discipline which may include training on the appropriate techniques to prevent a child from harm or to prevent the child from harming others; and
  - vii. Developmentally-appropriate activity areas;
- b. Health and safety issues, including:
  - i. Accident and emergency procedures, including CPR and first aid for infants and children;
  - ii. Recognition of signs of illness and infestation;
  - iii. Nutrition and developmentally-appropriate eating habits;
  - iv. Child abuse detection, reporting, and prevention;
  - v. Safety of indoor and outdoor activity areas; and
  - vi. Sun safety policies and procedures;
- c. Program administration, planning, development, or management; and
- d. Availability of community services and resources, including those available to children with special needs; and

2. As part of the required 18 hours of training in subsection (B)(1):

- a. A staff member who has less than 12 months of child care experience before the staff member's starting date, completes at least 12 hours in one or more of the topics in subsection (B)(1)(a) in the staff member's first 12 months at the facility;
- b. A staff member who has 12 months or more of child care experience, completes at least six hours in one or more of the topics in subsection (B)(1)(a) every 12 months after the staff member's starting date;
- c. A staff member who provides child care services to an infant completes at least six hours in subsection (B)(1)(a)(i) every 12 months after the staff member's starting date; and
- d. A facility director completes at least six hours in subsection (B)(1)(c) every 12 months after the facility director's starting date.

- C. A licensee shall ensure that documentation of a staff member's completion of training required by subsection (A) is signed by the facility director and dated.
- D. A licensee shall ensure that a staff member submits to the licensee documentation of training received as required by subsection (B) to the licensee as the training is completed.
- E. A licensee shall ensure that a staff member required by R9-5-301(G) meets all of the following:
  1. The staff member obtains first aid training specific to infants and children;
  2. The staff member obtains CPR training specific to infants and children, which includes a demonstration of the staff member's ability to perform CPR;
  3. The staff member maintains current training in first aid and CPR; and
  4. The staff member provides the licensee with a copy of the front and back of the current card issued to the staff mem-

ber upon completing first aid and CPR training as proof of completion of the requirements of this subsection.

#### Historical Note

Adopted effective December 12, 1986 (Supp. 86-6). Amended subsection (A) effective July 7, 1988 (Supp. 88-3). Section repealed; new Section adopted effective October 17, 1997 (Supp. 97-4). Amended by exempt rulemaking at 16 A.A.R. 1564, effective September 30, 2010 (Supp. 10-3). Amended by final expedited rulemaking at 24 A.A.R. 3429, effective December 5, 2018 (Supp. 18-4).

#### R9-5-404. Staff-to-Children Ratios

- A. A licensee shall ensure that at least the following staff-to-children ratios are maintained at all times when providing child care services to enrolled children:

<i>Age Group</i>	<i>Staff: Children</i>
Infants	1:5 or 2:11
1-year-old children	1:6 or 2:13
2-year-old children	1:8
3-year-old children	1:13
4-year-old children	1:15
5-year-old children not school-age	1:20
School-age children	1:20

- B. A licensee shall:
  1. Determine and maintain the required staff-to-children ratio for each group of enrolled children based on the age of the youngest child in the group;
  2. Allow a volunteer qualified as a director, teacher-caregiver, or a assistant-teacher caregiver to be counted as staff in staff-to-children ratios; and
  3. Not allow a student-aide or an individual qualified as a teacher-caregiver-aide to be counted as staff in staff-to-children ratios.
- C. A licensee shall ensure that:
  1. When there are six or more enrolled children present in a facility, the following individuals are present in the facility:
    - a. A facility director or a director's designee who meets the requirements in R9-5-401 for a director's designee, and
    - b. One additional staff member;
  2. When five or fewer enrolled children are present in a facility, the facility director or director's designee who meets the requirements in R9-5-401 is present in the facility, and an additional staff member is available by telephone or other equally expeditious means and able to reach the facility within 15 minutes after notification; and
  3. When six or more enrolled children are present in a facility, an infant is not placed for supervision with a child who is not an infant.
- D. A licensee shall ensure that a staff member assigned to provide child care services to enrolled children does not perform duties that may affect the staff member's ability to provide child care services to the enrolled children.
- E. In addition to maintaining the required staff-to-children ratios, a licensee shall ensure that:
  1. Staff members are present on facility premises to perform facility administration, food preparation, food service, and maintenance responsibilities; and
  2. Facility maintenance does not depend on the work of enrolled children.

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- F. If a licensee conducts swimming activities at a swimming pool, the licensee shall ensure that there is a lifeguard on the premises who has current lifeguard certification that includes a demonstration of the lifeguard's ability to perform CPR. If the lifeguard is a staff member, the staff member cannot be counted in the staff-to-children ratios required by subsection (A).

**Historical Note**

Adopted effective December 12, 1986 (Supp. 86-6).  
Amended effective July 7, 1988 (Supp. 88-3). Section repealed; new Section adopted effective October 17, 1997 (Supp. 97-4). Amended by final rulemaking at 13 A.A.R. 1086, effective May 5, 2007 (Supp. 07-1). Amended by exempt rulemaking at 16 A.A.R. 1564, effective September 30, 2010 (Supp. 10-3).

**ARTICLE 5. FACILITY PROGRAM AND EQUIPMENT****R9-5-501. General Child Care Program, Equipment, and Health and Safety Standards****A. A licensee shall ensure that:**

1. In addition to complying with the requirements in this Chapter, the health, safety, or welfare of an enrolled child is not placed at risk of harm;
  2. Except for an enrolled school-age child, drinking water is provided sufficient for the needs of and accessible to each enrolled child in both indoor and outdoor activity areas;
  3. For an enrolled school-age child, if drinking water is not accessible in an indoor or outdoor activity area, drinking water sufficient to meet the individual needs of each enrolled school-aged child is available;
  4. An enrolled child is placed in an age-appropriate or developmentally-appropriate group;
  5. Indoor activity areas used by enrolled children are decorated with age-appropriate articles such as mirrors, bulletin boards, pictures, and posters;
  6. Age-appropriate toys, materials, and equipment are provided to enable each enrolled child to participate in an activity;
  7. Storage space is provided in the facility for indoor and outdoor toys, materials, and equipment in areas accessible to enrolled children;
  8. Clean clothing is available to an enrolled child when the enrolled child needs a change of clothing;
  9. If a staff member places an enrolled child in a feeding chair when feeding the enrolled child:
    - a. The feeding chair is constructed to prevent toppling;
    - b. The tray or feeding surface of the feeding chair is smooth and free of cracks; and
    - c. The staff member:
      - i. Cleans the feeding chair before and after each enrolled child's use;
      - ii. Sanitizes the tray or feeding surface before and after each enrolled child's use; and
      - iii. If the feeding chair was manufactured with a safety strap, fastens the feeding chair's safety strap while the enrolled child is in the feeding chair;
  10. At least one indoor activity area in the facility is equipped with at least one cot or mat, a sheet, and a blanket, where an enrolled child can rest quietly away from other enrolled children;
  11. Outdoor activities are scheduled to allow not less than 75 square feet for each enrolled child occupying the facility's outdoor activity area or indoor activity area substituted for outdoor activity area at any time;
  12. The facility premises, including the buildings, are maintained free from hazards;
  13. Toys and play equipment, required in this Article, are maintained:
    - a. Free from hazards, and
    - b. In a condition that allows the toy or play equipment to be used for the original purpose of the toy or play equipment;
  14. Temperatures are maintained between 68° F and 82° F in each room used by enrolled children;
  15. Except when an enrolled child is napping or sleeping, each room used by an enrolled child is maintained at a minimum of 30 foot candles of illumination;
  16. When an enrolled child is napping or sleeping in a room, the room is maintained at a minimum of 5 foot candles of illumination;
  17. Each enrolled child's toothbrush, comb, washcloth, cloth towel, and clothing is maintained in a clean condition and stored in an identified space separate from those of other enrolled children;
  18. Each enrolled child's pacifier is labeled with an identifier that is specific to the enrolled child and maintained in a clean condition;
  19. Except as provided in subsection (A)(20), the following are stored separate from food storage areas and are inaccessible to an enrolled child:
    - a. All materials and chemicals labeled as a toxic or flammable substance;
    - b. All substances that have a child warning label and may be a hazard to a child; and
    - c. Lawn mowers, ladders, toilet brushes, plungers, and other facility equipment that may be a hazard to a child;
  20. Hand sanitizers:
    - a. When being stored, are stored separate from food storage areas and are inaccessible to enrolled children; and
    - b. When being provided for use, are accessible to enrolled children; and
  21. Except when used as part of an activity, the following are stored in an area inaccessible to an enrolled child:
    - a. Garden tools, such as a rake, trowel, and shovel; and
    - b. Cleaning equipment and supplies, such as a mop and mop bucket.
- B. A toy or piece of play equipment, which is free from hazards and in a condition that does not allow the toy or play equipment to be used for the toy or play equipment's original purpose, may be in an activity area but is not counted as one of the toys or play equipment required in this Article.**
- C. A licensee shall ensure that a staff member:**
1. Supervises each enrolled child at all times;
  2. Does not smoke or use tobacco:
    - a. On facility premises, except in designated areas separated from the children; or
    - b. On a field trip or when transporting an enrolled child;
  3. Except for an enrolled child who can change the enrolled child's own clothing, changes an enrolled child's clothing when wet or soiled;
  4. Except as provided in subsection (D), prepares and posts in each indoor activity area, a current schedule of children's age-appropriate activities, including the times the following are provided:
    - a. Meals and snacks;
    - b. Naps;
    - c. Indoor activities;

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- d. Outdoor or large muscle development activities;
  - e. Quiet and active activities;
  - f. Teacher-directed activities;
  - g. Self-directed activities;
  - h. Activities for individuals, groups of five or fewer children, and groups of six or more children; and
  - i. Activities that develop small muscles;
5. Except as provided in subsection (D), prepares and posts a dated lesson plan in each indoor activity area for each calendar week, which is maintained on facility premises for 12 months after the lesson plan date and provides opportunities for each child to:
- a. Gain a positive self-concept;
  - b. Develop and practice social skills;
  - c. Think, reason, question, and experiment;
  - d. Acquire language skills;
  - e. Develop physical coordination skills;
  - f. Participate in structured large muscle physical activity;
  - g. Develop habits that meet health, safety, and nutritional needs;
  - h. Express creativity;
  - i. Learn to respect cultural diversity of children and staff;
  - j. Learn self-help skills; and
  - k. Develop a sense of responsibility and independence;
6. If an activity in the lesson plan required in subsection (C)(5) includes screen time, include in the lesson plan the duration of the screen time in minutes;
7. Except as provided in subsection (C)(8), implements the schedule in subsection (C)(4) and lesson plan in subsection (C)(5);
8. If the schedule in subsection (C)(4) or lesson plan in subsection (C)(5) is not implemented, writes on the schedule or the lesson plan the activity that is implemented;
9. Does the following when a parent permits or asks a staff member to apply personal products on an enrolled child, such as petroleum jelly, diaper rash ointments, sun screen or sun block preparations, toothpaste, and baby diapering preparations:
- a. Obtains the enrolled child's personal products from the enrolled child's parent or, if the licensee provides the personal products for use by the enrolled child, obtains written approval for use of the products from the enrolled child's parent;
  - b. Labels the personal products with the enrolled child's name; and
  - c. Keeps the personal products inaccessible to enrolled children;
10. When a parent permits, allows an enrolled school-age child to possess and use a topical sunscreen product without a note or prescription from a licensed health care professional.
11. In an indoor activity area that does not have a diaper changing area:
- a. Stores an enrolled child's wet or soiled clothing in a sealed plastic bag labeled with the enrolled child's name; and
  - b. Sends an enrolled child's wet or soiled clothing home with the enrolled child when the facility releases the enrolled child to the enrolled child's parent; and
12. Monitors an enrolled child for overheating or overexposure to the sun. If the enrolled child exhibits signs of overheating or overexposure to the sun, a staff member who has the first aid training required by R9-5-403(E) shall evaluate and treat the enrolled child.
- D.** A licensee is not required to have a schedule required in subsection (C)(4) or a lesson plan required in subsection (C)(5) for an indoor activity area that is approved and used:
- 1. By enrolled children only for:
    - a. Snacks or meals, or
    - b. A specific activity,
  - 2. To provide child care services to infants, or
  - 3. As a substitute for an outdoor activity area.

**Historical Note**

Adopted effective December 12, 1986 (Supp. 86-6). Section repealed; new Section adopted effective October 17, 1997 (Supp. 97-4). Amended by exempt rulemaking at 16 A.A.R. 1564, effective September 30, 2010 (Supp. 10-3). Amended by final expedited rulemaking at 24 A.A.R. 3429, effective December 5, 2018 (Supp. 18-4).

**R9-5-502. Supplemental Standards for Infants**

- A.** A licensee providing child care services for infants shall:
- 1. Provide a wall-enclosed room for infants that provides exits required by R9-5-601(1);
  - 2. Provide age-appropriate active and quiet activities for each infant;
  - 3. Provide age-appropriate indoor and outdoor activities for each infant;
  - 4. Permit an infant to maintain the infant's pattern of sleeping and waking;
  - 5. Develop, document, and implement tummy time policies and procedures that:
    - a. Provide an opportunity for a non-crawling infant to experience tummy time each day:
      - i. While the infant is awake, and
      - ii. On the infant's stomach;
    - b. Ensure a staff member who is supervising a non-crawling infant while the infant is flat on their stomach and on the floor:
      - i. Is within reach of the infant;
      - ii. Does not perform any other duties while supervising the infant;
      - iii. Does not allow the use of pillows, comforters, sheepskins, stuffed toys, or other soft products in the same floor space as the infant; and
      - iv. Does not allow any product specified in subsection (A)(5)(b)(iii) to be within reach of the infant;
    - c. Require continuous interaction between a non-crawling infant and the staff member who is supervising the non-crawling infant during tummy time;
    - d. Ensure, as an infant demonstrates ability and strength to control physical movement and greater sensory perception and social interaction, an assigned staff member provide a tummy-time period to:
      - i. A 2 - 3 month old infant of no more than 15 minutes;
      - ii. A 3 - 4 month old infant of no more than 20 minutes; and
      - iii. A 5 - 6 month old infant of 20 minutes; and
    - e. Ensure a non-crawling infant's tummy time period specified in subsection (A)(5)(d):
      - i. Is determined by the assigned staff member's assessment of the infant;
      - ii. Is gradually increased as the infant's ability, strength, and perception increases; and

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- iii. Does not exceed tummy time periods specified in subsection (5)(D)(i) through (iii).
  - 6. Provide an outdoor activity area or an indoor activity area for large muscle development substituted for an outdoor activity area that is used by infants when enrolled children older than infants are not present;
  - 7. Provide space, materials, and equipment in an infant room that includes the following:
    - a. An area with nonabrasive flooring for sitting, crawling, and playing;
    - b. Toys, materials, and equipment, that are too large for a child to swallow and free from sharp edges and points, in a quantity sufficient to meet the needs of the infants in attendance that include:
      - i. Toys to enhance physical development such as toys for stacking, pulling, and grasping;
      - ii. Soft toys;
      - iii. Books;
      - iv. Toys to enhance visual development such as crib mobiles and activity mats with an object or objects suspended above the infant's head; and
      - v. Unbreakable mirrors; and
    - c. At least one adult-size chair for use by a:
      - i. Staff member when holding or feeding an infant, or
      - ii. Nursing mother when breastfeeding her infant;
  - 8. Provide a crib for each infant that:
    - a. Has bars or openings spaced no more than 2 3/8 inches apart and a crib mattress measured to fit not more than 1/2 inch from the crib side;
    - b. Has a commercially waterproofed mattress; and
    - c. Is furnished with clean, sanitized, crib-size bedding, including a fitted sheet and top sheet or a blanket;
  - 9. Prohibit the use of stacked cribs;
  - 10. Ensure that an occupied crib with a crib side that does not have a non-porous barrier is placed at least 2 feet from another occupied crib side that does not have a non-porous barrier; and
  - 11. Label each food container received from the parent with the infant's name.
- B. A licensee providing child care services for infants shall not:
  - 1. Allow an infant room to be used as a passageway to another area of the facility;
  - 2. Permit an infant who is awake to remain for more than 30 consecutive minutes in a crib, swing, feeding chair, infant seat, or any equipment that confines movement;
  - 3. Permit an infant to use a walker; or
  - 4. Allow screen time in an infant room.
- C. A licensee shall ensure that:
  - 1. A staff member providing child care services in an infant room:
    - a. Plays and talks with each infant;
    - b. Holds and rocks each infant;
    - c. Responds immediately to each infant's distress signals;
    - d. Keeps dated, daily, documentation of each infant including:
      - i. A description of any activities the infant participated in,
      - ii. The infant's food consumption,
      - iii. Diaper changes, and
      - iv. Tummy time;
    - e. Maintains the documentation in subsection (C)(1)(d) on facility premises for 12 months after the date on the documentation;
  - f. Provides a copy of the documentation in subsection (C)(1)(d) to the infant's parent upon request;
  - g. Does not allow bumper pads, pillows, comforters, sheepskins, stuffed toys, or other soft products in a crib when an infant is in the crib;
  - h. Cleans and sanitizes each crib and mattress used by an infant when soiled;
  - i. Changes each crib sheet and blanket before use by another infant, when soiled, or at least once every 24 hours;
  - j. Cleans and sanitizes all sheets and blankets before use by another infant;
  - k. Places an infant to sleep on the infant's back, unless the infant's parent submits written instructions from the infant's health care provider that states otherwise;
  - l. Obtains written, current, and dated dietary instructions from a parent or health care provider regarding the method of feeding and types of foods to be prepared or fed to an infant at the facility;
  - m. Posts the current written dietary instructions in the infant room and the kitchen and maintains the instructions on facility premises for 12 months after the date of the instructions; and
  - n. Follows the current written dietary instructions of a parent when feeding the infant;
- 2. A staff member providing child care services in an infant room does not:
  - a. Place an infant directly on a waterproof mattress cover; or
  - b. Place an infant to sleep using a positioning device that restricts movement, unless the infant's health care provider has instructed otherwise in writing;
- 3. When preparing, using, or caring for an infant's feeding bottles, a staff member:
  - a. Labels each bottle received from the parent with the infant's name;
  - b. Ensures that a bottle is not:
    - i. Heated in a microwave oven;
    - ii. Propped for an infant feeding; or
    - iii. Permitted in an infant's crib unless the written instructions required by subsection (C)(1)(l) state otherwise;
  - c. Empties and rinses bottles previously used by an infant; and
  - d. Cleans and sanitizes a bottle, bottle cover, and nipple before reuse; and
- 4. When feeding an infant, a staff member:
  - a. Provides an infant with food for growth and development that includes:
    - i. Formula provided by the infant's parent or the licensee or breast milk provided by the infant's parent, following written instructions required by subsection (C)(1)(l); and
    - ii. Cereal as requested by the infant's parent or health care provider;
  - b. If the staff member prepares an infant's formula, prepares the infant's formula in a sanitary manner;
  - c. Stores formula and breast milk in a sanitary manner at the facility;
  - d. Does not mix cereal with formula and feed it to an infant from a bottle or infant feeder unless the written instructions required by subsection (C)(1)(l) state otherwise;
  - e. Except for finger food, feeds solid food to an infant by spoon from an individual container;

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- f. Uses a separate container and spoon for each infant;
- g. Holds and feeds an infant under 6 months of age and an infant older than 6 months of age who cannot hold a bottle for feeding; and
- h. If an infant is no longer being held for feeding, seats the infant in a feeding chair or at a table with a chair that allows the infant to reach the food while sitting.

**Historical Note**

Adopted effective December 12, 1986 (Supp. 86-6). Section repealed; new Section adopted effective October 17, 1997 (Supp. 97-4). Amended by exempt rulemaking at 16 A.A.R. 1564, effective September 30, 2010 (Supp. 10-3). Amended by final rulemaking at 26 A.A.R. 1265 with an immediate effective date of June 3, 2020 (Supp. 20-2).

**R9-5-503. Standards for Diaper Changing**

- A. A licensee shall ensure that each diaper changing area required in R9-5-601(4) contains:
  - 1. A nonabsorbent, sanitizable diaper changing surface that is:
    - a. Seamless and smooth, and
    - b. Kept clear of items not required for diaper changing;
  - 2. A hand-washing sink next to the diaper changing surface for staff use when changing diapers and for washing an enrolled child during or after diapering, that provides:
    - a. Running water between 86° F and 110° F,
    - b. Soap from a dispenser, and
    - c. Single-use paper hand towels from a dispenser;
  - 3. At least one waterproof, sanitizable container with a waterproof liner and a tight fitting lid for soiled diapers; and
  - 4. At least one waterproof, sanitizable container with a waterproof liner and a tight fitting lid for soiled clothing.
- B. A licensee shall ensure that a staff member does not:
  - 1. Permit a bottle, formula, food, eating utensil, or food preparation in a diaper changing area;
  - 2. Draw water for human consumption from a diaper changing area sink; or
  - 3. Except as provided in subsection (C), if responsible for food preparation, change diapers until food preparation duties have been completed for the day.
- C. A staff member who provides child care services to an infant:
  - 1. May throughout the time the staff member provides child care services to the infant:
    - a. Change the infant's diaper, and
    - b. Prepare the infant's formula or cereal; and
  - 2. Is prohibited from other food preparation after changing the infant's diaper.
- D. A licensee shall ensure that a written diaper changing procedure is posted and implemented in each diaper changing area.
- E. A licensee shall ensure that the written diaper changing procedure in subsection (D) states that an enrolled child's diaper is changed as soon as it is soiled, and that a staff member, when diapering:
  - 1. Uses a separate wash cloth and towel only once for each enrolled child;
  - 2. Washes and dries the enrolled child using the enrolled child's individual personal products labeled with the enrolled child's name;
  - 3. Uses single-use non-porous gloves;
  - 4. Washes the staff member's own hands with soap and running water between 86° F and 110° F before and after each diaper change;
  - 5. Washes each enrolled child's hands with soap and running water between 86° F and 110° F after each diaper change;

- 6. Cleans, sanitizes, and dries the diaper changing surface following each diaper change; and
- 7. Uses single-use paper towels from a dispenser to dry the diaper changing surface or the hands of the enrolled child or staff member.

- F. A licensee shall ensure that in an activity area with a diaper changing area:
  - 1. The containers required in subsections (A)(3) and (4) are inaccessible, and
  - 2. A staff member:
    - a. Documents each diaper change:
      - i. For an infant, in the infant's dated, daily, documentation required in R9-5-502(C)(1)(d); or
      - ii. For an enrolled child who is not an infant, in a dated diaper changing log.
    - b. Maintains the diaper changing log on facility premises for 12 months after the date of the diaper changing log;
    - c. Empties clothing soiled with feces into a flush toilet without rinsing;
    - d. Places an enrolled child's clothing soiled by feces or urine in a plastic bag labeled with the enrolled child's name, stores the clothing in a container used for this purpose, and sends the clothing home with the enrolled child's parent; and
    - e. Removes disposable diapers and disposable training pants from a diaper changing area as needed or at least twice every 24 hours to a waste receptacle outside the facility building.

**Historical Note**

Adopted effective December 12, 1986 (Supp. 86-6). Section repealed; new Section adopted effective October 17, 1997 (Supp. 97-4). Amended by exempt rulemaking at 16 A.A.R. 1564, effective September 30, 2010 (Supp. 10-3).

**R9-5-504. Supplemental Standards for 1-year-old and 2-year-old Children**

A licensee providing child care services for 1-year-old and 2-year-old children shall:

- 1. Ensure that a staff member does not permit a 1-year-old or 2-year-old enrolled child who is awake to spend more than 30 minutes of consecutive time in a crib, feeding chair, or other place of confinement;
- 2. Consult with each enrolled child's parent to develop a plan for individual toilet training of the enrolled child and ensure that a staff member does not force toilet training on any enrolled child;
- 3. Ensure that each activity area has a supply of age-appropriate toys, materials, and equipment that are too large for a child to swallow and free from sharp edges and points, in a quantity sufficient to meet the needs of the enrolled children in attendance including:
  - a. Art supplies,
  - b. Books,
  - c. Rubber or soft plastic balls,
  - d. Puzzles and toys to enhance manipulative skills,
  - e. Blocks,
  - f. Washable soft toys and dolls,
  - g. Musical instruments, and
  - h. Indoor and outdoor equipment to enhance large muscle development;
- 4. Prohibit screen time in an activity area where child care services are provided to a 1-year-old child; and
- 5. Ensure that:
  - a. If finger food is served, the food is of a size and texture that does not present a choking hazard;



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- b. A staff member serves food to an enrolled child in a feeding chair or at a table with a chair that allows the enrolled child to reach the food while sitting;
- c. If a child is fed with a bottle, a staff member complies with the requirements in R9-5-502(C)(3); and
- d. If a parent brings a sippy cup for the parent's enrolled child, the sippy cup is labeled with the enrolled child's name.

**Historical Note**

Adopted effective December 12, 1986 (Supp. 86-6). Section repealed; new Section adopted effective October 17, 1997 (Supp. 97-4). Amended by exempt rulemaking at 16 A.A.R. 1564, effective September 30, 2010 (Supp. 10-3).

**R9-5-505. Supplemental Standards for 3-year-old, 4-year-old, and 5-year-old Children**

A licensee providing child care services for 3-year-old, 4-year-old, and 5-year-old children shall provide a supply of age-appropriate toys, materials, and equipment accessible to enrolled children in each activity area in a quantity sufficient to meet the needs of the enrolled children in attendance including:

- 1. Art supplies,
- 2. Blocks,
- 3. Books and posters,
- 4. Toys and dress-up clothes,
- 5. Indoor and outdoor equipment to enhance large muscle development,
- 6. Puzzles and toys to enhance manipulative and categorization skills,
- 7. Science materials, and
- 8. Musical instruments.

**Historical Note**

Adopted effective December 12, 1986 (Supp. 86-6). Amended subsection (F) effective July 7, 1988 (Supp. 88-3). Section repealed; new Section adopted effective October 17, 1997 (Supp. 97-4). Amended by exempt rulemaking at 16 A.A.R. 1564, effective September 30, 2010 (Supp. 10-3).

**R9-5-506. Supplemental Standards for School-age Children**

A licensee providing child care services for school-age children shall:

- 1. Ensure that a staff member supervises an enrolled school-age child to and from a bathroom and allows the enrolled child privacy while in the bathroom;
- 2. Ensure that if an enrolled child remains in the bathroom for more than three minutes, the supervising staff member checks on the enrolled child to ensure the child's safety;
- 3. Provide age-appropriate toys, materials, and equipment accessible to enrolled children in each activity area in a quantity sufficient to meet the needs of the enrolled children in attendance including:
  - a. Arts and crafts,
  - b. Games,
  - c. Puzzles and toys to enhance manipulative skills,
  - d. Books,
  - e. Science materials,
  - f. Sports equipment, and
  - g. Outdoor play equipment; and
- 4. Provide enrolled school-age children with a quiet study area.

**Historical Note**

Adopted effective December 12, 1986 (Supp. 86-6). Section repealed; new Section adopted effective October 17, 1997 (Supp. 97-4). Amended by exempt rulemaking at 16 A.A.R. 1564, effective September 30, 2010 (Supp. 10-3).

**R9-5-507. Supplemental Standards for Children with Special Needs**

A. A licensee providing child care services for a child with special needs shall:

- 1. Except as provided in subsection (A)(2), before a child with special needs receives child care services, obtain from the enrolled child's parent a copy of an existing individualized plan for the enrolled child that can be reviewed, adopted, and implemented by the licensee when providing child care services to the enrolled child that includes the following as needed for the enrolled child:
  - a. Medication schedule;
  - b. Nutrition and feeding instructions;
  - c. Qualifications required of a staff member who feeds the enrolled child;
  - d. Medical equipment or adaptive devices;
  - e. Medical emergency instructions;
  - f. Toileting and personal hygiene instructions;
  - g. Specific child care services to be provided to the enrolled child at the facility;
  - h. Information from health care providers, including the frequency and length of any prescribed medical treatment or therapy;
  - i. Training required of a staff member to care for the enrolled child's special needs; and
  - j. Participation in fire and emergency evacuation drills;
- 2. If an enrolled child with special needs does not have an existing individualized plan, obtain from the enrolled child's parent written instructions for providing services to the enrolled child until a written individualized plan required in subsection (A)(1) is developed by a team consisting of staff members, the enrolled child's parent, and health care providers that is completed within 30 calendar days after the enrolled child's initial date of receiving child care services;
- 3. Maintain an enrolled child's current individualized plan on facility premises and if the current individualized plan was developed according to subsection (A)(2), provide a copy to the enrolled child's parent; and
- 4. Ensure the individualized plan is updated at least every 12 months after the date of the initial plan or as changes occur.

B. If an enrolled child with special needs who is 18 months of age or older and does not walk is placed in an infant group, a licensee may move the enrolled child after the enrolled child's parent and licensee determine that the proposed move is developmentally-appropriate.

C. A licensee shall ensure that:

- 1. When tube feeding an enrolled child, a staff member only uses:
  - a. Commercially prepackaged formula in a ready-to-use state,
  - b. Formula prepared by the enrolled child's parent and brought to the facility in an unbreakable container, or
  - c. Breast milk brought to the facility in an unbreakable container; and
- 2. Only a staff member instructed by an enrolled child's parent or individual designated by the enrolled child's parent:
  - a. Feeds the enrolled child using the enrolled child's tube-feeding apparatus, and
  - b. Cleans the enrolled child's tube-feeding apparatus.

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- D.** A licensee shall provide an enrolled child with special needs with:
1. Developmentally-appropriate toys, materials, and equipment; and
  2. Assistance from staff members to enable the enrolled child to participate in the activities of the facility.
- E.** In addition to complying with the transportation requirements in R9-5-517, a licensee transporting an enrolled child with special needs in a wheelchair in a facility's motor vehicle shall ensure that:
1. The enrolled child's wheelchair is manufactured to be secured in a motor vehicle;
  2. The enrolled child's wheelchair is secured in the motor vehicle using a minimum of four anchorages attached to the motor vehicle floor, and four securement devices, such as straps or webbing that have buckles and fasteners, that attach the wheelchair to the anchorages;
  3. The enrolled child is secured in the wheelchair by means of a wheelchair restraint that is a combination of pelvic and upper body belts intended to secure a passenger in a wheelchair; and
  4. The enrolled child's wheelchair is placed in a position in the motor vehicle that does not prevent access to the enrolled child in the wheelchair or passage to the front and rear in the motor vehicle.
- F.** A licensee providing child care services for an enrolled child who uses a wheelchair or is not able to walk shall locate the enrolled child on the ground floor of the facility.
- G.** If a child care facility requires a separate diaper changing area to allow privacy while providing diapering to an enrolled child with special needs, the licensee shall submit a written request for approval of the intended change to the Department according to R9-5-208 prior to adding a diaper changing area.
- Historical Note**  
Adopted effective December 12, 1986 (Supp. 86-6). Section repealed; new Section adopted effective October 17, 1997 (Supp. 97-4). Amended by exempt rulemaking at 16 A.A.R. 1564, effective September 30, 2010 (Supp. 10-3).  
Amended by final expedited rulemaking at 24 A.A.R. 3429, effective December 5, 2018 (Supp. 18-4).
- R9-5-508. General Nutrition Standards**
- A.** A licensee shall:
1. Make breakfast available to an enrolled child who is present at a facility before 8:00 a.m.,
  2. Serve lunch to an enrolled child who is present at a facility between 11:00 a.m. through 1:00 p.m., and
  3. Serve dinner to an enrolled child who is present from 5:00 p.m. through 7:00 p.m. and who will remain at the facility after 7:00 p.m.
- B.** A licensee shall serve the following meals or snacks to an enrolled child present at a facility for the following periods of time:
1. If an enrolled child is present two to four hours, one or more snacks;
  2. If an enrolled child is present during any of the meal times stated in subsection (A), a meal that meets the meal pattern requirements in subsection (C);
  3. If an enrolled child is present four to eight hours, one or more snacks and a meal;
  4. If an enrolled child is present nine or more hours, two snacks and one or more meals; and
  5. Before bedtime, one snack.
- C.** If a licensee provides food, a licensee shall prepare and serve food according to the meal pattern requirements found in Table 5.1, "Meal Pattern Requirements for Children."
- D.** If an enrolled child's parent provides food for the parent's enrolled child, the licensee shall provide milk or juice to the enrolled child if not provided by the parent.
- E.** If a licensee plans and serves meals, the licensee shall ensure that the meals:
1. Meet the age-appropriate nutritional requirements of an enrolled child; and
  2. For each calendar week, provide a variety of foods within each food group from the meal pattern requirements.
- F.** If a licensee provides food, the licensee shall maintain on the facility premises at least a one day supply of food needed to provide the meals and snacks required by subsections (B) and (C) to each enrolled child attending the facility.
- G.** In addition to the required daily servings of food stated in subsection (C), a licensee:
1. Shall make second servings of food available to each enrolled child at meals and at snack time,
  2. May substitute a food that is equivalent to a specific food component if second servings of the specific food component are not available, and
  3. Shall ensure that a food substitution in subsection (G)(2) is written on the posted weekly menu by the end of the meal or snack service.
- Historical Note**  
Adopted effective December 12, 1986 (Supp. 86-6). Section repealed; new Section adopted effective October 17, 1997 (Supp. 97-4). Amended by exempt rulemaking at 16 A.A.R. 1564, effective September 30, 2010 (Supp. 10-3).

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**Table 5.1 Meal Pattern Requirements for Children**

TABLE OF MEAL PATTERN REQUIREMENTS FOR CHILDREN			
Food Components	Ages 1 through 2 years	Ages 3 through 5 years	Ages 6 and Older
Breakfast:			
1. Milk, fluid	1/2 cup	3/4 cup	1 cup
2. Vegetable, fruit, or both	1/4 cup	1/2 cup	1/2 cup
3. Grains	1/2 oz. eq <sup>1</sup>	1/2 oz. eq <sup>1</sup>	1 oz. eq <sup>1</sup>
Lunch or Supper:			
1. Milk, fluid	1/2 cup	3/4 cup	1 cup
2. Vegetables	1/8 cup	1/4 cup	1/2 cup
Fruits	1/8 cup	1/4 cup	1/4 cup
3. Grains	1/2 oz. eq <sup>1</sup>	1/2 oz. eq <sup>1</sup>	1 oz. eq <sup>1</sup>
4. Meat or meat alternates	1 oz.	1 1/2 oz.	2 oz.
Snack: (select 2 of these 4 components)***			
1. Milk, fluid	1/2 cup	1/2 cup	1 cup
2. Vegetables	1/2 cup	1/2 cup	3/4 cup
Fruits	1/2 cup	1/2 cup	3/4 cup
3. Grains	1/2 oz.	1/2 oz.	1 oz.
4. Meat or meat alternates	1/2 oz.	1/2 oz.	1 oz.
<sup>1</sup> Meat and meat alternates may be used to substitute the entire grains component a maximum of three times per week. Oz eq = ounce equivalents * In the same meal service, dried beans or dried peas may be used as a meat alternate or as a vegetable; however, such use does not satisfy the requirement for both components. ** At lunch and supper, no more than 50% of the requirement shall be met with nuts, seeds, or nut butters. Nuts, seeds, or nut butters shall be combined with another meat or meat alternative to fulfill the requirement. Two tablespoons of nut butter or one ounce of nuts or seeds equals one ounce of meat. *** Juice may not be served when milk is served as the only other component.			

**Historical Note**

Table 5.1 made by exempt rulemaking at 16 A.A.R. 1564, effective September 30, 2010 (Supp. 10-3). Table 5.1 amended by final expedited rulemaking at 24 A.A.R. 3429, effective December 5, 2018 (Supp. 18-4).

**R9-5-509. General Food Service and Food Handling Standards**

- A.** A licensee that prepares food for enrolled children on facility premises shall, if required by 9 A.A.C. 8, Article 1, and the local ordinances of the local health department where the facility is located, obtain a food establishment permit issued under 9 A.A.C. 8, Article 1, and:
1. Provide the Department with a copy of the facility's food establishment permit before the Department issues a license to the facility,
  2. Maintain the facility's current food establishment permit on the facility's premises, and
  3. Provide a copy of the facility's current food establishment permit to the Department upon request.
- B.** If a licensee contracts with a food establishment to prepare and deliver food to the facility, the licensee shall obtain and provide the Department with a copy of the food establishment's permit, issued under 9 A.A.C. 8, Article 1, at the following times:
1. Before the Department issues a license to the facility,
  2. Upon contracting with the food establishment, and
  3. Every 12 months after the date the contract is entered into while the contract is in effect.
- C.** A licensee shall ensure that:
1. Enrolled children, except infants and children with special needs who cannot wash their own hands, wash their hands with soap and running water before and after handling or eating food;
  2. A staff member:
    - a. Washes the hands of an infant or a child with special needs who cannot wash the child's own hands before and after the infant or child with special needs handles or eats food using:
      - i. A washcloth,
      - ii. A single-use paper towel, or
      - iii. Soap and running water; and
    - b. If using a washcloth, uses each washcloth on only one child and only one time before it is laundered or discarded;
  3. An enrolled child is not permitted to eat food directly off the floor, carpet, or ground or with utensils placed directly on the floor, carpet, or ground;
  4. A staff member encourages, but never forces, enrolled children to eat food;
  5. A staff member assists each enrolled child who needs assistance with eating;
  6. A staff member teaches self-feeding skills and habits of good nutrition to each enrolled child as necessary;
  7. Lunch and dinner are family-style meals as demonstrated by at least one of the following:
    - a. Food is served from a serving container on the table where enrolled children are seated;
    - b. Enrolled children serve themselves, independently or with the help of a staff member, from a serving container on the table where enrolled children are seated;
    - c. Enrolled children pass a serving container from individual to individual;

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- d. In a facility where lunch or dinner is provided by the facility, a staff member sits at the table and eats the lunch or dinner with enrolled children; or
- e. In a facility where each enrolled child brings the enrolled child's own lunch or dinner, a staff member sits at the table with the enrolled children and eats the staff member's own lunch or dinner;
8. Fresh milk is served from the original, commercially filled container, to a container used for meal service or a cup, and unused portions are not returned to the original container;
9. Milk served to an enrolled child older than two years of age is fat-free or 1% lowfat milk unless the enrolled child's parent requests otherwise;
10. Reconstituted dry milk is not served to meet the fluid milk requirement;
11. Juice served to children for a meal or snack is full-strength 100% vegetable or 100% fruit juice from an original, commercially filled container or reconstituted from a concentrate according to manufacturer instructions;
12. Fruit juice served to an enrolled child is limited to the following amounts:
  - a. For an enrolled child younger than six years of age, four ounces per day; or
  - b. For an enrolled child six years of age or older, six ounces per day;
13. A beverage sweetened with any kind of sugar product is not provided by the facility;
14. Each staff member is informed of a modified diet prescribed for an enrolled child by the child's parent or health care provider, and the modified diet is posted in the kitchen and in the child's activity area;
15. The food served to an enrolled child is consistent with a modified diet prescribed for the child by the child's parent or health care provider;
16. An enrolled child is not permitted in the kitchen during food preparation or food service except as part of an activity;
17. An enrolled child does not use the kitchen or a food storage area as a passageway;
18. A staff member:
  - a. Prepares a weekly menu at least one week in advance,
  - b. Includes on the menu the specific foods to be served on each day,
  - c. Dates each menu,
  - d. Posts each menu at least one day before the first meal on the menu will be served, and
  - e. Writes food substitutions on a posted menu no later than the morning of the day of meal service;
19. Non-single-use utensils and equipment used in preparing, eating, or drinking food are:
  - a. After each use:
    - i. Washed in an automatic dishwasher and air dried or heat dried; or
    - ii. Washed in hot soapy water, rinsed in clean water, sanitized, and air dried or heat dried; and
  - b. Stored in a clean area protected from contamination;
20. Single-use utensils and equipment are disposed of after being used;
21. Perishable foods are covered and stored in a refrigerator at a temperature of 41° F or below;
22. A refrigerator at the child care facility maintains a temperature of 41° F or below, as shown by a thermometer kept in the refrigerator at all times;
23. A freezer at the child care facility maintains a temperature of 0° F or below, as shown by a thermometer kept in the freezer at all times; and
24. Foods are prepared as close as possible to serving time and, if prepared in advance, are either:
  - a. Cold held at a temperature of 45° F or below or hot held at a temperature of 130° F or above until served, or
  - b. Cold held at a temperature of 45° F or below and then reheated to a temperature of at least 165° F before being served.

**Historical Note**

Adopted effective December 12, 1986 (Supp. 86-6). Section repealed; new Section adopted effective October 17, 1997 (Supp. 97-4). Amended by final rulemaking at 8 A.A.R. 4060, effective November 10, 2002 (Supp. 02-3). Amended by exempt rulemaking at 16 A.A.R. 1564, effective September 30, 2010 (Supp. 10-3).

**R9-5-510. Discipline and Guidance**

- A. A licensee shall ensure that a staff member:
  1. Defines and maintains consistent and reasonable guidelines and limitations for an enrolled child's behavior;
  2. Teaches, models, and encourages orderly conduct, personal control, and age-appropriate behavior;
  3. Explains to an enrolled child why a particular behavior is not allowed, suggests an alternative, and assists the enrolled child to become engaged in an alternative activity; and
  4. After determining that an enrolled child's behavior may result in harm to self or others, holds the enrolled child until the enrolled child regains control or composure.
- B. A licensee shall ensure that a staff member does not use or permit:
  1. A method of discipline that could cause harm to the health, safety, or welfare of an enrolled child;
  2. Corporal punishment;
  3. Abusive language;
  4. Discipline associated with:
    - a. Eating, napping, sleeping, or toileting;
    - b. Medication; or
    - c. Mechanical restraint; or
  5. Discipline administered to any enrolled child by another enrolled child.
- C. A licensee may allow a staff member to separate an enrolled child from other enrolled children for unacceptable age-appropriate behavior.
  1. The separation period shall be for no longer than three minutes after the enrolled child has regained control or composure.
  2. A staff member shall not allow an enrolled child to be separated for longer than 10 minutes without the staff member interacting with the enrolled child.

**Historical Note**

Adopted effective December 12, 1986 (Supp. 86-6). Section repealed; new Section adopted effective October 17, 1997 (Supp. 97-4). Amended by exempt rulemaking at 16 A.A.R. 1564, effective September 30, 2010 (Supp. 10-3).

**R9-5-511. Sleeping and Napping**

- A. A licensee shall provide each enrolled child who naps or sleeps at the facility with a separate cot or mat or a crib that meets the requirements of R9-5-502(A)(8) and ensure that:
  1. A cot, mat, or crib used by the enrolled child accommodates the enrolled child's height and weight;

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2. A staff member covers each cot, crib mattress, or mat with a clean sheet that is laundered when soiled, or at least once every seven days and before use by a different enrolled child;
  3. A clean blanket or sheet is available for each enrolled child;
  4. A rug, carpet, blanket, or towel is not used as a mat; and
  5. Each cot, mat, or crib is maintained in a clean and repaired condition.
- B.** A licensee shall not use bunk beds or waterbed mattresses.
- C.** A licensee shall provide an unobstructed passageway at least 18 inches wide between each row of cots or mats to allow a staff member access to each enrolled child.
- D.** A licensee shall ensure that if an enrolled child is present at the facility during evening and nighttime hours, the licensee:
1. Permits the enrolled child to use a mat only when used on top of a cot;
  2. Before bathing the enrolled child at the facility, obtains written consent and bathing instructions from the enrolled child's parent and follows the instructions when bathing the enrolled child;
  3. Requires that a staff member cleans and sanitizes a bathtub or shower stall after bathing each enrolled child;
  4. Requires that a staff member remains awake while supervising the sleeping enrolled child; and
  5. Prohibits the operation of a television set in a room where the enrolled child is sleeping.
- E.** A licensee shall ensure that if an enrolled child is present at the facility during naptime, the licensee:
1. Does not permit the enrolled child to lie in direct contact with the floor while napping,
  2. Prohibits the operation of a television set in a room where the enrolled child is napping,
  3. Ensures naptime accommodations are available for the enrolled school-age child if requested by the enrolled child or the enrolled child's parent,
  4. Requires that a staff member remain awake while supervising the enrolled sleeping child, and
  5. Prohibits the enrolled child from napping in an attic or a loft during naptime.
- F.** A licensee shall ensure that storage space is provided in the facility for cots, mats, sheets, and blankets, that is:
1. Accessible to an area used for naptime or sleeping; and
  2. Separate from food service and preparation areas, toilet rooms, and laundry rooms.
- often as necessary to maintain them in a clean and sanitized condition or at least once every 24 hours.
- E.** If laundry belonging to a facility is done on facility premises, a licensee shall:
1. Not use a kitchen or food storage area for sorting, handling, washing, or drying laundry;
  2. Locate the laundry equipment in an area that is separate from licensed activity areas and inaccessible to enrolled children;
  3. Not permit an enrolled child to be in a laundry room or use a laundry area as a passageway for enrolled children; and
  4. Ensure that laundry soiled by vomitus, urine, feces, blood, or other body fluid is stored, cleaned, and sanitized separately from other laundry.
- F.** A licensee shall ensure that:
1. Each toilet room in a facility contains, within easy reach of enrolled children:
    - a. Mounted toilet tissue; and
    - b. Except as provided in subsection (G):
      - i. A sink with running water;
      - ii. Soap contained in a dispenser; and
      - iii. Disposable, single-use paper towels in a mounted dispenser, or a mechanical air hand dryer;
  2. Staff members wash their hands with soap and running water after toileting;
  3. An enrolled child's hands are washed with soap and running water after toileting;
  4. Except for a cup or receptacle used only for water, food waste is stored in a covered container and the container is clean and lined with a plastic bag;
  5. Food waste and other refuse is removed from the facility building at least once every 24 hours or more often as necessary to maintain a clean condition and avoid odors;
  6. A staff member or an enrolled child does not draw water for human consumption from a toilet room hand-washing sink;
  7. Toys, materials, and equipment are maintained in a clean condition;
  8. Plumbing fixtures are maintained in a clean and working condition; and
  9. Chipped or cracked sinks and toilets are replaced or repaired.
- G.** A licensee may have a sink with running water, soap contained in a dispenser, and single-use paper towels in a mounted dispenser or a mechanical air hand dryer located directly outside a toilet room if an enrolled child exiting the toilet room can access the sink, soap, and paper towels or air hand dryer without having to cross space that is used for any activity.

**Historical Note**

Adopted effective December 12, 1986 (Supp. 86-6). Section repealed; new Section adopted effective October 17, 1997 (Supp. 97-4). Amended by exempt rulemaking at 16 A.A.R. 1564, effective September 30, 2010 (Supp. 10-3).

**R9-5-512. Cleaning and Sanitation**

- A.** A licensee shall maintain facility premises free of insects and vermin.
- B.** A licensee shall maintain facility premises and furnishings:
1. In a clean condition, and
  2. Free from odor.
- C.** A licensee shall ensure that floor coverings are:
1. Clean, and
  2. Free from:
    - a. Dampness,
    - b. Odors, and
    - c. Hazards.
- D.** A licensee shall ensure that toilet bowls, lavatory fixtures, and floors in toilet rooms and kitchens are cleaned and sanitized as

**Historical Note**

Adopted effective December 12, 1986 (Supp. 86-6). Amended subsection (P) effective July 7, 1988 (Supp. 88-3). Section repealed; new Section adopted effective October 17, 1997 (Supp. 97-4). Amended by exempt rulemaking at 16 A.A.R. 1564, effective September 30, 2010 (Supp. 10-3).

**R9-5-513. Pets and Animals**

- A.** A licensee shall maintain written documentation of current immunization against rabies for each ferret, dog, or cat owned by a licensee or staff member that is present on facility premises.
- B.** A licensee shall ensure that a staff member:
1. Keeps all pet and animal habitats clean;

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2. Prohibits reptiles, such as turtles, iguanas, snakes, and lizards, in the facility;
3. Prohibits birds in food preparation and eating areas;
4. Keeps pets and animals clean;
5. Prohibits pets and animals from endangering an enrolled child, staff member, or other individual on facility premises; and
6. Keeps birds and animals such as horses, sheep, cattle, and poultry in an enclosure that is not accessible to an enrolled child except as part of an activity.

**Historical Note**

Adopted effective December 12, 1986 (Supp. 86-6). Section repealed; new Section adopted effective October 17, 1997 (Supp. 97-4). Amended by exempt rulemaking at 16 A.A.R. 1564, effective September 30, 2010 (Supp. 10-3).

**R9-5-514. Accident and Emergency Procedures**

- A. A licensee shall ensure that there is a first aid kit on facility premises that contains first aid supplies in a quantity sufficient to meet the needs of the enrolled children including the following:
  1. Sterile bandages including:
    - a. Adhesive bandages of assorted sizes,
    - b. Sterile gauze pads, and
    - c. Sterile gauze rolls;
  2. Antiseptic solution or sealed antiseptic wipes;
  3. A pair of scissors;
  4. Adhesive tape;
  5. Single-use, non-porous gloves; and
  6. Reclosable plastic bags of at least one-gallon size.
- B. A licensee shall ensure that the first aid kit required in subsection (A) is accessible to staff members but inaccessible to enrolled children.
- C. A licensee shall:
  1. Prepare and date a written fire and emergency plan that contains:
    - a. The location of the first aid kit;
    - b. The names of staff members who have the first aid training required by R9-5-403(E);
    - c. The names of staff members who have the CPR training required by R9-5-403(E);
    - d. The directions for:
      - i. Initiating verbal notification of an enrolled child's parent by telephone or other equally expeditious means within 30 minutes of a fire or emergency, and
      - ii. Providing written notification to the enrolled child's parent within 24 hours, and
    - e. The facility's street address and the emergency telephone numbers for the local fire department, police department, ambulance service, and poison control center;
  2. Maintain the plan required in subsection (C)(1) in a location on facility premises that has an operable telephone service or two-way voice communication system that connects the facility with an individual who has direct access to an in-and-out operable telephone service;
  3. Post the plan required in subsection (C)(1) in any indoor activity area that does not have an operable telephone service or two-way voice communication system that connects the indoor activity area with an individual who has direct access to an in-and-out operable telephone service; and
  4. Update the plan in subsection (C)(1) every 12 months after the date of initial preparation of the plan or when any information changes.

- D. A licensee shall post, near an activity area or a room's designated exit, a building evacuation plan that details the designated exits from the activity area or room and the facility.
- E. A licensee shall maintain and use a communication system that contains:
  1. A direct-access, in-and-out, operating telephone service at the facility; or
  2. A two-way voice communication system that connects the facility with an individual who has direct access to an in-and-out, operating telephone service.
- F. If while attending a facility an enrolled child has an accident, injury, or emergency that, based on an evaluation by a staff member, requires medical treatment by a health care provider, a licensee shall ensure that a staff member:
  1. Notifies the enrolled child's parent immediately after the accident, injury, or emergency;
  2. Documents:
    - a. A description of the accident, injury, or emergency, including the date, time, and location of the accident, injury, or emergency;
    - b. The method used to notify the enrolled child's parent; and
    - c. The time the enrolled child's parent was notified; and
  3. Maintains documentation required in subsection (F)(2) on facility premises for 12 months after the date of the child's disenrollment.
- G. If an enrolled child's parent informs a staff member at the facility that the enrolled child's parent obtained medical treatment from a health care provider for an accident, injury, or emergency the enrolled child had while attending the facility, a licensee shall ensure that a staff member:
  1. Documents any information about the enrolled child's accident, injury, or emergency received from the enrolled child's parent; and
  2. Maintains documentation required in subsection (G)(1) on facility premises for 12 months after the date of the child's disenrollment.

**Historical Note**

Adopted effective December 12, 1986 (Supp. 86-6). Section repealed; new Section adopted effective October 17, 1997 (Supp. 97-4). Amended by exempt rulemaking at 16 A.A.R. 1564, effective September 30, 2010 (Supp. 10-3).

**R9-5-515. Illness and Infestation**

- A. A licensee shall not permit an enrolled child to remain at the facility if a staff member determines that the enrolled child shows signs of illness or infestation.
- B. If an enrolled child exhibits signs of illness or infestation at a facility, a licensee shall ensure that a staff member:
  1. Immediately separates the enrolled child from other enrolled children,
  2. Immediately notifies the enrolled child's parent by telephone or other expeditious means to arrange for the enrolled child's removal from the facility, and
  3. Maintains documentation of the notification on facility premises for 12 months after the date of the notification.
- C. A licensee shall ensure that a staff member who has signs of illness or infestation is excluded from a facility.
- D. A facility director shall not permit a staff member to return to a facility until free from signs of illness or infestation or until the staff member provides documentation by a health care provider that the individual may return to the facility.
- E. If a staff member or enrolled child contracts a communicable disease or infestation listed in 9 A.A.C. 6, Article 2, Table 2, a licensee shall ensure that, within 24 hours of notice of the

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communicable disease or infestation, written notice is provided to each staff member, parent, and the local health department.

**F.** A licensee shall ensure that:

1. A dated, written notice of the communicable disease or infestation is prepared and posted in the facility's entrance as required by R9-5-303;
2. Documentation of the notification is maintained on facility premises for 12 months from the date of the notification; and
3. Documentation of the absences of staff members and enrolled children due to a communicable disease or infestation listed in 9 A.A.C. 6, Article 2, Table 2, is prepared and maintained on facility premises for 12 months from the first date of absence.

**Historical Note**

Adopted effective December 12, 1986 (Supp. 86-6). Section repealed; new Section adopted effective October 17, 1997 (Supp. 97-4). Amended by exempt rulemaking at 16 A.A.R. 1564, effective September 30, 2010 (Supp. 10-3).

**R9-5-516. Medications**

**A.** A licensee shall ensure that a written statement is prepared and maintained on facility premises that specifies:

1. Whether prescription or nonprescription medications are administered to enrolled children; and
2. If prescription or nonprescription medications are administered, the requirements in subsection (B) for administering the prescription or nonprescription medications.

**B.** If prescription or nonprescription medications are administered, a licensee shall ensure that:

1. A facility director, or a staff member designated in writing by the facility director, is responsible for the administration of all medications in the facility, including storing, supervising an enrolled child's ingestion of a medication, and documenting all medications administered to an enrolled child;
2. A facility director ensures that only one staff member in the facility at any given time is responsible for the administration of medications;
3. A facility director, or a staff member designated in writing by the facility director, does not administer a medication to an enrolled child unless the facility receives written authorization signed by the enrolled child's parent or health care provider that includes the:
  - a. Name of the enrolled child;
  - b. Type of the medication;
  - c. Prescription number, if any;
  - d. Instructions for administration specifying the:
    - i. Dosage and route of administration;
    - ii. If indicated, starting and ending dates of the dosage period; and
    - iii. Times and frequency of administration;
  - e. Reason for the medication; and
  - f. Date of authorization; and
4. A staff member:
  - a. Administers a prescription medication provided by a parent only from a container dispensed by a pharmacy;
  - b. Administers a nonprescription medication provided by a parent for an enrolled child only from a container prepackaged and labeled for use by the manufacturer and labeled with the enrolled child's name;
  - c. Does not administer any medication that has been transferred from one container to another; and

- d. Does not administer a nonprescription medication to an enrolled child inconsistent with the instructions on the nonprescription medication's label, unless the facility receives written authorization from the enrolled child's health care provider.

**C.** A licensee shall allow an enrolled child to receive an injection only after obtaining a written authorization from a health care provider.

**D.** A licensee shall maintain the health care provider's written authorization required in subsection (C) on facility premises for 12 months after the date of the written authorization.

**E.** An individual authorized by state law to give injections may give an injection to an enrolled child. In an emergency, an individual may give an injection to an enrolled child according to A.R.S. §§ 32-1421(A)(1) and 32-1631(2).

**F.** A licensee shall maintain documentation of all medications administered to an enrolled child.

1. Documentation shall contain:

- a. The name of the enrolled child;
- b. The name and amount of medication administered and the prescription number, if any;
- c. The date and time the medication was administered; and
- d. The signature of the staff member who administered the medication to the enrolled child; and

2. A licensee shall maintain the documentation on facility premises for 12 months after the date the medication is administered.

**G.** A licensee shall return all unused prescription and nonprescription medications to a parent when the medication prescription date has expired or the medication is no longer being administered to the enrolled child or dispose of the medication if unable to locate the enrolled child's parent after the child's disenrollment.

**H.** Except as provided in subsection (J), a licensee shall ensure that prescription and nonprescription medications are stored as follows:

1. An enrolled child's medication is kept in a locked, leak-proof storage cabinet or container that is used only for storing enrolled children's medications and is located out of reach of children;
2. Medication for a staff member is kept in a locked, leak-proof storage cabinet or container that is separate from the storage container for enrolled children's medications and is located out of reach of children; and
3. Medications requiring refrigeration are kept in a locked, leak-proof container in a refrigerator.

**I.** Except as specified in A.R.S. § 36-2229(B) through (D), a licensee shall ensure that a facility does not stock a supply of medications for administration to enrolled children, including:

1. Any prescription medication; or
2. A nonprescription medication such as aspirin, acetaminophen, ibuprofen, or cough syrup.

**J.** A staff member's or enrolled child's prescription medication necessary to treat life-threatening symptoms:

1. May be kept in the activity area where the staff member or enrolled child is present; and
2. Except when the prescription medication is administered to treat life-threatening symptoms, is inaccessible to an enrolled child.

**K.** A licensee of a licensed child care facility owned and located on a public school premises shall ensure that enrolled school-aged children are allowed to possess emergency medications and self-administer auto-injectable epinephrine and handheld inhaler devices according to A.R.S. § 15-341, if an enrolled school-aged child:

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1. Has a written prescription from a physician,
2. Is named on the prescription label, and
3. Has written documentation from the enrolled school-aged child's parent approving the enrolled school-aged child to possess and self-administer emergency medication.

**Historical Note**

Adopted effective December 12, 1986 (Supp. 86-6). Section repealed; new Section adopted effective October 17, 1997 (Supp. 97-4). Amended by final rulemaking at 6 A.A.R. 3476, effective August 17, 2000 (Supp. 00-3). Amended by exempt rulemaking at 16 A.A.R. 1564, effective September 30, 2010 (Supp. 10-3). Amended by final rulemaking at 26 A.A.R. 1265 with an immediate effective date of June 3, 2020 (Supp. 20-2).

**R9-5-517. Transportation**

- A.** A licensee who transports an enrolled child in a motor vehicle that the licensee owns, or acquires for use by contract, shall:
1. Obtain dated, written permission from the enrolled child's parent before the licensee transports the enrolled child;
  2. Maintain written permission required in subsection (A)(1) on facility premises for 12 months after the date on the written permission;
  3. Ensure that the motor vehicle is registered by the Arizona Department of Transportation as required by A.R.S. Title 28, Chapter 7;
  4. Maintain documentation of current motor vehicle insurance coverage inside the motor vehicle;
  5. Contact the Department no later than 24 hours after a motor vehicle accident that occurs while transporting an enrolled child;
  6. Submit a written report to the Department within seven calendar days after a motor vehicle accident that occurs while transporting an enrolled child;
  7. Not permit an enrolled child to be transported in a truck bed, camper, or trailer attached to a motor vehicle;
  8. Use a child passenger restraint system, as required by A.R.S. § 28-907, for each enrolled child who is:
    - a. Under eight years of age, and
    - b. Not more than four feet nine inches tall.
  9. Ensure that the motor vehicle has:
    - a. A working mechanical heating system capable of maintaining a temperature throughout the motor vehicle of at least 60° F when outside air temperatures are below 60° F;
    - b. Except as provided in subsection (E), a working air-conditioning system capable of maintaining a temperature throughout the motor vehicle at or below 86° F when outside air temperatures are above 86° F;
    - c. Except as provided in subsection (F), a first aid kit that meets the requirements of R9-5-514(A);
    - d. Two large, clean towels or blankets; and
    - e. Sufficient drinking water available to meet the needs of each enrolled child in the motor vehicle and sufficient cups or other drinking receptacles so that each enrolled child can drink from a different cup or receptacle;
  10. Ensure that the motor vehicle is:
    - a. Maintained in a clean condition,
    - b. In a mechanically safe condition, and
    - c. Free from hazards; and
  11. Maintain the service and repair records of the motor vehicle as follows:
    - a. A person operating a single child care facility shall maintain the service and repair records for at least 12 months after the date of an inspection or repair in a single location on facility premises;
    - b. A public or private school that uses a school bus, as defined in A.R.S. § 28-101, shall maintain the service and repair records for the school bus as provided in A.A.C. R17-9-108(F); and
    - c. A school governing board, charter school, or person operating multiple child care facilities shall maintain the service and repair records for any motor vehicle other than a school bus for at least 12 months after the date of an inspection or repair in a single administrative office located in the same city, town, or school attendance area as the facility.
- B.** A licensee shall ensure that an individual who drives a motor vehicle used to transport an enrolled child:
1. Is 18 years of age or older;
  2. Holds a valid driver's license issued by the Arizona Department of Motor Vehicles as prescribed by A.R.S. Title 28, Chapter 8;
  3. Carries a list stating the name of each enrolled child being transported and a copy of each enrolled child's Emergency, Information, and Immunization Record card including the attached immunization record or exemption affidavit, in the motor vehicle;
  4. Requires that each door be locked before the motor vehicle is set in motion and keeps the doors locked while the motor vehicle is in motion;
  5. Does not permit an enrolled child to be seated in front of a motor vehicle's air bag;
  6. Requires that each enrolled child remain seated and entirely inside the motor vehicle while the motor vehicle is in motion;
  7. Except as provided in subsection (E), requires that each enrolled child be secured in a seat belt before the motor vehicle is set in motion and while the motor vehicle is in motion;
  8. Does not permit an enrolled child to open or close a door or window in the motor vehicle;
  9. Sets the emergency parking brake and removes the ignition keys from the motor vehicle before exiting the motor vehicle;
  10. Ensures that each enrolled child is loaded into or unloaded from the motor vehicle away from moving traffic at curbside or in a driveway, parking lot, or other location designated for this purpose; and
  11. Does not use audio headphones or a telephone while the motor vehicle is in motion.
- C.** When transporting an enrolled school-age child in a motor vehicle, a licensee shall ensure that the staff-to-children ratios required in R9-5-404(A) are met. A motor vehicle driver may be counted in the staff-to-children ratio, when transporting an enrolled school-age child in a motor vehicle, if the motor vehicle driver meets the qualifications of a teacher-caregiver.
- D.** When transporting an enrolled child who is not school-age in a motor vehicle, a licensee shall ensure that the staff-to-children ratios required in R9-5-404(A) are met. A motor vehicle driver may be counted in the staff-to-children ratio, when transporting an enrolled child who is not school-age in a motor vehicle, only if four or fewer enrolled children are being transported and the motor vehicle driver meets the qualifications of a teacher-caregiver.
- E.** A licensee who is transporting an enrolled child in a commercial vehicle, as defined in A.R.S. § 28-1301, is exempt from the provisions in subsections (A)(9), (A)(10)(b), and (B)(7).



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- F. A licensee who is transporting an enrolled child in a school bus, as defined in A.R.S. § 28-101, is exempt from the provision in subsection (A)(10)(c) and shall comply with A.A.C. R17-9-110.

**Historical Note**

Adopted effective December 12, 1986 (Supp. 86-6). Section repealed; new Section adopted effective October 17, 1997 (Supp. 97-4). Amended by final rulemaking at 13 A.A.R. 1086, effective May 5, 2007 (Supp. 07-1). Amended by exempt rulemaking at 16 A.A.R. 1564, effective September 30, 2010 (Supp. 10-3). Amended by final expedited rulemaking at 24 A.A.R. 3429, effective December 5, 2018 (Supp. 18-4).

**R9-5-518. Field Trips**

- A. A licensee providing a field trip for an enrolled child shall:
1. Obtain written permission from a parent before the enrolled child participates in a field trip including:
    - a. The date and description of the field trip;
    - b. The times of departure from and return to the facility; and
    - c. The name, street address, and telephone number, if any, of the field trip destination;
  2. Prepare a written field trip plan including:
    - a. The name of each participating enrolled child, staff member, and other individuals on the field trip;
    - b. The times of departure from and return to the facility;
    - c. If applicable, license plate number of any motor vehicle used on the field trip; and
    - d. The name, street address, and telephone number, if any, of the field trip destination; and
  3. Maintain the written permission in subsection (A)(1) and written field trip plan in subsection (A)(2) on facility premises for 12 months after the date of the field trip.
- B. A licensee shall ensure that a staff member taking enrolled children on a field trip carries the following on the field trip:
1. A copy of the Emergency, Information, and Immunization Record card including the attached immunization record or exemption affidavit, of each enrolled child participating in the field trip;
  2. A copy of the written field trip plan required in subsection (A)(2);
  3. A list stating the name of each participating enrolled child; and
  4. Sufficient water to meet the needs of each enrolled child participating in the field trip.
- C. A staff member shall verify the presence of each enrolled child and place a checkmark next to the enrolled child's name on the list required in subsection (B)(3) for each enrolled child who is present at the following times:
1. At the beginning of the field trip or when boarding the motor vehicle,
  2. Upon arrival and each hour while at the field trip destination,
  3. When preparing to leave the field trip destination or when boarding the motor vehicle to return to the facility, and
  4. When reentering the facility at the conclusion of the field trip.
- D. A licensee shall ensure that each enrolled child participating in a field trip is wearing in plain view a written identification stating the facility's name, address, and telephone number.
- E. A licensee shall also ensure that each enrolled child is wearing out of view a written identification stating the enrolled child's name.

- F. If a licensee uses a motor vehicle volunteered by a parent or other individual for a field trip, a licensee shall determine before the field trip begins that the motor vehicle is in compliance with R9-5-517(A)(3) and (4) and that the motor vehicle driver is in compliance with R9-5-517(B)(1) and (2).
- G. When six or more enrolled children are participating in a field trip, a licensee shall ensure that a teacher-caregiver and at least one additional staff member are present on the field trip.

**Historical Note**

Adopted effective December 12, 1986 (Supp. 86-6). Section repealed; new Section adopted effective October 17, 1997 (Supp. 97-4). Amended by exempt rulemaking at 16 A.A.R. 1564, effective September 30, 2010 (Supp. 10-3).

**R9-5-519. Repealed****Historical Note**

Adopted effective December 12, 1986 (Supp. 86-6). Amended subsection (F) effective July 7, 1988 (Supp. 88-3). Repealed effective October 17, 1997 (Supp. 97-4).

**R9-5-520. Repealed****Historical Note**

Adopted effective December 12, 1986 (Supp. 86-6). Repealed effective October 17, 1997 (Supp. 97-4).

**R9-5-521. Repealed****Historical Note**

Adopted effective December 12, 1986 (Supp. 86-6). Amended by adding subsection (C) effective July 7, 1988 (Supp. 88-3). Repealed effective October 17, 1997 (Supp. 97-4).

**R9-5-522. Repealed****Historical Note**

Adopted effective December 12, 1986 (Supp. 86-6). Amended paragraph (1), subparagraph (e) effective July 7, 1988 (Supp. 88-3). Repealed effective October 17, 1997 (Supp. 97-4).

**Table 1. Repealed****Historical Note**

Table 1 adopted effective October 17, 1997 (Supp. 97-4). Table 1 repealed by exempt rulemaking at 16 A.A.R. 1564, effective September 30, 2010 (Supp. 10-3).

**ARTICLE 6. PHYSICAL PLANT OF A FACILITY****R9-5-601. General Physical Plant Standards**

A licensee shall comply with the following physical plant requirements:

1. When a facility is licensed to care for more than five infants in an infant room as described in R9-5-502(A)(1), each infant room has two or more designated exits from the room;
2. Not including infants and children who use diapers, toilets and hand-washing sinks are available to enrolled children in a facility as follows:
  - a. At least one flush toilet and one hand-washing sink for 10 or fewer children,
  - b. At least two flush toilets and two hand-washing sinks for 11 to 25 children, and
  - c. At least one flush toilet and one hand-washing sink for each additional 20 children;
3. A hand-washing sink required in R9-5-503(A)(2) or subsection (2) provides running water with a drain connected to a sanitary sewer as defined in A.R.S. § 45-101;

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4. Except as provided in subsection (5), when providing child care services for infants or children who require diapering, a diaper changing area that meets the requirements in R9-5-503 is available in each infant room or indoor activity area used by an enrolled infant or child who wears diapers or disposable training pants;
5. A diaper changing area is not required in an activity area that is:
  - a. Only used by enrolled children for snacks or meals;
  - b. Used for a specific activity by enrolled children who are two years of age or older; or
  - c. An indoor activity area that is being substituted for an outdoor activity area under R9-5-602(D); and
6. A glass mirror, window, or other glass surface that is located within 36 inches of the floor is made of safety glass that has been manufactured, fabricated, or treated to prevent the glass from shattering or flying when struck or broken, or is shielded by a barrier to prevent impact by or physical injury to an enrolled child.

**Historical Note**

Adopted effective December 12, 1986 (Supp. 86-6). Amended effective July 7, 1988 (Supp. 88-3). Section repealed; new Section adopted effective October 17, 1997 (Supp. 97-4). Section repealed; new R9-5-601 renumbered from R9-5-602 and amended by exempt rulemaking at 16 A.A.R. 1564, effective September 30, 2010 (Supp. 10-3). Amended by final expedited rulemaking at 24 A.A.R. 3429, effective December 5, 2018 (Supp. 18-4).

**R9-5-602. Facility Square Footage Requirements**

- A. A licensee shall ensure that the facility meets the following square footage requirements for indoor activity areas based on the child care services classifications:
  1. At least 35 square feet of indoor activity space for each infant and 1-year-old child;
  2. At least 25 square feet of indoor activity space for each child who is not an infant or 1-year-old child; and
  3. When 1-year-old children are grouped together with children older than 1-year-old children in the same activity area, at least 35 square feet of indoor activity space for each child.
- B. When computing indoor activity space for subsections (A)(1) through (3) to determine licensed capacity, the floor space occupied by the following shall be excluded:
  1. The interior walls;
  2. A kitchen, bathroom, closet, hallway, stair, entryway, office, a room designated for isolating an enrolled child from other children, storage rooms, and a room designated for the sole use of child care staff; and
  3. Room space occupied by teacher-caregiver desks, file cabinets, storage cabinets, and hand washing sinks for staff use.
- C. To provide activities that develop large muscles and an opportunity to participate in structured large muscle physical activities, a licensee shall:
  1. Provide at least 75 square feet of outdoor activity area per child for at least 50% of the facility's licensed capacity; or
  2. Comply with one of the following:
    - a. If no enrolled child attends the facility for more than four hours per day, provide at least 50 square feet of indoor activity area for each child, based on the facility's licensed capacity;
    - b. If no enrolled child attends the facility for more than six hours per day, provide at least 75 square feet of indoor activity area per child for at least 50% of the

facility's licensed capacity in addition to the indoor activity area required in subsection (A); or

- c. Provide at least 37.5 square feet of outdoor activity area and 37.5 square feet of indoor activity area per child for at least 50% of the facility's licensed capacity in addition to the indoor activity area required in subsection (A).
- D. A licensee substituting indoor activity area for outdoor activity area shall:
  1. Designate, on the site plan and the floor plan submitted with the license application or request for approval of an intended change, the indoor activity area that is being substituted for an outdoor activity area; and
  2. In the indoor activity area substituted for outdoor activity area, install and maintain a mat or pad designed to provide impact protection in the fall zone of indoor swings and climbing equipment.
- E. An indoor activity area that is substituted for an outdoor activity area is not assigned a licensed capacity.
- F. The Department shall review and approve or deny the request for exemption or substitution.
  1. For a request that is part of a license application, the Department shall review the proposed exemption or substitution and provide written notice according to the procedures in R9-5-202.
  2. For a licensed facility, within 30 calendar days after the date of the receipt of the request, the Department shall review the proposed exemption or substitution and provide written notice of the review to the licensee. If the proposed exemption or substitution:
    - a. Complies with A.R.S. Title 36, Chapter 7.1, Article 1 and this Chapter, the Department shall approve the proposed exemption or substitution; or
    - b. Does not comply with A.R.S. Title 36, Chapter 7.1, Article 1 or this Chapter, the Department shall provide the licensee with the requirements necessary to approve the requested exemption or substitution.
  3. A licensee shall provide at least 75 square feet of outdoor activity area per child for 50% of the facility's licensed capacity, until the Department approves the exemption or substitution.

**Historical Note**

Adopted effective December 12, 1986 (Supp. 86-6). Section repealed; new Section adopted effective October 17, 1997 (Supp. 97-4). Former R9-5-602 renumbered to R9-5-601; new R9-5-602 renumbered from R9-5-603 and amended by exempt rulemaking at 16 A.A.R. 1564, effective September 30, 2010 (Supp. 10-3). Amended by final expedited rulemaking at 24 A.A.R. 3429, effective December 5, 2018 (Supp. 18-4).

**R9-5-603. Outdoor Activity Areas**

- A. Except as provided in subsection (B), a licensee shall not permit an enrolled child to cross a driveway or parking lot to access an outdoor activity area on the facility premises or a school campus unless the licensee obtains written approval from the Department.
- B. If a licensee requests approval from the Department for enrolled children to cross a driveway or parking lot to access an outdoor activity area, the Department shall inspect the facility premises or school campus to determine whether the health, safety, or welfare of enrolled children would be endangered. The Department shall notify the licensee of approval or disapproval within 30 calendar days of receipt of the request. If disapproved, the Department shall provide the licensee with the requirements necessary to approve the proposed crossing.

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- C. Except as provided in subsection (D), a licensee shall ensure that an outdoor activity area:
1. Is enclosed by a fence:
    - a. A minimum of 4 feet high,
    - b. Secured to the ground, and
    - c. With either vertical or horizontal open spaces on the fence or gate that do not exceed 4.0 inches;
  2. Is maintained free from hazards, such as exposed concrete footings and broken toys; and
  3. Has gates that are kept closed while an enrolled child is in the outdoor activity area.
- D. A licensee shall ensure that a playground used only for enrolled school age children at a facility operating at a public school meets the fencing requirements of the public school. If the Department determines by inspection that a facility fence at a public school does not ensure the health, safety, or welfare of enrolled children, the licensee shall meet the fencing requirements of subsection (C).
- E. A licensee shall ensure that the following is provided and maintained within the fall zones of swings and climbing equipment in an outdoor activity area:
1. A shock-absorbing unitary surfacing material manufactured for such use in outdoor activity areas; or
  2. A minimum depth of 6 inches of a nonhazardous, resilient material such as fine loose sand or wood chips.
- F. A licensee shall ensure that hard surfacing material such as asphalt or concrete is not installed or used under swings or climbing equipment unless used as a base for a rubber surfacing.
- G. A licensee shall ensure that a swing or climbing equipment is not located in the fall zone of another swing or climbing equipment.
- H. A licensee shall provide a shaded area for each enrolled child occupying an outdoor activity area at any time of day.
- Historical Note**
- Adopted effective December 12, 1986 (Supp. 86-6). Section repealed; new Section adopted effective October 17, 1997 (Supp. 97-4). Former R9-5-603 renumbered to R9-5-602; new R9-5-603 renumbered from R9-5-604 and amended by exempt rulemaking at 16 A.A.R. 1564, effective September 30, 2010 (Supp. 10-3). Amended by final expedited rulemaking at 24 A.A.R. 3429, effective December 5, 2018 (Supp. 18-4).
- R9-5-604. Swimming Pools**
- A. If a licensee uses a public or semi-public swimming pool for an enrolled child, the swimming pool shall meet the requirements of the swimming pool ordinance enacted by local government. If no ordinance has been adopted, the swimming pool shall meet the requirements in A.A.C. R9-8-801 through R9-8-813.
- B. A licensee that uses a private pool for an enrolled child shall ensure that the swimming pool and its equipment meet the following requirements:
1. If a licensee uses a private pool that is a minimum of 2 feet in depth for enrolled children, the swimming pool shall meet the requirements of the swimming pool ordinance enacted by local government and, at a minimum, be equipped with the following:
    - a. A recirculation system consisting of piping, pumps, filters, and water conditioning and disinfecting equipment that conforms to the swimming pool manufacturer's specifications for installation and operation, and is adequate to clarify and disinfect the pool water continuously;
    - b. Two swimming pool inlets located on opposite sides of the swimming pool to produce uniform circulation of water and maintain uniform chlorine residual throughout the entire swimming pool without the existence of dead spots;
    - c. A drain located at the swimming pool's lowest point and covered by a grating that cannot be removed by bathers;
    - d. A swimming pool water vacuum system in operating condition;
    - e. A removable strainer to prevent hair, lint, or other objects from reaching the pump and filter;
    - f. An automatic mechanical water disinfectant system in use and in operating condition. The disinfecting agents shall maintain the swimming pool water as follows:
      - i. A free chlorine level between 1.0 and 3.0 parts per million as tested by the diethyl-p-phenylene diamine method or 0.4 to 1.0 parts per million when tested by the orthotolidine method;
      - ii. A pH level between 7.0 and 8.0 as tested by the diethyl-p-phenylene diamine method or the orthotolidine method; or
      - iii. A bromine level between 2.0 and 4.0 parts per million as tested by the diethyl-p-phenylene diamine method;
    - g. A shepherd's crook; and
    - h. A ring buoy attached to a 1/2 inch diameter rope at least 25 feet in length;
  2. If a licensee uses a private pool that is less than 2 feet in depth for enrolled children, the swimming pool shall meet the requirements of subsection (B)(1) except that:
    - a. The swimming pool shall have a minimum of one swimming pool inlet;
    - b. The swimming pool is not required to have a bottom drain;
    - c. A pool water vacuum cleaning system is not required, and
    - d. A ring buoy with attached rope is not required;
  3. A portable pool that does not meet the requirements of subsection (B)(1) or (2) is prohibited;
  4. On each day an enrolled child uses the swimming pool, a licensee shall test the water in the swimming pool at least once every day to verify that the swimming pool water meets the swimming pool water chemical ranges in subsection (B)(1)(f);
  5. A licensee shall create a written swimming pool log and:
    - a. Document the results of tests required in subsection (B)(4) in the written swimming pool log;
    - b. Have the written swimming pool log at the swimming pool site while enrolled children are using the swimming pool; and
    - c. Maintain the written swimming pool log on facility premises for three months after the last date the swimming pool water was tested and documented; and
  6. If the swimming pool water does not meet the swimming pool water chemical ranges in subsection (B)(1)(f), the licensee shall:
    - a. Add liquid or dissolved dry chemicals to the swimming pool water,
    - b. Document any actions taken by the licensee to restore the swimming pool water chemical ranges in the written swimming pool log required in subsection (B)(5)(a), and

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- c. Not allow enrolled children to use the swimming pool until tests of the swimming pool water verify that the swimming pool water meets the swimming pool water chemical ranges in subsection (B)(1)(f).
- C. A licensee shall ensure that a public, semi-public, or private pool used by an enrolled child is enclosed by a wall, fence, or barrier that complies with:
  - 1. The requirements of a swimming pool barrier ordinance adopted by the local government where the swimming pool is located; or
  - 2. If the local government where the swimming pool is located has not adopted a swimming pool barrier ordinance, the requirements in A.R.S. § 36-1681.
- D. A licensee that uses any semi-public or private swimming pool for enrolled children shall ensure that the swimming pool has been inspected by the Department or a city or county health department before it is used by enrolled children.
  - 1. If a licensee operates or uses a swimming pool that is inspected by a city or county health department, the licensee shall provide the Department with a current written report of the swimming pool inspection.
  - 2. A licensee shall maintain the current swimming pool inspection reports of a swimming pool used by enrolled children on the facility premises.
- E. A licensee shall ensure that written permission is:
  - 1. Obtained from an enrolled child's parent before allowing the enrolled child to participate in a swimming activity, and
  - 2. Maintained on facility premises for 12 months after the date the enrolled child participated in the swimming activity.
- 10. Toilet rooms are ventilated to the outside of the building, either by a screened window open to the outside air or by an exhaust fan and duct system that is operated when the toilet room is in use;
- 11. A toilet room with a door that opens to the exterior of a building is equipped with a self-closing device that keeps the door closed except when an individual is entering or exiting;
- 12. A toilet room door does not open into a kitchen;
- 13. A smoke detector is installed in each indoor activity area and kitchen;
- 14. Each smoke detector required in subsection (B)(13) is:
  - a. Maintained in an operable condition;
  - b. Either battery operated or, if hard wired into the electrical system of the child care facility, has a back-up battery; and
  - c. Tested monthly;
- 15. If the local fire jurisdiction requires a sprinkler system, the sprinkler system is:
  - a. Installed,
  - b. Operable,
  - c. Tested quarterly, and
  - d. Serviced at least once every 12 months;
- 16. The fire extinguisher required in subsection (A):
  - a. Is serviced at least once every 12 months, and
  - b. Has a tag attached to the fire extinguisher that specifies the date of the last servicing and the identification of the person who serviced the fire extinguisher; and
- 17. The testing required in subsections (B)(14) and (15) and servicing required in subsection (B)(16) is documented and the documentation is:
  - a. Maintained by the licensee, and
  - b. Available for at least 12 months after the date of the testing or servicing.

**Historical Note**

Adopted effective December 12, 1986 (Supp. 86-6).  
 Amended effective July 7, 1988 (Supp. 88-3). Section repealed; new Section adopted effective October 17, 1997 (Supp. 97-4). Former R9-5-604 renumbered to R9-5-603; new R9-5-604 renumbered from R9-5-605 and amended by exempt rulemaking at 16 A.A.R. 1564, effective September 30, 2010 (Supp. 10-3).

**R9-5-605. Fire and Safety**

- A. A licensee shall install and maintain a portable, pressurized fire extinguisher that meets, at a minimum, a 2A-10-BC rating of the Underwriters Laboratories in a facility's kitchen and any other location required by Standard 10-1 of the International Fire Code, incorporated by reference in A.A.C. R9-1-412.
- B. A licensee shall ensure that:
  - 1. All designated exits, corridors, and passageways that provide escape from the building are unobstructed and unlocked during hours of operation;
  - 2. Combustible material, such as paper, boxes, or rags, is not permitted to accumulate inside or outside the facility premises;
  - 3. An unvented or open-flame space heater or portable heater is not used on the facility premises;
  - 4. A gas valve on an unused gas outlet is removed and capped where it emerges from the wall or floor;
  - 5. Electrical extension cords are not used;
  - 6. Except for a room used only for an enrolled school-age child, each unused electrical outlet is covered with a safety plug cover or insert;
  - 7. Slow cookers and hot plates are used only in a kitchen and are inaccessible to an enrolled child;
  - 8. Heating and cooling equipment is inaccessible to an enrolled child;
  - 9. Fans are mounted and inaccessible to an enrolled child;

**Historical Note**

Adopted effective December 12, 1986 (Supp. 86-6). Former Section R9-5-605 repealed and a new Section R9-5-605 adopted effective July 7, 1988 (Supp. 88-3). Section repealed; new Section adopted effective October 17, 1997 (Supp. 97-4). Former R9-5-605 renumbered to R9-5-604; new R9-5-605 renumbered from R9-5-606 and amended by exempt rulemaking at 16 A.A.R. 1564, effective September 30, 2010 (Supp. 10-3).

**R9-5-606. Renumbered****Historical Note**

Adopted effective December 12, 1986 (Supp. 86-6). Amended subsection (A) effective July 7, 1988 (Supp. 88-3). Section repealed; new Section adopted effective October 17, 1997 (Supp. 97-4). Section R9-5-606 renumbered to R9-5-605 by exempt rulemaking at 16 A.A.R. 1564, effective September 30, 2010 (Supp. 10-3).

**R9-5-607. Repealed****Historical Note**

Adopted effective December 12, 1986 (Supp. 86-6). Section repealed; new Section adopted effective October 17, 1997 (Supp. 97-4). Section repealed by exempt rulemaking at 16 A.A.R. 1564, effective September 30, 2010 (Supp. 10-3).

**R9-5-608. Repealed****Historical Note**

Adopted effective December 12, 1986 (Supp. 86-6). Repealed effective October 17, 1997 (Supp. 97-4).

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**R9-5-609. Repealed****Historical Note**

Adopted effective December 12, 1986 (Supp. 86-6).  
Repealed effective October 17, 1997 (Supp. 97-4).

**R9-5-610. Repealed****Historical Note**

Adopted effective December 12, 1986 (Supp. 86-6). Correction to subsection (F) as certified effective December 12, 1986; Amended subsection (A) effective July 7, 1988 (Supp. 88-3). Repealed effective October 17, 1997 (Supp. 97-4).

**R9-5-611. Repealed****Historical Note**

Adopted effective December 12, 1986 (Supp. 86-6).  
Amended effective July 7, 1988 (Supp. 88-3). Repealed effective October 17, 1997 (Supp. 97-4).

**R9-5-612. Repealed****Historical Note**

Adopted effective December 12, 1986 (Supp. 86-6).  
Repealed effective October 17, 1997 (Supp. 97-4).

**R9-5-613. Repealed****Historical Note**

Adopted effective December 12, 1986 (Supp. 86-6).  
Repealed effective October 17, 1997 (Supp. 97-4).

**R9-5-614. Repealed****Historical Note**

Adopted effective December 12, 1986 (Supp. 86-6).  
Amended subsection (C) effective July 7, 1988 (Supp. 88-3). Repealed effective October 17, 1997 (Supp. 97-4).

**ARTICLE 7. REPEALED**

*Article 7, consisting of Sections R9-5-701 through R9-5-708, repealed by final rulemaking at 10 A.A.R. 1282, effective September 1, 2004 (Supp. 04-1).*

**R9-5-701. Repealed****Historical Note**

Adopted as an emergency effective July 3, 1989, pursuant to A.R.S. § 41-1026, valid for only 90 days; Emergency rule readopted and amended effective September 28, 1989, pursuant to A.R.S. § 41-1026, valid for only 90 days (Supp. 89-3). Emergency rule readopted effective December 27, 1989, pursuant to A.R.S. § 41-1026, valid for only 90 days (Supp. 89-4). Emergency rule readopted effective April 3, 1990, pursuant to A.R.S. § 41-1026, valid for only 90 days (Supp. 90-2). Emergency expired. Emergency rule readopted effective July 9, 1990, pursuant to A.R.S. § 41-1026, valid for only 90 days (Supp. 90-3). Emergency rule permanently adopted with changes effective October 4, 1990 (Supp. 90-4). Section repealed; new Section made by final rulemaking at 8 A.A.R. 4060, effective November 10, 2002 (Supp. 02-3). Section repealed by final rulemaking at 10 A.A.R. 1282, effective September 1, 2004 (Supp. 04-1).

**R9-5-702. Repealed****Historical Note**

Adopted as an emergency effective July 3, 1989, pursuant to A.R.S. § 41-1026, valid for only 90 days; Emergency rule readopted effective September 28, 1989, pursuant to A.R.S. § 41-1026, valid for only 90 days (Supp. 89-3).

Emergency rule readopted effective December 27, 1989, pursuant to A.R.S. § 41-1026, valid for only 90 days (Supp. 89-4). Emergency rule readopted effective April 3, 1990, pursuant to A.R.S. § 41-1026, valid for only 90 days (Supp. 90-2). Emergency expired. Emergency rule readopted effective July 9, 1990, pursuant to A.R.S. § 41-1026, valid for only 90 days (Supp. 90-3). Emergency permanently adopted effective October 4, 1990 (Supp. 90-4). Section repealed; new Section made by final rulemaking at 8 A.A.R. 4060, effective November 10, 2002 (Supp. 02-3). Section repealed by final rulemaking at 10 A.A.R. 1282, effective September 1, 2004 (Supp. 04-1).

**Table 2. Repealed****Historical Note**

New Table made by final rulemaking at 8 A.A.R. 4060, effective November 10, 2002 (Supp. 02-3). Table repealed by final rulemaking at 10 A.A.R. 1282, effective September 1, 2004 (Supp. 04-1).

**R9-5-703. Repealed****Historical Note**

Adopted as an emergency effective July 3, 1989, pursuant to A.R.S. § 41-1026, valid for only 90 days; Emergency rule readopted and amended effective September 28, 1989, pursuant to A.R.S. § 41-1026, valid for only 90 days (Supp. 89-3). Emergency rule readopted effective December 27, 1989, pursuant to A.R.S. § 41-1026, valid for only 90 days; editorial corrections to labels of subsections (A)(8)(a)(i) through (A)(8)(a)(xix) (Supp. 89-4). Emergency rule readopted with changes effective April 3, 1990, pursuant to A.R.S. § 41-1026, valid for only 90 days (Supp. 90-2). Emergency expired. Emergency rule readopted effective July 9, 1990, pursuant to A.R.S. § 41-1026, valid for only 90 days (Supp. 90-3). Emergency rule permanently adopted with changes effective October 4, 1990 (Supp. 90-4). Section repealed; new Section made by final rulemaking at 8 A.A.R. 4060, effective November 10, 2002 (Supp. 02-3). Section repealed by final rulemaking at 10 A.A.R. 1282, effective September 1, 2004 (Supp. 04-1).

**R9-5-704. Repealed****Historical Note**

Adopted as an emergency effective July 3, 1989, pursuant to A.R.S. § 41-1026, valid for only 90 days; Emergency rule readopted effective September 28, 1989, pursuant to A.R.S. § 41-1026, valid for only 90 days (Supp. 89-3). Emergency rule readopted effective December 27, 1989, pursuant to A.R.S. § 41-1026, valid for only 90 days (Supp. 89-4). Emergency rule readopted effective April 3, 1990, pursuant to A.R.S. § 41-1026, valid for only 90 days (Supp. 90-2). Emergency expired. Emergency rule readopted effective July 9, 1990, pursuant to A.R.S. § 41-1026, valid for only 90 days (Supp. 90-3). Emergency permanently adopted effective October 4, 1990 (Supp. 90-4). Amended by final rulemaking at 8 A.A.R. 4060, effective November 10, 2002 (Supp. 02-3). Section repealed by final rulemaking at 10 A.A.R. 1282, effective September 1, 2004 (Supp. 04-1).

**R9-5-705. Repealed****Historical Note**

Adopted as an emergency effective July 3, 1989, pursuant to A.R.S. § 41-1026, valid for only 90 days; Emergency

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rule readopted effective September 28, 1989, pursuant to A.R.S. § 41-1026, valid for only 90 days (Supp. 89-3). Emergency rule readopted effective December 27, 1989, pursuant to A.R.S. § 41-1026, valid for only 90 days (Supp. 89-4). Emergency rule readopted effective April 3, 1990, pursuant to A.R.S. § 41-1026, valid for only 90 days (Supp. 90-2). Emergency expired. Emergency rule readopted effective July 9, 1990, pursuant to A.R.S. § 41-1026, valid for only 90 days (Supp. 90-3). Emergency rule permanently adopted effective October 4, 1990 (Supp. 90-4). Section repealed; new Section made by final rulemaking at 8 A.A.R. 4060, effective November 10, 2002 (Supp. 02-3). Section repealed by final rulemaking at 10 A.A.R. 1282, effective September 1, 2004 (Supp. 04-1).

**R9-5-706. Repealed****Historical Note**

Adopted as an emergency effective July 3, 1989, pursuant to A.R.S. § 41-1026, valid for only 90 days; Emergency rule readopted effective September 28, 1989, pursuant to A.R.S. § 41-1026, valid for only 90 days (Supp. 89-3). Emergency rule readopted effective December 27, 1989, pursuant to A.R.S. § 41-1026, valid for only 90 days (Supp. 89-4). Emergency rule readopted effective April 3, 1990, pursuant to A.R.S. § 41-1026, valid for only 90 days (Supp. 90-2). Emergency expired. Emergency rule readopted effective July 9, 1990, pursuant to A.R.S. § 41-1026, valid for only 90 days (Supp. 90-3). Emergency rule permanently adopted effective October 4, 1990 (Supp. 90-4). Section repealed; new Section made by final rulemaking at 8 A.A.R. 4060, effective November 10, 2002 (Supp. 02-3). Section repealed by final rulemaking at 10 A.A.R. 1282, effective September 1, 2004 (Supp. 04-1).

**R9-5-707. Repealed****Historical Note**

Adopted as an emergency effective July 3, 1989, pursuant to A.R.S. § 41-1026, valid for only 90 days; Emergency rule readopted effective September 28, 1989, pursuant to A.R.S. § 41-1026, valid for only 90 days (Supp. 89-3). Emergency rule readopted effective December 27, 1989, pursuant to A.R.S. § 41-1026, valid for only 90 days (Supp. 89-4). Emergency rule readopted effective April 3, 1990, pursuant to A.R.S. § 41-1026, valid for only 90 days (Supp. 90-2). Emergency expired. Emergency rule readopted effective July 9, 1990, pursuant to A.R.S. § 41-1026, valid for only 90 days (Supp. 90-3). Emergency rule permanently adopted effective October 4, 1990 (Supp. 90-4). Amended by final rulemaking at 8 A.A.R. 4060, effective November 10, 2002 (Supp. 02-3). Section repealed by final rulemaking at 10 A.A.R. 1282, effective September 1, 2004 (Supp. 04-1).

**R9-5-708. Repealed****Historical Note**

New Section made by final rulemaking at 8 A.A.R. 4060, effective November 10, 2002 (Supp. 02-3). Section repealed by final rulemaking at 10 A.A.R. 1282, effective September 1, 2004 (Supp. 04-1).

**ARTICLE 8. REPEALED**

*Article 8, consisting of Sections R9-5-801 through R9-5-809, repealed by final rulemaking at 10 A.A.R. 1282, effective September 1, 2004 (Supp. 04-1).*

**R9-5-801. Repealed****Historical Note**

Adopted as an emergency effective July 3, 1989, pursuant to A.R.S. § 41-1026, valid for only 90 days; Emergency rule readopted and amended effective September 28, 1989, pursuant to A.R.S. § 41-1026, valid for only 90 days (Supp. 89-3). Emergency rule readopted effective December 27, 1989, pursuant to A.R.S. § 41-1026, valid for only 90 days (Supp. 89-4). Emergency rule readopted effective April 3, 1990, pursuant to A.R.S. § 41-1026, valid for only 90 days (Supp. 90-2). Emergency expired. Emergency rule readopted effective July 9, 1990, pursuant to A.R.S. § 41-1026, valid for only 90 days (Supp. 90-3). Emergency rule permanently adopted with changes effective October 4, 1990 (Supp. 90-4). Amended by final rulemaking at 8 A.A.R. 4060, effective November 10, 2002 (Supp. 02-3). Section repealed by final rulemaking at 10 A.A.R. 1282, effective September 1, 2004 (Supp. 04-1).

**R9-5-802. Repealed****Historical Note**

Adopted as an emergency effective July 3, 1989, pursuant to A.R.S. § 41-1026, valid for only 90 days; Emergency rule readopted and amended effective September 28, 1989, pursuant to A.R.S. § 41-1026, valid for only 90 days (Supp. 89-3). Emergency rule readopted effective December 27, 1989, pursuant to A.R.S. § 41-1026, valid for only 90 days (Supp. 89-4). Emergency rule readopted effective April 3, 1990, pursuant to A.R.S. § 41-1026, valid for only 90 days (Supp. 90-2). Emergency expired. Emergency rule readopted effective July 9, 1990, pursuant to A.R.S. § 41-1026, valid for only 90 days (Supp. 90-3). Emergency rule permanently adopted effective October 4, 1990 (Supp. 90-4). Amended by final rulemaking at 8 A.A.R. 4060, effective November 10, 2002 (Supp. 02-3). Section repealed by final rulemaking at 10 A.A.R. 1282, effective September 1, 2004 (Supp. 04-1).

**R9-5-803. Repealed****Historical Note**

Adopted as an emergency effective July 3, 1989, pursuant to A.R.S. § 41-1026, valid for only 90 days; Emergency rule readopted effective September 28, 1989, pursuant to A.R.S. § 41-1026, valid for only 90 days (Supp. 89-3). Emergency rule readopted effective December 27, 1989, pursuant to A.R.S. § 41-1026, valid for only 90 days (Supp. 89-4). Emergency rule readopted effective April 3, 1990, pursuant to A.R.S. § 41-1026, valid for only 90 days (Supp. 90-2). Emergency expired. Emergency rule readopted effective July 9, 1990, pursuant to A.R.S. § 41-1026, valid for only 90 days (Supp. 90-3). Emergency rule permanently adopted with changes effective October 4, 1990 (Supp. 90-4). Section repealed by final rulemaking at 10 A.A.R. 1282, effective September 1, 2004 (Supp. 04-1).

**R9-5-804. Repealed****Historical Note**

Adopted as an emergency effective July 3, 1989, pursuant to A.R.S. § 41-1026, valid for only 90 days; Emergency rule readopted effective September 28, 1989, pursuant to A.R.S. § 41-1026, valid for only 90 days (Supp. 89-3). Emergency rule readopted effective December 27, 1989, pursuant to A.R.S. § 41-1026, valid for only 90 days (Supp. 89-4). Emergency rule readopted effective April 3,









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**R9-5-1004. Repealed****Historical Note**

Adopted as an emergency effective July 3, 1989, pursuant to A.R.S. § 41-1026, valid for only 90 days; Emergency rule readopted effective September 28, 1989, pursuant to A.R.S. § 41-1026, valid for only 90 days (Supp. 89-3). Emergency rule readopted effective December 27, 1989, pursuant to A.R.S. § 41-1026, valid for only 90 days (Supp. 89-4). Emergency rule readopted effective April 3, 1990, pursuant to A.R.S. § 41-1026, valid for only 90 days (Supp. 90-2). Emergency expired. Emergency rule readopted effective July 9, 1990, pursuant to A.R.S. § 41-1026, valid for only 90 days (Supp. 90-3). Emergency rule permanently adopted effective October 4, 1990 (Supp. 90-4). Section repealed by final rulemaking at 10 A.A.R. 1282, effective September 1, 2004 (Supp. 04-1).

**R9-5-1005. Repealed****Historical Note**

Adopted as an emergency effective July 3, 1989, pursuant to A.R.S. § 41-1026, valid for only 90 days; Emergency rule readopted effective September 28, 1989, pursuant to A.R.S. § 41-1026, valid for only 90 days (Supp. 89-3). Emergency rule readopted effective December 27, 1989, pursuant to A.R.S. § 41-1026, valid for only 90 days

(Supp. 89-4). Emergency rule readopted effective April 3, 1990, pursuant to A.R.S. § 41-1026, valid for only 90 days (Supp. 90-2). Emergency expired. Emergency rule readopted effective July 9, 1990, pursuant to A.R.S. § 41-1026, valid for only 90 days (Supp. 90-3). Emergency rule permanently adopted effective October 4, 1990 (Supp. 90-4). Section repealed by final rulemaking at 10 A.A.R. 1282, effective September 1, 2004 (Supp. 04-1).

**R9-5-1006. Repealed****Historical Note**

Adopted as an emergency effective July 3, 1989, pursuant to A.R.S. § 41-1026, valid for only 90 days; Emergency rule readopted effective September 28, 1989, pursuant to A.R.S. § 41-1026, valid for only 90 days (Supp. 89-3). Emergency rule readopted effective December 27, 1989, pursuant to A.R.S. § 41-1026, valid for only 90 days (Supp. 89-4). Emergency rule readopted effective April 3, 1990, pursuant to A.R.S. § 41-1026, valid for only 90 days (Supp. 90-2). Emergency expired. Emergency rule readopted effective July 9, 1990, pursuant to A.R.S. § 41-1026, valid for only 90 days (Supp. 90-3). Emergency rule permanently adopted effective October 4, 1990 (Supp. 90-4). Section repealed by final rulemaking at 10 A.A.R. 1282, effective September 1, 2004 (Supp. 04-1).

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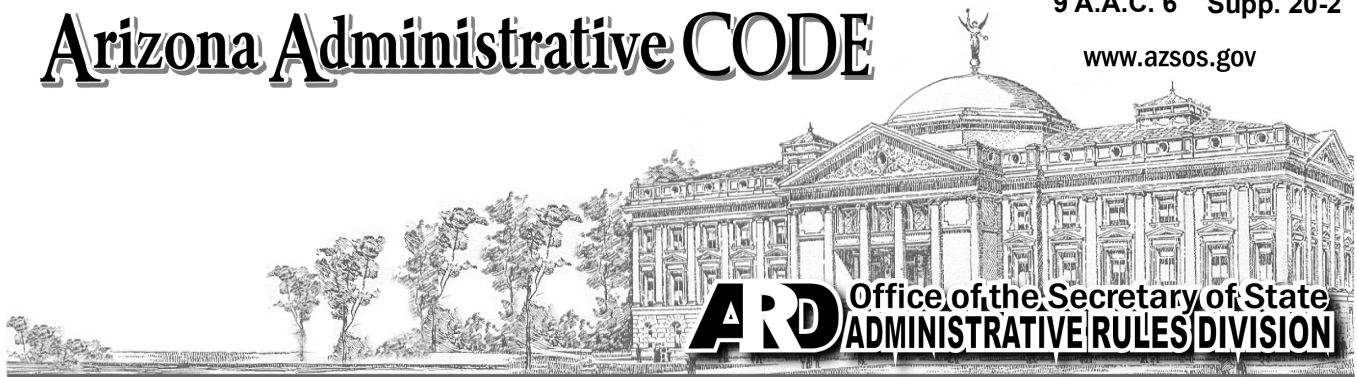
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## TITLE 9. HEALTH SERVICES

### CHAPTER 6. DEPARTMENT OF HEALTH SERVICES - COMMUNICABLE DISEASES AND INFESTATIONS

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#### The release of this Chapter in Supp. 20-2 replaces Supp. 19-4, 1-82 pages

Please note that the Chapter you are about to replace may have rules still in effect after the publication date of this supplement. Therefore, all superseded material should be retained in a separate binder and archived for future reference.



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## TITLE 9. HEALTH SERVICES

## CHAPTER 6. DEPARTMENT OF HEALTH SERVICES - COMMUNICABLE DISEASES AND INFESTATIONS

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*Article 2, consisting of Section R9-6-201 and R9-6-202, renumbered from Article 6, Sections R9-6-601 and R9-6-602 effective October 19, 1993 (Supp. 93-4).*

*Article 2, consisting of Sections R9-6-201 through R9-6-203, renumbered to Article 5, Sections R9-6-501 through R9-6-503 effective October 19, 1993 (Supp. 93-4).*

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renumbered from Article 2, Sections R9-6-201 through R9-6-203 effective October 19, 1993 (Supp. 93-4).

Article 5, consisting of Sections R9-6-501 through R9-6-506 and Tables 1 and 2, renumbered to Article 7, Sections R9-6-701 through R9-6-706 and Tables 1 and 2 effective October 19, 1993 (Supp. 93-4).

Article 5, consisting of Sections R9-6-501 through R9-6-506 and Tables 1 and 2, adopted effective January 20, 1992 (Supp. 92-1).

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Article 8 heading corrected as amended by final expedited rulemaking at 24 A.A.R. 2758, effective September 11, 2018 (Supp. 19-4).

New Article 8, consisting of Sections R9-6-801 through R9-6-803, made by final rulemaking at 8 A.A.R. 5214, effective February 1, 2003 (Supp. 02-4).

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Article 8, consisting of Sections R9-6-801 through R9-6-808, renumbered to Article 4, Sections R9-6-401 through R9-6-408 (Supp. 93-4).

Article 8 consisting of Sections R9-6-801 through R9-6-808 adopted as permanent rules effective May 22, 1989.

Article 8 consisting of Sections R9-6-801 through R9-6-808 readopted as an emergency effective November 16, 1988, pursuant to A.R.S. § 41-1026, valid for only 90 days. Emergency expired.

Article 8 consisting of Sections R9-6-801 through R9-6-808 readopted as an emergency effective August 8, 1988, pursuant to A.R.S. § 41-1026, valid for only 90 days. Emergency expired.

Article 8 consisting of Sections R9-6-801 through R9-6-809 readopted as an emergency effective May 9, 1988, pursuant to A.R.S. § 41-1026, valid for only 90 days.

Article 8 consisting of Sections R9-6-801 through R9-6-809 adopted as an emergency effective January 12, 1988, pursuant to A.R.S. § 41-1026, valid for only 90 days. Emergency expired.

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## CHAPTER 6. DEPARTMENT OF HEALTH SERVICES - COMMUNICABLE DISEASES AND INFESTATIONS

## ARTICLE 1. GENERAL

**R9-6-101. Definitions**

In this Chapter, unless otherwise specified:

1. "Active tuberculosis" means the same as in A.R.S. § 36-711.
2. "Administrator" means the individual who is the senior leader at a child care establishment, health care institution, correctional facility, school, pharmacy, or shelter.
3. "Agency" means any board, commission, department, office, or other administrative unit of the federal government, the state, or a political subdivision of the state.
4. "Agent" means an organism that may cause a disease, either directly or indirectly.
5. "AIDS" means Acquired Immunodeficiency Syndrome.
6. "Airborne precautions" means, in addition to use of standard precautions:
  - a. Either:
    - i. Placing an individual in a private room with negative air-pressure ventilation, at least six air exchanges per hour, and air either:
      - (1) Exhausted directly to the outside of the building containing the room, or
      - (2) Recirculated through a HEPA filtration system before being returned to the interior of the building containing the room; or
    - ii. If the building in which an individual is located does not have an unoccupied room meeting the specifications in subsection (6)(a)(i):
      - (1) Placing the individual in a private room, with the door to the room kept closed when not being used for entering or leaving the room, until the individual is transferred to a health care institution that has a room meeting the specifications in subsection (6)(a)(i) or to the individual's residence, as medically appropriate; and
      - (2) Ensuring that the individual is wearing a mask covering the individual's nose and mouth; and
  - b. Ensuring the use by other individuals, when entering the room in which the individual is located, of a device that is:
    - i. Designed to protect the wearer against inhalation of an atmosphere that may be harmful to the health of the wearer, and
    - ii. At least as protective as a National Institute for Occupational Safety and Health-approved N-95 respirator.
7. "Approved test for tuberculosis" means a Mantoux skin test or other test for tuberculosis recommended by the Centers for Disease Control and Prevention or the Tuberculosis Control Officer appointed under A.R.S. § 36-714.
8. "Arizona State Laboratory" means the part of the Department authorized by A.R.S. Title 36, Chapter 2, Article 2, and A.R.S. § 36-132(A)(11) that performs serological, microbiological, entomological, and chemical analyses.
9. "Average window period" means the typical time between exposure to an agent and the ability to detect infection with the agent in human blood.
10. "Barrier" means a mask, gown, glove, face shield, face mask, or other membrane or filter to prevent the transmission of infectious agents and protect an individual from exposure to body fluids.
11. "Body fluid" means semen, vaginal secretion, tissue, cerebrospinal fluid, synovial fluid, pleural fluid, peritoneal fluid, pericardial fluid, amniotic fluid, urine, blood, lymph, or saliva.
12. "Carrier" means an infected individual without symptoms who can spread the infection to a susceptible individual.
13. "Case" means an individual:
  - a. With a communicable disease whose condition is documented:
    - i. By laboratory results that support the presence of the agent that causes the disease;
    - ii. By a health care provider's diagnosis based on clinical observation; or
    - iii. By epidemiologic associations with the communicable disease, the agent that causes the disease, or toxic products of the agent;
  - b. Who has experienced diarrhea, nausea, or vomiting as part of an outbreak; or
  - c. Who has experienced a vaccinia-related adverse event.
14. "Case definition" means the disease-specific criteria that must be met for an individual to be classified as a case.
15. "Chief medical officer" means the senior health care provider in a correctional facility or that individual's designee who is also a health care provider.
16. "Child" means an individual younger than 18 years of age.
17. "Child care establishment" means:
  - a. A "child care facility," as defined in A.R.S. § 36-881;
  - b. A "child care group home," as defined in A.R.S. § 36-897;
  - c. A child care home registered with the Arizona Department of Education under A.R.S. § 46-321; or
  - d. A child care home certified by the Arizona Department of Economic Security under A.R.S. Title 46, Chapter 7, Article 1.
18. "Clinical signs and symptoms" means evidence of disease or injury that can be observed by a health care provider or can be inferred by the health care provider from a patient's description of subjective complaints.
19. "Cohort room" means a room housing only individuals infected with the same agent and no other agent.
20. "Communicable disease" means an illness caused by an agent or its toxic products that arises through the transmission of that agent or its products to a susceptible host, either directly or indirectly.
21. "Communicable period" means the time during which an agent may be transmitted directly or indirectly:
  - a. From an infected individual to another individual;
  - b. From an infected animal, arthropod, or vehicle to an individual; or
  - c. From an infected individual to an animal.
22. "Confirmatory test" means a laboratory analysis approved by the U.S. Food and Drug Administration to be used after a screening test to diagnose or monitor the progression of HIV infection.
23. "Contact" means an individual who has been exposed to an infectious agent in a manner that may have allowed transmission of the infectious agent to the individual during the communicable period.
24. "Correctional facility" means any place used for the confinement or control of an individual:
  - a. Charged with or convicted of an offense,
  - b. Held for extradition, or
  - c. Pursuant to a court order for law enforcement purposes.

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25. "Court-ordered subject" means a subject who is required by a court of competent jurisdiction to provide one or more specimens of blood or other body fluids for testing.
26. "Dentist" means an individual licensed under A.R.S. Title 32, Chapter 11, Article 2.
27. "Department" means the Arizona Department of Health Services.
28. "Designated service area" means the same as in R9-18-101.
29. "Diagnosis" means an identification of a disease by an individual authorized by law to make the identification.
30. "Disease" means a condition or disorder that causes the human body to deviate from its normal or healthy state.
31. "Emerging or exotic disease" means:
  - a. A new disease resulting from change in an existing organism;
  - b. A known disease not usually found in the geographic area or population in which it is found;
  - c. A previously unrecognized disease appearing in an area undergoing ecologic transformation; or
  - d. A disease reemerging as a result of a situation such as antimicrobial resistance in a known infectious agent, a breakdown in public health measures, or deliberate release.
32. "Entity" has the same meaning as "person" in A.R.S. § 1-215.
33. "Epidemiologic investigation" means the application of scientific methods to ascertain a diagnosis; identify risk factors for a disease; determine the potential for spreading a disease; institute control measures; and complete forms and reports such as communicable disease, case investigation, and outbreak reports.
34. "Fever" means a temperature of 100.4° F or higher.
35. "Food establishment" has the same meaning as in the document incorporated by reference in A.A.C. R9-8-107.
36. "Food handler" means:
  - a. A paid or volunteer full-time or part-time worker who prepares or serves food or who otherwise touches food in a food establishment; or
  - b. An individual who prepares food for or serves food to a group of two or more individuals in a setting other than a food establishment.
37. "Foodborne" means that food serves as a mode of transmission of an infectious agent.
38. "Guardian" means an individual who is invested with the authority and charged with the duty of caring for an individual by a court of competent jurisdiction.
39. "HBsAg" means hepatitis B surface antigen.
40. "Health care institution" has the same meaning as in A.R.S. § 36-401.
41. "Health care provider" means the same as in A.R.S. § 36-661.
42. "Health education" means supplying to an individual or a group of individuals:
  - a. Information about a communicable disease or options for treatment of a communicable disease, and
  - b. Guidance about methods to reduce the risk that the individual or group of individuals will become infected or infect other individuals.
43. "HIV" means Human Immunodeficiency Virus.
44. "HIV-related test" has the same meaning as in A.R.S. § 36-661.
45. "Infected" or "infection" means when an individual has an agent for a disease in a part of the individual's body where the agent may cause a disease.
46. "Infectious active tuberculosis" means pulmonary or laryngeal active tuberculosis in an individual, which can be transmitted from the infected individual to another individual.
47. "Infectious agent" means an agent that can be transmitted to an individual.
48. "Infant" means a child younger than 12 months of age.
49. "Isolate" means:
  - a. To separate an infected individual or animal from others to limit the transmission of infectious agents, or
  - b. A pure strain of an agent obtained from a specimen.
50. "Isolation" means separation, during the communicable period, of an infected individual or animal from others to limit the transmission of infectious agents.
51. "Laboratory report" means a document that:
  - a. Is produced by a laboratory that conducts a test or tests on a subject's specimen; and
  - b. Shows the outcome of each test, including personal identifying information about the subject.
52. "Local health agency" means a county health department, a public health services district, a tribal health unit, or a U.S. Public Health Service Indian Health Service Unit.
53. "Local health officer" means an individual who has daily control and supervision of a local health agency or the individual's designee.
54. "Medical evaluation" means an assessment of an individual's health by a physician, physician assistant, or registered nurse practitioner.
55. "Medical examiner" means an individual:
  - a. Appointed as a county medical examiner by a county board of supervisors under A.R.S. § 11-592, or
  - b. Employed by a county board of supervisors under A.R.S. § 11-592 to perform the duties of a county medical examiner.
56. "Multi-drug resistant tuberculosis" means active tuberculosis that is caused by bacteria that are not susceptible to the antibiotics isoniazid and rifampin.
57. "Officer in charge" means the individual in the senior leadership position in a correctional facility or that individual's designee.
58. "Outbreak" means an unexpected increase in incidence of a disease, infestation, or sign or symptom of illness.
59. "Parent" means a biological or adoptive mother or father.
60. "Person" has the same meaning as in A.R.S. § 1-215.
61. "Petition" means a formal written application to a court requesting judicial action on a matter.
62. "Pharmacy" has the same meaning as in A.R.S. § 32-1901.
63. "Physician" means an individual licensed as a doctor of:
  - a. Allopathic medicine under A.R.S. Title 32, Chapter 13;
  - b. Naturopathic medicine under A.R.S. Title 32, Chapter 14;
  - c. Osteopathic medicine under A.R.S. Title 32, Chapter 17; or
  - d. Homeopathic medicine under A.R.S. Title 32, Chapter 29.
64. "Physician assistant" has the same meaning as in A.R.S. § 32-2501.
65. "Pupil" means a student attending a school.
66. "Quarantine" means the restriction of activities of an individual or animal that has been exposed to a case or carrier of a communicable disease during the communi-

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- cable period, to prevent transmission of the disease if infection occurs.
67. "Registered nurse practitioner" has the same meaning as in A.R.S. § 32-1601.
  68. "Respiratory disease" means a communicable disease with acute onset of fever and symptoms such as cough, sore throat, or shortness of breath.
  69. "Risk factor" means an activity or circumstance that increases the chances that an individual will become infected with or develop a communicable disease.
  70. "School" means:
    - a. An "accommodation school," as defined in A.R.S. § 15-101;
    - b. A "charter school," as defined in A.R.S. § 15-101;
    - c. A "private school," as defined in A.R.S. § 15-101;
    - d. A "school," as defined in A.R.S. § 15-101;
    - e. A college or university;
    - f. An institution that offers a "private vocational program," as defined in A.R.S. § 32-3001; or
    - g. An institution that grants a "degree," as defined in A.R.S. § 32-3001, for completion of an educational program of study.
  71. "Screening test" means a laboratory analysis approved by the U.S. Food and Drug Administration as an initial test to indicate the possibility that an individual is infected with a communicable disease.
  72. "Sexual contact" means vaginal intercourse, anal intercourse, fellatio, cunnilingus, or other deliberate interaction with another individual's genital area for a non-medical or non-hygienic reason.
  73. "Shelter" means:
    - a. A facility or home that provides "shelter care," as defined in A.R.S. § 8-201;
    - b. A "homeless shelter," as defined in A.R.S. § 16-121; or
    - c. A "shelter for victims of domestic violence," as defined in A.R.S. § 36-3001.
  74. "Significant exposure" means the same as in A.R.S. § 32-3207.
  75. "Standard precautions" means the use of barriers by an individual to prevent parenteral, mucous membrane, and nonintact skin exposure to body fluids and secretions other than sweat.
  76. "Subject" means an individual whose blood or other body fluid has been tested or is to be tested.
  77. "Submitting entity" means the same as in A.R.S. § 13-1415.
  78. "Suspect case" means an individual whose medical history, signs, or symptoms indicate that the individual:
    - a. May have or is developing a communicable disease;
    - b. May have experienced diarrhea, nausea, or vomiting as part of an outbreak; or
    - c. May have experienced a vaccinia-related adverse event.
  79. "Syndrome" means a pattern of signs and symptoms characteristic of a disease.
  80. "Test" means an analysis performed on blood or other body fluid to evaluate for the presence or absence of a disease.
  81. "Test result" means information about the outcome of a laboratory analysis of a subject's specimen and does not include personal identifying information about the subject.
  82. "Treatment" means a procedure or method to cure, improve, or palliate an illness or a disease.
  83. "Tuberculosis control officer" means the same as in A.R.S. § 36-711.
  84. "Vaccine" means a preparation of a weakened or killed agent, a portion of the agent's structure, or a synthetic substitute for a portion of the agent's structure that, upon administration into the body of an individual or animal, stimulates a response in the body to produce or increase immunity to a particular disease.
  85. "Vaccinia-related adverse event" means a reaction to the administration of a vaccine against smallpox that requires medical evaluation of the reaction.
  86. "Victim" means an individual on whom another individual is alleged to have committed a sexual offense, as defined in A.R.S. § 13-1415.
  87. "Viral hemorrhagic fever" means disease characterized by fever and hemorrhaging and caused by a virus.
  88. "Waterborne" means that water serves as a mode of transmission of an infectious agent.
  89. "Working day" means the period from 8:00 a.m. to 5:00 p.m. on a Monday, Tuesday, Wednesday, Thursday, or Friday that is not a state holiday.

**Historical Note**

Adopted effective January 28, 1987 (Supp. 87-1).  
 Amended effective September 14, 1990 (Supp. 90-3).  
 Amended effective October 19, 1993 (Supp. 93-4).  
 Amended by final rulemaking at 8 A.A.R. 1953, effective April 3, 2002 (Supp. 02-2). Amended by final rulemaking at 10 A.A.R. 3559, effective October 2, 2004 (Supp. 04-3). Amended by final rulemaking at 14 A.A.R. 1502, effective April 1, 2008 (Supp. 08-2). Amended by final rulemaking at 15 A.A.R. 215, effective March 7, 2009 (Supp. 09-1). Amended by final rulemaking at 23 A.A.R. 2605, effective January 1, 2018 (Supp. 17-3).

**R9-6-102. Release of Information**

A person shall release information, including protected health information as defined in 45 CFR 160.103, to the Department or a local health agency upon request if the information is:

1. Requested by the Department or the local health agency for the purpose of:
  - a. Detecting, preventing, or controlling a communicable disease; or
  - b. Preventing injury or disability that may result from a communicable disease; and
2. In the possession of the person.

**Historical Note**

Adopted effective May 2, 1991 (Supp. 91-2). Former Section R9-6-102 renumbered to R9-6-105, new Section R9-6-102 renumbered from R9-6-106 and amended effective October 19, 1993 (Supp. 93-4). Amended by final rulemaking at 8 A.A.R. 1953, effective April 3, 2002 (Supp. 02-2). Former R9-6-102 renumbered to R9-6-201; new R9-6-102 made by final rulemaking at 10 A.A.R. 3559, effective October 2, 2004 (Supp. 04-3). Amended by final rulemaking at 14 A.A.R. 4522, effective December 2, 2008 (Supp. 08-4).

**R9-6-103. Disclosure of Communicable Disease-Related Information to a Good Samaritan**

- A. In this Section, unless otherwise specified, the following definitions apply:
  1. "Affidavit" means a voluntary declaration or statement of facts that is made in writing and under oath or affirmation.

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2. "Assisted person" means the individual with whom a Good Samaritan alleges interaction constituting a significant exposure risk.
  3. "Available" means in the possession of or accessible by the Designated Officer who is reviewing a disclosure request.
  4. "Communicable disease-related information" has the same meaning as in A.R.S. § 36-661.
  5. "Designated Officer" means an individual appointed by the Director or a local health officer to:
    - a. Review a disclosure request from a Good Samaritan;
    - b. Determine whether disclosure of communicable disease-related information is required under A.R.S. § 36-664(E) and this Section; and
    - c. Respond to the Good Samaritan.
  6. "Director" has the same meaning as in A.R.S. § 36-101.
  7. "Disclosure request" means the information submitted by a Good Samaritan according to A.R.S. § 36-664(E) and subsection (C) or (D).
  8. "Emergency care or assistance" means actions performed by an individual on or for another individual, which are necessary to prevent death or impairment of the health of the other individual.
  9. "Emergency department" has the same meaning as in A.A.C. R9-11-101.
  10. "Good Samaritan" has the same meaning as in A.R.S. § 36-661.
  11. "In writing" means:
    - a. An original document,
    - b. A photocopy,
    - c. A facsimile, or
    - d. An e-mail.
  12. "Medical consultation" means discussion between a Good Samaritan and:
    - a. A physician or a registered nurse practitioner working in an emergency department or urgent care unit;
    - b. An occupational health provider as defined in A.A.C. R9-6-801; or
    - c. Any other health care provider knowledgeable in determining circumstances when post-exposure prophylaxis is necessary.
  13. "Mucous membrane" means a thin, pliable layer of tissue that lines passageways and cavities in the human body that lead to the outside, such as the mouth, gastrointestinal tract, nose, vagina, and urethra.
  14. "Notarized" means signed and dated by a notary.
  15. "Notary" means any individual authorized to perform the acts specified under A.R.S. § 41-313.
  16. "Post-exposure prophylaxis" means treatment provided to an individual who may have been exposed to a communicable disease, which is intended to prevent infection of the individual.
  17. "Significant exposure risk" has the same meaning as in A.R.S. § 36-661.
  18. "Under oath or affirmation" means a sworn or affirmed statement made by a Good Samaritan to a notary under the penalty of perjury.
  19. "Urgent care unit" has the same meaning as in A.A.C. R9-11-201.
- B.** A significant exposure risk may occur when a Good Samaritan's interaction with an individual results in:
1. A transfer of blood or body fluids from the individual onto the mucous membranes or into breaks in the skin of the Good Samaritan; or
  2. A sharing of airspace between the Good Samaritan and the individual.
- C.** If a Good Samaritan makes a disclosure request to the Department or a local health agency 72 hours or less after an alleged significant exposure risk, the disclosure request shall include:
1. The Good Samaritan's name;
  2. The Good Samaritan's mailing address or e-mail address;
  3. The telephone number at which the Good Samaritan may be reached during a working day;
  4. A description of the accident, fire, or other life-threatening emergency, in which the Good Samaritan rendered emergency care or assistance;
  5. A description of the:
    - a. Emergency care or assistance rendered by the Good Samaritan at the accident, fire, or other life-threatening emergency; and
    - b. Circumstances that the Good Samaritan believes constitute a significant exposure risk;
  6. If known, the name of the assisted person;
  7. If known, the date of birth of the assisted person; and
  8. Any additional information that may identify the assisted person.
- D.** If a Good Samaritan makes a disclosure request to the Department or a local health agency more than 72 hours after an alleged significant exposure risk, the disclosure request shall include:
1. A statement in writing that the Good Samaritan is requesting communicable disease-related information for an assisted person as allowed under A.R.S. § 36-664(E);
  2. Documentation concerning the accident, fire, or other life-threatening emergency in which the Good Samaritan rendered emergency care or assistance; and
  3. A notarized affidavit that contains:
    - a. The information specified in subsections (C)(1) through (8);
    - b. A statement that the Good Samaritan understands that the Good Samaritan may seek medical consultation to determine whether post-exposure prophylaxis for a communicable disease is needed;
    - c. A statement that the Good Samaritan certifies that the declarations contained within the affidavit are truthful to the best of the Good Samaritan's knowledge; and
    - d. The Good Samaritan's signature.
- E.** Within two working days after the Department or a local health agency receives a disclosure request from a Good Samaritan, the Designated Officer shall:
1. If the Designated Officer determines that the information provided as specified in subsection (C) or (D) indicates a significant exposure risk to the Good Samaritan and communicable disease-related information is available for the assisted person:
    - a. Attempt to contact the Good Samaritan by telephone and provide the Good Samaritan with the communicable disease-related information:
      - i. For the assisted person;
      - ii. Pertaining to the specific communicable disease or diseases that may be transmitted through the interaction between the Good Samaritan and the assisted person; and
      - iii. Without revealing the assisted person's name;
    - b. Attempt to contact the Good Samaritan by telephone and notify the Good Samaritan that disclosure of communicable disease-related information for one communicable disease does not rule out the possibility that the Good Samaritan was exposed to other communicable diseases about which information is not available to the Designated Officer;

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- c. Attempt to contact the Good Samaritan by telephone and provide to the Good Samaritan information concerning the agent causing the communicable disease for which the Designated Officer is disclosing communicable disease-related information, including:
  - i. A description of the disease or syndrome caused by the agent, including its symptoms;
  - ii. A description of how the agent is transmitted to others;
  - iii. The average window period for the agent;
  - iv. An explanation that exposure to an individual with a communicable disease does not mean that infection has occurred or will occur;
  - v. Measures to reduce the likelihood of transmitting the agent to others and that it is necessary to continue the measures until a negative test result is obtained after the average window period has passed or until an infection, if detected, is eliminated;
  - vi. That it is necessary to notify others that they may be or may have been exposed to the agent through interaction with the Good Samaritan; and
  - vii. The availability of assistance from the Department, local health agencies, or other resources; and
- d. Send to the Good Samaritan in writing:
  - i. The information specified in subsection (E)(1)(a);
  - ii. The notification specified in subsection (E)(1)(b);
  - iii. The information specified in subsection (E)(1)(c); and
  - iv. A statement that the confidentiality of the disclosed communicable disease-related information is protected by A.R.S. §§ 36-664(G) and 36-666(A)(2);
- 2. If the Designated Officer determines that the information provided as specified in subsection (C) or (D) indicates a significant exposure risk to the Good Samaritan, but the Designated Officer is unable to provide communicable disease-related information for the assisted person:
  - a. Attempt to contact the Good Samaritan by telephone and notify the Good Samaritan that either:
    - i. Communicable disease-related information, pertaining to the specific communicable disease or diseases that may be transmitted through the interaction between the Good Samaritan and the assisted person, is not available to the Designated Officer; or
    - ii. The Designated Officer is unable to identify the assisted person from the information provided in the Good Samaritan's disclosure request, as specified in subsection (C) or (D);
  - b. Attempt to contact the Good Samaritan by telephone and notify the Good Samaritan that:
    - i. The Good Samaritan's interaction with the assisted person may pose a significant exposure risk to the Good Samaritan; and
    - ii. The Good Samaritan may seek medical consultation on the need for post-exposure prophylaxis; and
  - c. Send to the Good Samaritan in writing the notifications specified in subsections (E)(2)(a) and (b); and
- 3. If the Designated Officer determines that the information provided as specified in subsection (C) or (D) does not

indicate a significant exposure risk to the Good Samaritan:

- a. Attempt to contact the Good Samaritan by telephone and notify the Good Samaritan that the Designated Officer will not disclose any available communicable disease-related information for the assisted person; and
- b. Send to the Good Samaritan in writing:
  - i. The notification specified in subsection (E)(3)(a);
  - ii. A statement that the Designated Officer's decision not to disclose communicable disease-related information to the Good Samaritan is based on A.R.S. § 36-664(E) and this Section;
  - iii. The Designated Officer's reasons for not disclosing communicable disease-related information to the Good Samaritan; and
  - iv. A statement that the Good Samaritan has the right to obtain a hearing as specified in A.R.S. § 41-1092.03(B).

**Historical Note**

Renumbered from R9-6-107 and amended effective October 19, 1993 (Supp. 93-4). Amended effective April 4, 1997 (Supp. 97-2). Amended by final rulemaking at 8 A.A.R. 1953, effective April 3, 2002 (Supp. 02-2). Section renumbered to R9-6-301 by final rulemaking at 10 A.A.R. 3559, effective October 2, 2004 (Supp. 04-3). New Section made by final rulemaking at 14 A.A.R. 4641, effective January 31, 2009 (Supp. 08-4).

**R9-6-104. Repealed****Historical Note**

Renumbered from R9-6-108 and amended effective October 19, 1993 (Supp. 93-4). Section repealed by final rulemaking at 8 A.A.R. 1953, effective April 3, 2002 (Supp. 02-2).

**R9-6-105. Renumbered****Historical Note**

Adopted effective January 20, 1992 (Supp. 92-1). Former Section R9-6-105 renumbered to R9-6-107, new Section R9-6-105 renumbered from R9-6-102 and amended effective October 19, 1993 (Supp. 93-4). Amended effective April 4, 1997 (Supp. 97-2). Section renumbered to R9-6-501 by final rulemaking at 10 A.A.R. 3559, effective October 2, 2004 (Supp. 04-3).

**R9-6-106. Renumbered****Historical Note**

Amended effective June 4, 1980 (Supp. 80-3). Former Section R9-6-112 renumbered and amended as Section R9-6-106 effective January 28, 1987 (Supp. 87-1). Former Section R9-6-106 renumbered to R9-6-102, new Section R9-6-106 adopted effective October 19, 1993 (Supp. 93-4). Section renumbered to R9-6-601 by final rulemaking at 10 A.A.R. 3559, effective October 2, 2004 (Supp. 04-3).

**Exhibit I-A. Repealed****Historical Note**

New Exhibit I-A made by final rulemaking at 10 A.A.R. 3559, effective October 2, 2004 (Supp. 04-3). Exhibit I-A repealed by final rulemaking at 15 A.A.R. 215, effective March 7, 2009 (Supp. 09-1).

**R9-6-107. Repealed**

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**Historical Note**

Adopted effective September 14, 1990 (Supp. 90-3). Former Section R9-6-107 renumbered to R9-6-103, new Section R9-6-107 renumbered from R9-6-105 and amended effective October 19, 1993 (Supp. 93-4). Amended effective April 4, 1997 (Supp. 97-2). Amended by final rulemaking at 5 A.A.R. 496, effective January 19, 1999 (Supp. 99-1). Section repealed by final rulemaking at 8 A.A.R. 4274, effective September 16, 2002 (Supp. 02-3).

**R9-6-108. Renumbered****Historical Note**

Adopted as an emergency effective January 12, 1988, pursuant to A.R.S. § 41-1026, valid for only 90 days (Supp. 88-1). Emergency expired. Readopted without change as an emergency effective May 9, 1988, pursuant to A.R.S. § 41-1026, valid for only 90 days (Supp. 88-2). Amended and readopted as an emergency effective August 8, 1988 pursuant to A.R.S. § 41-1026, valid for only 90 days (Supp. 88-3). Emergency expired. Readopted as an emergency and Paragraph (9) corrected effective November 16, 1988, pursuant to A.R.S. § 41-1026, valid for only 90 days (Supp. 88-4). Emergency expired. Adopted without change as a permanent rule effective May 22, 1989 (Supp. 89-2). Renumbered to R9-6-104 effective October 19, 1993 (Supp. 93-4).

**R9-6-109. Reserved****R9-6-110. Reserved****R9-6-111. Repealed****Historical Note**

Corrected Departmental reference in subsection (C) (Supp. 76-5). Amended effective June 4, 1980 (Supp. 80-3). Repealed effective January 28, 1987 (Supp. 87-1).

**R9-6-112. Renumbered****Historical Note**

Amended effective June 4, 1980 (Supp. 80-3). Former Section R9-6-112 renumbered and amended as Section R9-6-106 effective January 28, 1987 (Supp. 87-1).

**R9-6-113. Repealed****Historical Note**

Former Section R9-6-113 repealed, new Section R9-6-113 adopted effective June 4, 1980 (Supp. 80-3). Amended paragraph 4, effective January 31, 1983 (Supp. 83-1). Repealed effective January 28, 1987 (Supp. 87-1).

**R9-6-114. Repealed****Historical Note**

Corrected Departmental reference in subsections (B) and (C) (Supp. 76-5). Former Section R9-6-114 repealed, new Section R9-6-114 adopted effective June 4, 1980 (Supp. 80-3). Repealed effective January 28, 1987 (Supp. 87-1).

**ARTICLE 2. COMMUNICABLE DISEASE AND INFESTATION REPORTING****R9-6-201. Definitions**

In this Article, unless otherwise specified:

1. "Clinical laboratory" has the same meaning as in A.R.S. § 36-451.
2. "Drug" has the same meaning as in A.R.S. § 32-1901.
3. "Epidemiologic curve" means a graphic display of the number of cases over time.

4. "Normally sterile site" means an anatomic location, or tissue or body fluid from an anatomic location, in which microorganisms are not found in the absence of disease and includes:
  - a. The lower respiratory tract;
  - b. Blood;
  - c. Bone marrow;
  - d. Cerebrospinal fluid;
  - e. Pleural fluid;
  - f. Peritoneal fluid;
  - g. Synovial fluid;
  - h. Pericardial fluid;
  - i. Amniotic fluid;
  - j. Lymph;
  - k. A closed abscess; or
  - l. Another anatomic location other than the skin, mouth, eyes, upper respiratory tract, middle ear, urogenital tract, or gastrointestinal tract.
5. "Health care provider required to report" means a physician, physician assistant, registered nurse practitioner, or dentist who diagnoses, treats, or detects a case or suspect case of a communicable disease listed in Table 2.1 or detects an occurrence listed in Table 2.1.
6. "Pharmacist" has the same meaning as in A.R.S. § 32-1901.
7. "Point of contact" means an individual through whom the Department or a local health agency can obtain information upon request.
8. "Whole blood" means human blood from which plasma, erythrocytes, leukocytes, and thrombocytes have not been separated.

**Historical Note**

Former Section R9-6-211 renumbered and amended and subsection (C) renumbered from R9-6-212 and amended effective May 2, 1991 (Supp. 91-2). Former Section R9-6-201 renumbered to R9-6-501, new Section R9-6-201 renumbered from R9-6-601, repealed, and a new Section R9-6-201 adopted effective October 19, 1993 (Supp. 93-4). Former R9-6-201 repealed; new R9-6-201 renumbered from R9-6-102 and amended by final rulemaking at 10 A.A.R. 3559, effective October 2, 2004 (Supp. 04-3). Amended by final rulemaking at 14 A.A.R. 1502, effective April 1, 2008 (Supp. 08-2). Amended by final rulemaking at 23 A.A.R. 2605, effective January 1, 2018 (Supp. 17-3).

**R9-6-202. Reporting Requirements for a Health Care Provider Required to Report or an Administrator of a Health Care Institution or Correctional Facility**

- A. A health care provider required to report shall, either personally or through a representative, submit a report, in a Department-provided format, to the local health agency within the time limitation in Table 2.1 and as specified in subsection (C) or (D).
- B. An administrator of a health care institution or correctional facility in which a case or suspect case of a communicable disease listed in Table 2.1 is diagnosed, treated, or detected or an occurrence listed in Table 2.1 is detected shall, either personally or through a representative, submit a report, in a Department-provided format, to the local health agency within the time limitation in Table 2.1 and as specified in subsection (C) or (D).
- C. Except as described in subsection (D), for each case, suspect case, or occurrence for which a report on an individual is required by subsection (A) or (B) and Table 2.1, a health care provider required to report or an administrator of a health care

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institution or correctional facility shall submit a report that includes:

1. The following information about the case or suspect case:
  - a. Name;
  - b. Residential and mailing addresses;
  - c. County of residence;
  - d. Whether the individual is living on a reservation and, if so, the name of the reservation;
  - e. Whether the individual is a member of a tribe and, if so, the name of the tribe;
  - f. Telephone number and, if available, email address;
  - g. Date of birth;
  - h. Race and ethnicity;
  - i. Gender;
  - j. If known, whether the individual is pregnant;
  - k. If known, whether the individual is alive or dead;
  - l. If known, the individual's occupation;
  - m. If the individual is attending or working in a school or child care establishment or working in a health care institution or food establishment, the name and address of the school, child care establishment, health care institution, or food establishment; and
  - n. For a case or suspect case who is a child requiring parental consent for treatment, the name, residential address, telephone number, and, if available, email address of the child's parent or guardian, if known;
2. The following information about the disease:
  - a. The name of the disease;
  - b. The date of onset of symptoms;
  - c. The date of diagnosis;
  - d. The date of specimen collection;
  - e. Each type of specimen collected;
  - f. Each type of laboratory test completed;
  - g. The date of the result of each laboratory test; and
  - h. A description of the laboratory test results, including quantitative values if available;
3. If reporting a case or suspect case of tuberculosis:
  - a. The site of infection;
  - b. A description of the treatment prescribed, if any, including:
    - i. The name of each drug prescribed,
    - ii. The dosage prescribed for each drug, and
    - iii. The date of prescription for each drug; and
  - c. Whether the diagnosis was confirmed by a laboratory and, if so, the name, address, and phone number of the laboratory;
4. If reporting a case or suspect case of chancroid, gonorrhea, or *Chlamydia trachomatis* infection:
  - a. The gender of the individuals with whom the case or suspect case had sexual contact;
  - b. A description of the treatment prescribed, if any, including:
    - i. The name of each drug prescribed,
    - ii. The dosage prescribed for each drug, and
    - iii. The date of prescription for each drug;
  - c. The site of infection; and
  - d. Whether the diagnosis was confirmed by a laboratory and, if so, the name, address, and phone number of the laboratory;
5. If reporting a case or suspect case of syphilis:
  - a. The information required under subsection (C)(4); and
  - b. Identification of:
    - i. The stage of the disease, or
    - ii. Whether the syphilis is congenital;
6. If reporting a case of congenital syphilis in an infant, and in addition to the information required under subsection (C)(5) and A.R.S. § 36-694(A), the following information:
  - a. The name and date of birth of the infant's mother;
  - b. The residential address, mailing address, telephone number, and, if available, email address of the infant's mother;
  - c. The date and test results for the infant's mother of the prenatal syphilis test required in A.R.S. § 36-693; and
  - d. If the prenatal syphilis test of the infant's mother indicated that the infant's mother was infected with syphilis:
    - i. Whether the infant's mother received treatment for syphilis,
    - ii. The name and dosage of each drug prescribed to the infant's mother for treatment of syphilis and the date each drug was prescribed, and
    - iii. The name and phone number of the health care provider required to report who treated the infant's mother for syphilis;
7. The name, address, telephone number, and, if available, email address of the individual making the report; and
8. The name, address, telephone number, and, if available, email address of the:
  - a. Health care provider, if reporting under subsection (A) and different from the individual specified in subsection (C)(7); or
  - b. Health care institution or correctional facility, if reporting under subsection (B).
- D. For each outbreak for which a report is required by subsection (A) or (B) and Table 2.1, a health care provider required to report or an administrator of a health care institution or correctional facility shall submit a report that includes:
  1. A description of the signs and symptoms;
  2. If possible, a diagnosis and identification of suspected sources;
  3. The number of known cases and suspect cases;
  4. A description of the location and setting of the outbreak;
  5. The name, address, telephone number, and, if available, email address of the individual making the report; and
  6. The name, address, telephone number, and, if available, email address of the:
    - a. Health care provider, if reporting under subsection (A) and different from the individual specified in subsection (D)(5); or
    - b. Health care institution or correctional facility, if reporting under subsection (B).
- E. When an HIV-related test is ordered for an infant who was perinatally exposed to HIV to determine whether the infant is infected with HIV, the health care provider who orders the HIV-related test or the administrator of the health care institution in which the HIV-related test is ordered shall:
  1. Report the results of the infant's HIV-related test to the Department, either personally or through a representative, within five working days after receiving the results of the HIV-related test;
  2. Include the following information in the report specified in subsection (E)(1):
    - a. The name and date of birth of the infant;
    - b. The residential address, mailing address, and telephone number of the infant;
    - c. The name and date of birth of the infant's mother;
    - d. The date of the last medical evaluation of the infant;
    - e. The types of HIV-related tests ordered for the infant;

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- f. The dates of the infant's HIV-related tests;
  - g. The results of the infant's HIV-related tests; and
  - h. The ordering health care provider's name, address, and telephone number; and
3. Include with the report specified in subsection (E)(1) a report for the infant's mother including the following information:
- a. The name and date of birth of the infant's mother;
  - b. The residential address, mailing address, and telephone number of the infant's mother;
  - c. The date of the last medical evaluation of the infant's mother;
  - d. The types of HIV-related tests ordered for the infant's mother;
  - e. The dates of the HIV-related tests for the infant's mother;
  - f. The results of the HIV-related tests for the infant's mother;
  - g. What HIV-related risk factors the infant's mother has;
  - h. Whether the infant's mother delivered the infant vaginally or by C-section;
  - i. Whether the infant's mother was receiving HIV-related drugs prior to the infant's birth to reduce the risk of perinatal transmission of HIV; and
  - j. The name, address, and telephone number of the health care provider who ordered the HIV-related tests for the infant's mother.

**Historical Note**

Renumbered from R9-6-213 and amended effective May 2, 1991 (Supp. 91-2). Former Section R9-6-202 renumbered to R9-6-502, new Section R9-6-202 renumbered from R9-6-602 and amended effective October 19, 1993 (Supp. 93-4). Amended effective April 4, 1997 (Supp. 97-2). Amended by final rulemaking at 8 A.A.R. 4467, effective December 1, 2002 (Supp. 02-4). Amended by final rulemaking at 10 A.A.R. 3559, effective October 2, 2004 (Supp. 04-3). Amended by final rulemaking at 14 A.A.R. 1502, effective April 1, 2008 (Supp. 08-2). Amended by final rulemaking at 23 A.A.R. 2605, effective January 1, 2018 (Supp. 17-3).

**Table 1. Repealed****Historical Note**

New Table 1 made by final rulemaking at 10 A.A.R. 3559, effective October 2, 2004 (Supp. 04-3). Table 1 amended by final rulemaking at 14 A.A.R. 1502, effective April 1, 2008 (Supp. 08-2). Table 1 repealed by final rulemaking at 23 A.A.R. 2605, effective January 1, 2018 (Supp. 17-3).



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**Table 2.1. Reporting Requirements for a Health Care Provider Required to Report or an Administrator of a Health Care Institution or Correctional Facility**

☎*,O	Amebiasis	☎	Glanders	O	Respiratory disease in a health care institution or correctional facility
☎	Anaplasmosis	☎	Gonorrhea	☎*	Rubella (German measles)
☎	Anthrax	☎	<i>Haemophilus influenza</i> , invasive disease	☎	Rubella syndrome, congenital
☎	Arboviral infection	☎	Hansen's disease (Leprosy)	☎*,O	Salmonellosis
☎	Babesiosis	☎	Hantavirus infection	O	Scabies
☎	Basidiobolomycosis	☎	Hemolytic uremic syndrome	☎*,O	Shigellosis
☎	Botulism	☎*,O	Hepatitis A	☎	Smallpox
☎	Brucellosis	☎	Hepatitis B and Hepatitis D	☎	Spotted fever rickettsiosis (e.g., Rocky Mountain spotted fever)
☎*,O	Campylobacteriosis	☎	Hepatitis C	☎	Streptococcal group A infection, invasive disease
☎	Chagas infection and related disease (American trypanosomiasis)	☎*,O	Hepatitis E	☎	Streptococcal group B infection in an infant younger than 90 days of age, invasive disease
☎	Chancroid	☎	HIV infection and related disease	☎	<i>Streptococcus pneumoniae</i> infection (pneumococcal invasive disease)
☎	Chikungunya	☎	Influenza-associated mortality in a child	☎ <sup>1</sup>	Syphilis
☎	<i>Chlamydia trachomatis</i> infection	☎	Legionellosis (Legionnaires' disease)	☎*,O	Taeniasis
☎*	Cholera	☎	Leptospirosis	☎	Tetanus
☎	Coccidioidomycosis (Valley Fever)	☎	Listeriosis	☎	Toxic shock syndrome
☎	Colorado tick fever	☎	Lyme disease	☎	Trichinosis
O	Conjunctivitis, acute	☎	Lymphocytic choriomeningitis	☎	Tuberculosis, active disease
☎	Creutzfeldt-Jakob disease	☎	Malaria	☎	Tuberculosis latent infection in a child 5 years of age or younger (positive screening test result)
☎*,O	Cryptosporidiosis	☎	Measles (rubeola)	☎	Tularemia
☎	<i>Cyclospora</i> infection	☎	Melioidosis	☎	Typhoid fever
☎	Cysticercosis	☎	Meningococcal invasive disease	☎	Typhus fever
☎	Dengue	☎	Mumps	☎	Vaccinia-related adverse event
O	Diarrhea, nausea, or vomiting	☎	Novel coronavirus infection (e.g., SARS or MERS)	☎	Vancomycin-resistant or Vancomycin-intermediate <i>Staphylococcus aureus</i>
☎	Diphtheria	☎	Pertussis (whooping cough)	☎	Varicella (chickenpox)
☎	Ehrlichiosis	☎	Plague	☎*,O	<i>Vibrio</i> infection
☎	Emerging or exotic disease	☎	Poliomyelitis (paralytic or non-paralytic)	☎	Viral hemorrhagic fever
☎	Encephalitis, parasitic	☎	Psittacosis (ornithosis)	☎	West Nile virus infection
☎	Encephalitis, viral	☎	Q fever	☎	Yellow fever
☎	<i>Escherichia coli</i> , Shiga toxin-producing	☎	Rabies in a human	☎*,O	Yersiniosis (enteropathogenic <i>Yersinia</i> )
☎*,O	Giardiasis	☎	Relapsing fever (borreliosis)	☎	Zika virus infection

**Key:**

- ☎ Submit a report by telephone or through an electronic reporting system authorized by the Department within 24 hours after a case or suspect case is diagnosed, treated, or detected, or an occurrence is detected.
- \* Submit a report within 24 hours after a case or suspect case is diagnosed, treated, or detected, instead of reporting within the general reporting deadline, if the case or suspect case is a food handler or works in a child care establishment or a health care institution.
- <sup>1</sup> Submit a report within one working day if the case or suspect case is a pregnant woman.
- ☎ Submit a report within one working day after a case or suspect case is diagnosed, treated, or detected.
- ☎ Submit a report within five working days after a case or suspect case is diagnosed, treated, or detected.
- O Submit a report within 24 hours after detecting an outbreak.

**Historical Note**

New Table 2.1 made by final rulemaking at 23 A.A.R. 2605, effective January 1, 2018 (Supp. 17-3).

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**R9-6-203. Reporting Requirements for an Administrator of a School, Child Care Establishment, or Shelter**

- A. An administrator of a school, child care establishment, or shelter shall, either personally or through a representative, submit a report, in a Department-provided format, to the local health agency within the time limitation in Table 2.2 and as specified in subsection (B).
- B. For each individual with a disease, infestation, or symptoms of a communicable disease or infestation listed in Table 2.2, or an outbreak of the communicable disease or infestation, an administrator of a school, child care establishment, or shelter shall submit a report that includes:
1. The name and address of the school, child care establishment, or shelter;
  2. The number of individuals with the disease, infestation, or symptoms;
  3. The date and time that the disease or infestation was detected or that the symptoms began;
  4. The number of rooms, grades, or classes affected and the name of each;
  5. The following information about each individual with the disease, infestation, or symptoms:
    - a. Name;
    - b. Date of birth or age;

- c. If the individual is a child, name and contact information for the individual's parent or guardian;
  - d. Residential address and telephone number; and
  - e. Whether the individual is a staff member, a student, a child in care, or a resident;
6. The number of individuals attending or residing at the school, child care establishment, or shelter; and
  7. The name, address, telephone number, and, if available, email address of the individual making the report.


















**Historical Note**

Renumbered from R9-6-214 and amended effective May 2, 1991 (Supp. 91-2). Former Section R9-6-203 renumbered to R9-6-503, new Section R9-6-202 adopted effective October 19, 1993 (Supp. 93-4). Former R9-6-203 renumbered to R9-6-206; new R9-6-203 made by final rulemaking at 10 A.A.R. 3559, effective October 2, 2004 (Supp. 04-3). Amended by final rulemaking at 23 A.A.R. 2605, effective January 1, 2018 (Supp. 17-3).




**Table 2. Renumbered****Historical Note**

New Table 2 made by final rulemaking at 10 A.A.R. 3559, effective October 2, 2004 (Supp. 04-3). Table 2, renumbered to Table 2.2 by final rulemaking at 23 A.A.R. 2605, effective January 1, 2018 (Supp. 17-3).

**Table 2.2. Reporting Requirements for an Administrator of a School, Child Care Establishment, or Shelter**

	Campylobacteriosis		Mumps
	Conjunctivitis, acute		Pertussis (whooping cough)
	Cryptosporidiosis		Rubella (German measles)
	Diarrhea, nausea, or vomiting		Salmonellosis
	<i>Escherichia coli</i> , Shiga toxin-producing		Scabies
	<i>Haemophilus influenzae</i> , invasive disease		Shigellosis
	Hepatitis A		Streptococcal group A infection
	Measles		Varicella (chickenpox)
	Meningococcal invasive disease		

**Key:**

-  Submit a report within 24 hours after detecting a case or suspect case.
-  Submit a report within five working days after detecting a case or suspect case.
-  Submit a report within 24 hours after detecting an outbreak.

**Historical Note**

New Table 2.2 renumbered from Table 2 and amended by final rulemaking at 23 A.A.R. 2605, effective January 1, 2018 (Supp. 17-3).

**R9-6-204. Clinical Laboratory Director Reporting Requirements**

- A. Except as specified in subsection (D), a director of a clinical laboratory that obtains a test result described in Table 2.3 or that receives a specimen for detection of an infectious agent or toxin listed in Table 2.3 shall, either personally or through a representative, submit a report, in a Department-provided format, and, if applicable, an isolate or a specimen to the Department within the time limitation and as specified in Table 2.3 and subsection (B) or (C).
- B. For each specimen for which an immediate report is required by subsection (A) and Table 2.3, a clinical laboratory director shall ensure the report includes:
1. The name and address of the laboratory;
  2. The name and telephone number of the director of the clinical laboratory;
  3. The name and, as available, the address, telephone number, and email address of the subject;
  4. The date of birth of the subject;
  5. The gender of the subject;
  6. The laboratory identification number;
  7. The specimen type;
  8. The date of collection of the specimen;
  9. The type of test ordered on the specimen; and
  10. The ordering health care provider's name, address, telephone number, and, if available, email address.
- C. Except as provided in Table 2.3 and as specified in subsection (D), for each test result for a subject for which a report is required by subsection (A) and Table 2.3, a clinical laboratory director shall ensure the report includes:
1. The name and address of the laboratory;
  2. The name and telephone number of the director of the clinical laboratory;
  3. The name and, as available, the address, telephone number, and email address of the subject;
  4. The date of birth of the subject;
  5. The gender of the subject;
  6. The laboratory identification number;

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7. The specimen type;
  8. The date of collection of the specimen;
  9. The date of the result of the test;
  10. The type of test completed on the specimen;
  11. The test result, including quantitative values and reference ranges, if applicable; and
  12. The ordering health care provider's name, address, telephone number, and, if available, email address.
- D.** When the Arizona State Laboratory obtains a test result from anonymous HIV testing sent to the Arizona State Laboratory as described in R9-6-1005, the director of the Arizona State Laboratory shall, either personally or through a representative:
1. Submit a report to the Department within five working days after obtaining a positive test result; and
  2. Include in the report the following information:
    - a. The laboratory identification number of the subject;
    - b. The date of birth, gender, race, and ethnicity of the subject;
    - c. The date the specimen was collected;
    - d. The type of tests completed on the specimen;
    - e. The test results, including quantitative values if available; and
- f. The name, address, and telephone number of the person who submitted the specimen to the Arizona State Laboratory.




**Historical Note**

Adopted effective October 19, 1993 (Supp. 93-4). Former R9-6-204 renumbered to R9-6-302; new R9-6-204 made by final rulemaking at 10 A.A.R. 3559, effective October 2, 2004 (Supp. 04-3). Amended by final rulemaking at 14 A.A.R. 1502, effective April 1, 2008 (Supp. 08-2). Amended by final rulemaking at 23 A.A.R. 2605, effective January 1, 2018 (Supp. 17-3).

**Table 3. Repealed****Historical Note**

New Table 3 made by final rulemaking at 10 A.A.R. 3559, effective October 2, 2004 (Supp. 04-3). Table 3 amended by final rulemaking at 14 A.A.R. 1502, effective April 1, 2008 (Supp. 08-2). Table 3 repealed by final rulemaking at 23 A.A.R. 2605, effective January 1, 2018 (Supp. 17-3).

**Table 2.3. Clinical Laboratory Director Reporting Requirements**

	<i>Anaplasma</i> spp.	 ①, *	<i>Francisella tularensis</i>		<i>Plasmodium</i> spp.
①, *	Arboviruses	①, *, 4, 5	<i>Haemophilus influenzae</i> , from a normally sterile site	①, *	Rabies virus from a human
	<i>Babesia</i> spp.	①	Hantavirus	①, *	Rabies virus from an animal
 ①, *	<i>Bacillus anthracis</i>	① <sup>1</sup>	Hepatitis A virus (anti-HAV-IgM serologies, detection of viral nucleic acid, or genetic sequencing)		Respiratory syncytial virus
①, *	<i>Bordetella pertussis</i>	 <sup>1</sup>	Hepatitis B virus (anti-Hepatitis B core-IgM serologies, Hepatitis B surface or envelope antigen serologies, detection of viral nucleic acid, or genetic sequencing)	①, *	<i>Rickettsia</i> spp. – any test result
①, *	<i>Brucella</i> spp.	 <sup>1</sup>	Hepatitis C virus	① <sup>1</sup> , *	Rubella virus and anti-rubella-IgM serologies
①, *	<i>Burkholderia mallei</i> and <i>B. pseudomallei</i>	 <sup>1</sup>	Hepatitis D virus	①, *	<i>Salmonella</i> spp.
 *, 4	<i>Campylobacter</i> spp.	 <sup>1</sup> , *, 4	Hepatitis E virus	①, *	<i>Shigella</i> spp.
 *, 4	Carbapenem-resistant Enterobacteriaceae (CRE)		HIV—any test result (by culture, antigen, antibodies to the virus, detection of viral nucleic acid, or genetic sequencing), except from a negative screening test	 *, 4	<i>Streptococcus</i> group A, from a normally sterile site
	CD <sub>4</sub> -T-lymphocyte count		HIV—any test result for an infant (by culture, antigen, antibodies to the virus, detection of viral nucleic acid, or genetic sequencing)		<i>Streptococcus</i> group B, from a normally sterile site in an infant younger than 90 days of age
①, *	Chikungunya virus	 *, 4	Influenza virus	 *, 4	<i>Streptococcus pneumoniae</i> and its drug sensitivity pattern, from a normally sterile site
	<i>Chlamydia trachomatis</i>	①, +	<i>Legionella</i> spp. (excluding single serological results)	 <sup>1</sup>	<i>Treponema pallidum</i> (syphilis) or rapid plasma reagin
	<i>Chlamydia psittaci</i> / <i>Chlamydia psittaci</i>	①	<i>Leptospira</i> spp.		<i>Trypanosoma cruzi</i> (Chagas disease)
 ①, *	<i>Clostridium botulinum</i> toxin (botulism)	①	<i>Lymphocytic choriomeningitis</i> virus	①, *	Vancomycin-resistant or Vancomycin-intermediate <i>Staphylococcus aureus</i>
 *, 4	<i>Coccidioides</i> spp.	①, *	<i>Listeria</i> spp., from a normally sterile site	 ①, *, *	Variola virus (smallpox)

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①	<i>Coxiella burnetti</i>	☎ <sup>1,*</sup>	Measles virus and anti-measles-IgM serologies	①,*	<i>Vibrio</i> spp.
①	<i>Cryptosporidium</i> spp.	☒ <sup>2</sup>	Methicillin-resistant <i>Staphylococcus aureus</i> , from a normally sterile site	☎,☎, *	Viral hemorrhagic fever agent
①	<i>Cyclospora</i> spp.	① <sup>1,*</sup>	Mumps virus and anti-mumps-IgM serologies	☒	West Nile virus
①,* <sup>4</sup>	Dengue virus	①,* <sup>3</sup>	<i>Mycobacterium tuberculosis</i> complex and its drug sensitivity pattern	☎,*	Yellow fever virus
☒	<i>Ehrlichia</i> spp.	☒,* <sup>4</sup>	<i>Neisseria gonorrhoeae</i> and, if performed, the drug sensitivity pattern	☎,☎, *	<i>Yersinia pestis</i> (plague)
☎,☎	Emerging or exotic disease agent	☎,*	<i>Neisseria meningitidis</i> , from a normally sterile site	①,*	<i>Yersinia</i> spp. (other than <i>Y. pestis</i> )
☒	<i>Entamoeba histolytica</i>	①	Norovirus	①,*	Zika virus
①,*	<i>Escherichia coli</i> , <i>Shiga</i> toxin-producing	☎	Novel coronavirus infection (e.g., SARS or MERS)		

**Key:**

- ☎ Submit a report immediately after receiving one specimen for detection of the agent. Report the receipt of subsequent specimens within five working days after receipt.
  - ☎ Submit a report within 24 hours after obtaining a positive test result.
  - ① Submit a report within one working day after obtaining a positive test result.
  - ☒ Submit a report within five working days after obtaining a positive test result or a test result specified in Table 2.3.
  - \* Submit an isolate of the organism for each positive culture, if available, or a specimen for each positive test result to the Arizona State Laboratory within one working day.
  - + Submit an isolate of the organism for each positive culture to the Arizona State Laboratory within one working day.
- When appearing after one of the symbols above, the following modify the requirement:
- <sup>1</sup> When reporting a positive result for any of the specified tests, report the results of all other tests performed for the subject as part of the disease panel or as a reflex test.
  - <sup>2</sup> Submit a report only when an initial positive result is obtained for an individual.
  - <sup>3</sup> Submit an isolate or specimen of the organism, as applicable, only when an initial positive result is obtained for an individual, when a change in resistance pattern is detected, or when a positive result is obtained  $\geq 12$  months after the initial positive result is obtained for an individual.
  - <sup>4</sup> Submit an isolate or specimen, as applicable, only by request.
  - <sup>5</sup> Submit an isolate of the organism, if available, or a specimen when a positive result is obtained for an individual  $< 5$  years of age.

**Historical Note**

Table 2.3 made by final rulemaking at 23 A.A.R. 2605, effective January 1, 2018 (Supp. 17-3).

**R9-6-205. Reporting Requirements for a Pharmacist or an Administrator of a Pharmacy**

- A. A pharmacist who fills an individual's initial prescription for two or more of the drugs listed in subsection (B) or an administrator of a pharmacy in which an individual's initial prescription for two or more of the drugs listed in subsection (B) is filled shall, either personally or through a representative, submit a report, in a Department-provided format, that complies with subsection (C) to the Department within five working days after the prescription is filled.
- B. Any combination of two or more of the following drugs when initially prescribed for an individual triggers the reporting requirement of subsection (A):
  1. Isoniazid,
  2. Streptomycin,
  3. Any rifamycin,
  4. Pyrazinamide, or
  5. Ethambutol.
- C. A pharmacist or an administrator of a pharmacy shall submit a report required under subsection (A) that includes:
  1. The following information about the individual for whom the drugs are prescribed:
    - a. Name,
    - b. Address,
    - c. Telephone number, and
    - d. Date of birth; and
  2. The following information about the prescription:
    - a. The name of the drugs prescribed,

- b. The date of prescription, and
- c. The name and telephone number of the prescribing health care provider.

**Historical Note**

New Section made by final rulemaking at 10 A.A.R. 3559, effective October 2, 2004 (Supp. 04-3). Amended by final rulemaking at 23 A.A.R. 2605, effective January 1, 2018 (Supp. 17-3).

**R9-6-206. Local Health Agency Responsibilities Regarding Communicable Disease Reports**

- A. The Department shall notify each local health agency of the format to be used by:
  1. A health care provider required to report when making a report required under R9-6-202(A) and Table 2.1;
  2. An administrator of a health care institution or correctional facility when making a report required under R9-6-202(B) and Table 2.1; and
  3. An administrator of a school, child care establishment, or shelter when making a report required under R9-6-203(A) and Table 2.2.
- B. A local health agency shall inform health care providers required to report and administrators of health care institutions, correctional facilities, schools, child care establishments, and shelters of the format to use when making a report, as specified in subsection (A).

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- C. Except as specified in Table 2.4 and Article 3, a local health agency shall provide to the Department the information contained in each report of a case, suspect case, or occurrence received by the local health agency under R9-6-202 or R9-6-203, including any report of disease in a nonresident of the jurisdiction who is or has been diagnosed or treated in the jurisdiction, within five working days after receipt and shall specify:
1. Which of the following best describes the individual identified in each report:
    - a. The individual meets the case definition for a case of the specific disease,
    - b. The individual is a suspect case,
    - c. The individual does not meet the case definition for a case or suspect case of the specific disease, or
    - d. The local health agency has not yet determined the status of the disease in the individual; and
  2. The status of the epidemiologic investigation for each report.
- D. Except as specified in Table 2.4 and Article 3, a local health agency shall submit to the Department a report, in a Department-provided format, of an epidemiologic investigation conducted by the local health agency:
1. In response to a report of a case, suspect case, or occurrence:
    - a. Submitted under R9-6-202 or R9-6-203, or
    - b. About which the local health agency was notified by the Department;
  2. Within 30 calendar days after receiving the report submitted under R9-6-202 or R9-6-203 or notification by the Department;
  3. If an epidemiologic investigation is required for the reported disease under Article 3; and
  4. Including in the report of the epidemiologic investigation:
    - a. The information described in:
      - i. R9-6-202(C) for a report submitted under R9-6-202,
      - ii. R9-6-203(B) for a report submitted under R9-6-203, or
      - iii. R9-6-202(C) for a report about which the Department notified the local health agency;
    - b. A description of all laboratory or other test results, performed in addition to the laboratory tests described in R9-6-202(C) and contributing to the diagnosis;
    - c. A description of the case's symptoms of the disease and other signs that may be observed that indicate that the individual may have the disease, if applicable;
    - d. A classification of the case according to the case definition;
    - e. A description of the condition or status of the case at the end of the epidemiologic investigation;
    - f. A description of the case's specific risk factors for acquiring the disease or other epidemiologic evidence of how the case acquired the infection that resulted in the disease;
    - g. A description of how the local health agency provided or arranged for the case to receive health education about the nature of the disease and how to prevent transmission or limit disease progression;
    - h. A description of the case's specific risk factors for transmitting the disease considered by the local health agency when conducting an assessment of contacts;
      - i. A description of the control measures used by the local health agency to reduce the spread of the disease; and
      - j. The date the report of the case, suspect case, or occurrence was submitted or the Department notified the local health agency.
- E. For each instance when the local health agency receives a report or reports indicating an outbreak or possible outbreak, the local health agency shall:
1. Within 24 hours after receiving the report or reports, provide to the Department, in a Department-provided format, the following information:
    - a. The location of the outbreak or possible outbreak;
    - b. If known, the number of cases and suspect cases;
    - c. The date that the outbreak was reported or the dates that cases suggestive of an outbreak were reported;
    - d. The setting of the outbreak or possible outbreak;
    - e. The name of the disease suspected or known to be the cause of the outbreak or possible outbreak; and
    - f. The name and telephone number of an individual at the local health agency who can serve as a point of contact regarding the outbreak or possible outbreak; and
  2. Within 30 calendar days after receiving the last report or reports associated with the outbreak, submit to the Department a report, in a Department-provided format, of the epidemiologic investigation conducted by the local health agency in response to the outbreak or possible outbreak, including:
    - a. A description of the outbreak location and setting;
    - b. The date that the local health agency was notified of the outbreak;
    - c. A description of how the local health agency verified the outbreak;
    - d. The number of individuals reported to be ill during the outbreak;
    - e. The number of individuals estimated to be at risk for illness as a result of the outbreak;
    - f. The specific case definition used;
    - g. A summary profile of the signs and symptoms;
    - h. An epidemiologic curve;
    - i. A copy of the laboratory evidence collected, including all laboratory test results, for all specimens submitted for testing to a laboratory other than the Arizona State Laboratory;
    - j. Hypotheses of how the outbreak occurred;
    - k. A description of the control measures used and the dates the control measures were implemented;
    - l. The conclusions drawn based upon the results of the epidemiologic investigation;
    - m. Recommendations for preventing future outbreaks; and
    - n. The name, address, and telephone number of the individual making the report to the Department.

**Historical Note**

Section renumbered from R9-6-203 and amended by final rulemaking at 10 A.A.R. 3559, effective October 2, 2004 (Supp. 04-3). Amended by final rulemaking at 14 A.A.R. 1502, effective April 1, 2008 (Supp. 08-2). Amended by final rulemaking at 23 A.A.R. 2605, effective January 1, 2018 (Supp. 17-3).

**Table 4. Repealed****Historical Note**

New Table 4 made by final rulemaking at 14 A.A.R. 1502, effective April 1, 2008 (Supp. 08-2). Table 4

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repealed by final rulemaking at 23 A.A.R. 2605, effective  
January 1, 2018 (Supp. 17-3).

Table 2.4. Local Health Agency Reporting Requirements

☒, ➔	Amebiasis	☒	Gonorrhea	①, ➔, *	Rubella (German measles)
☒, ➔	Anaplasmosis	①, ➔	<i>Haemophilus influenza</i> , invasive disease	☒, ➔, *	Rubella syndrome, congenital
☒, ➔, *	Anthrax	☒, ➔	Hansen's disease (Leprosy)	①, ➔	Salmonellosis
☒, ➔	Arboviral infection	①, ➔	Hantavirus infection	①, ➔	Shigellosis
☒, ➔	Babesiosis	①, ➔	Hemolytic uremic syndrome	☒, ➔, *	Smallpox
☒, ➔	Basidiobolomycosis	①, ➔	Hepatitis A	①, ➔	Spotted fever rickettsiosis (e.g., Rocky Mountain spotted fever)
☒, ➔, *	Botulism	☒, ➔	Hepatitis B and Hepatitis D	☒	Streptococcal group A infection, invasive disease
☒, ➔, *	Brucellosis	☒, ➔	Hepatitis E	☒	Streptococcal group B infection in an infant younger than 90 days of age, invasive disease
☒, ➔	Campylobacteriosis	☒, ➔	HIV infection and related disease	☒	<i>Streptococcus pneumoniae</i> infec- tion, (pneumococcal invasive dis- ease)
☒, ➔	Chagas infection and related dis- ease (American Trypanosomia- sis)	①, ➔	Influenza-associated mortal- ity in a child	☒, ➔	Syphilis
☒, ➔	Chancroid ( <i>Haemophilus ducreyi</i> )	①, ➔	Legionellosis (Legionnaires' disease)	☒, ➔	Taeniasis
☒, ➔	Chikungunya	①, ➔	Leptospirosis	☒, ➔	Tetanus
☒	<i>Chlamydia trachomatis</i> infection	①, ➔, *	Listeriosis	☒, ➔	Toxic shock syndrome
①, ➔	Cholera	☒, ➔	Lyme disease	①, ➔	Trichinosis
☒	Coccidioidomycosis (Valley Fever)	①, ➔	Lymphocytic choriomeningi- tis	①, ➔, *	Tuberculosis, active disease
☒, ➔	Colorado tick fever	☒, ➔	Malaria	①, ➔	Tuberculosis latent infection in a child five years of age or younger (positive screening test result)
☒, ➔	Creutzfeldt-Jakob disease	☒, ➔, *	Measles (rubeola)	☒, ➔, *	Tularemia
☒, ➔	Cryptosporidiosis	①, ➔, *	Melioidosis	①, ➔	Typhoid fever
☒, ➔	<i>Cyclospora</i> infection	☒, ➔, *	Meningococcal invasive dis- ease	①, ➔	Typhus fever
☒, ➔	Cysticercosis	①, ➔, *	Mumps	①, ➔	Vaccinia-related adverse event
①, ➔	Dengue	☒, ➔	Novel coronavirus (e.g., SARS or MERS)	①, ➔	Vancomycin-resistant or Vanco- mycin-intermediate <i>Staphylococ- cus aureus</i>
☒, ➔	Diphtheria	①, ➔	Pertussis (whooping cough)	①, ➔, *	Varicella (chickenpox)
☒, ➔	Ehrlichiosis	☒, ➔, *	Plague	☒, ➔ <sup>1</sup>	<i>Vibrio</i> infection
☒, ➔	Emerging or exotic disease	☒, ➔, *	Poliomyelitis (paralytic or non-paralytic)	①, ➔	Viral hemorrhagic fever
☒, ➔	Encephalitis, parasitic	☒, ➔	Psittacosis (ornithosis)	☒, ➔, *	West Nile virus infection
①, ➔	Encephalitis, viral	①, ➔	Q Fever	☒, ➔, *	Yellow fever
①, ➔	<i>Escherichia coli</i> , Shiga toxin- producing	☒, ➔, *	Rabies in a human	①, ➔, *	Yersiniosis (enteropathogenic <i>Yersinia</i> )
☒, ➔	Giardiasis	①, ➔	Relapsing fever (borreliosis)	①, ➔, *	Zika virus infection
①, ➔, *	Glanders				

## Key:

☒ Notify the Department within 24 hours after receiving a report under R9-6-202 or R9-6-203.

① Notify the Department within one working day after receiving a report under R9-6-202 or R9-6-203.

☒ Notify the Department within five working days after receiving a report under R9-6-202 or R9-6-203.

➔ Submit an epidemiologic investigation report within 30 calendar days after receiving a report under R9-6-202 or R9-6-203 or notifica-  
tion by the Department.

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- \* Ensure that an isolate of the organism for each positive culture, if available, or a specimen for each positive test result is submitted to the Arizona State Laboratory within one working day.
- <sup>1</sup> Submit an epidemiologic investigation report only if a case or suspect case has died as a result of the communicable disease.

**Historical Note**

New Table 2.4 made by final rulemaking at 23 A.A.R. 2605, effective January 1, 2018 (Supp. 17-3).

**R9-6-207. Federal or Tribal Entity Reporting**

A. To the extent permitted by law, a federal or tribal entity shall comply with the reporting requirements in this Article as follows:

1. If the federal or tribal entity is participating in the diagnosis or treatment of an individual, the federal or tribal entity shall comply with the reporting requirements in R9-6-202 and Table 2.1 for a health care provider;
2. If the federal or tribal entity is operating a facility that provides health care services, the federal or tribal entity shall comply with the reporting requirements in R9-6-202 and Table 2.1 for an administrator of a health care institution;
3. If the federal or tribal entity is operating a correctional facility, the federal or tribal entity shall comply with the reporting requirements in R9-6-202 and Table 2.1 for an administrator of a correctional facility;
4. If the federal or tribal entity is operating a facility that provides child care services, the federal or tribal entity shall comply with the reporting requirements in R9-6-203 and Table 2.2 for an administrator of a child care establishment;
5. If the federal or tribal entity is operating a facility that offers instruction to students in a grade level from kindergarten through grade 12, a college or university, a "private vocational program" as defined in A.R.S. § 32-3001, or an institution that grants a "degree" as defined in A.R.S. § 32-3001, the federal or tribal entity shall comply with the reporting requirements in R9-6-203 and Table 2.2 for an administrator of a school;
6. If the federal or tribal entity is operating a clinical laboratory, the federal or tribal entity shall comply with the reporting requirements in R9-6-204 and Table 2.3 for a clinical laboratory director; and
7. If the federal or tribal entity is operating a facility that provides pharmacy services, the federal or tribal entity shall comply with the reporting requirements in R9-6-205 for an administrator of a pharmacy.

B. For the purposes of this Section, "federal or tribal entity" means a person operating within this state, whether on federal or tribal land or otherwise, under the authority of an agency or other administrative subdivision of the federal government or a tribal nation and who is:

1. Licensed as a doctor of allopathic, naturopathic, osteopathic, or homeopathic medicine under the laws of this or another state;
2. Licensed as a physician assistant under the laws of this or another state;
3. Licensed as a registered nurse practitioner under the laws of this or another state;
4. Licensed as a dentist under the laws of this or another state;
5. Operating a facility that provides health care services;
6. Operating a correctional facility;
7. Operating a facility that provides child care services;
8. Operating a facility that offers instruction to students in a grade level from kindergarten through grade 12, a college or university, a "private vocational program" as defined in A.R.S. § 32-3001, or an institution that grants a "degree" as defined in A.R.S. § 32-3001;

9. Operating a clinical laboratory; or
10. Operating a facility that provides pharmacy services.

**Historical Note**

New Section made by final rulemaking at 10 A.A.R. 3559, effective October 2, 2004 (Supp. 04-3). Amended by final rulemaking at 23 A.A.R. 2605, effective January 1, 2018 (Supp. 17-3).

**R9-6-208. Reserved**

**R9-6-209. Reserved**

**R9-6-210. Reserved**

**R9-6-211. Renumbered**

**Historical Note**

Renumbered to R9-6-201 effective May 2, 1991 (Supp. 91-2).

**R9-6-212. Renumbered**

**Historical Note**

Renumbered to R9-6-201(C) effective May 2, 1991 (Supp. 91-2).

**R9-6-213. Renumbered**

**Historical Note**

Renumbered to R9-6-202 effective May 2, 1991 (Supp. 91-2).

**R9-6-214. Renumbered**

**Historical Note**

Renumbered to R9-6-203 effective May 2, 1991 (Supp. 91-2).

### ARTICLE 3. CONTROL MEASURES FOR COMMUNICABLE DISEASES AND INFESTATIONS

**R9-6-301. Definitions**

In this Article, unless otherwise specified:

1. "Aquatic venue" means an artificially constructed structure or modified natural structure that:
  - a. Is used:
    - i. For water contact recreation, as defined in A.A.C. R9-8-801; or
    - ii. To treat a diagnosed injury, illness, or medical condition under the supervision of a health professional, as defined in A.R.S. § 32-3201;
  - b. Is open to all individuals or to all residents of a community, members of a club or camp, individuals being treated by a specific health professional, or patrons of other such establishments; and
  - c. Includes a:
    - i. Natural bathing place as defined in A.A.C. R18-5-201,
    - ii. Public spa as defined in A.A.C. R18-5-201,
    - iii. Public swimming pool as defined in A.A.C. R18-5-201,
    - iv. Semi-artificial bathing place as defined in A.A.C. R18-5-201,
    - v. Semi-public spa as defined in A.A.C. R18-5-201,

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- vi. Semi-public swimming pool as defined in A.A.C. R18-5-201, and
  - vii. Water-play area, an artificially constructed depression in which water issues from showers or other nozzles and drains away to leave little or no standing water.
2. "Blood bank" means a facility where human whole blood or a blood component is collected, prepared, tested, processed, or stored, or from which human whole blood or a blood component is distributed.
  3. "Blood center" means a mobile or stationary facility that procures human whole blood or a blood component that is transported to a blood bank.
  4. "Contact precautions" means, in addition to use of standard precautions:
    - a. Placing an individual in a private room or a cohort room with a distance of three or more feet separating the individual's bed from the bed of another individual; and
    - b. Ensuring the use of a gown and gloves by other individuals when entering the room in which the individual is located.
  5. "Contaminated" means to have come in contact with a disease-causing agent or toxin.
  6. "Disinfection" means killing or inactivating communicable-disease-causing agents on inanimate objects by directly applied chemical or physical means.
  7. "Disinfestation" means any physical, biological, or chemical process to reduce or eliminate undesired arthropod or rodent populations.
  8. "Droplet precautions" means, in addition to use of standard precautions:
    - a. Placing an individual in a private room or a cohort room with a distance of three or more feet and a curtain separating the individual's bed from the bed of another individual;
    - b. Ensuring that the individual wears a mask covering the individual's mouth and nose, if medically appropriate, when not in the room described in subsection (8)(a); and
    - c. Ensuring the use of a mask covering the mouth and nose by other individuals when entering the room in which the individual is located.
  9. "Follow-up" means the practice of investigating and monitoring cases, carriers, contacts, or suspect cases to detect, treat, or prevent disease.
  10. "Incapacitated adult" means an individual older than 18 years of age for whom a guardian has been appointed by a court of competent jurisdiction.
  11. "Isolation precautions" means methods to limit the transmission of an infectious agent, based on the infectious agent and the location of infection in or on the infected individual or animal, that includes isolation of the infected individual or animal and may include any one or combination of the following:
    - a. Standard precautions,
    - b. Contact precautions,
    - c. Droplet precautions, or
    - d. Airborne precautions.
  12. "Midwife" has the same meaning as in A.R.S. § 36-751.
  13. "Multi-drug-resistant organism" means a bacterial agent on a Department-provided list that is known to not be killed or whose growth is not slowed by specific classes of antibiotics.
  14. "Pediculocide" means a shampoo or cream rinse manufactured and labeled for controlling head lice.
  15. "Person in charge" means the individual present at a food establishment who is responsible for the food establishment's operation at the time in question.
  16. "Plasma center" means a facility where the process of plasmapheresis or another form of apheresis is conducted.
  17. "State health officer" means the Director of the Department or the Director's designee.
  18. "Vector" means a living animal, usually a mosquito, tick, flea, or other arthropod, that may transmit an infectious agent to an individual.

**Historical Note**

Adopted effective October 19, 1993 (Supp. 93-4).  
 Amended effective April 4, 1997 (Supp. 97-2). Former R9-6-301 repealed; new R9-6-301 renumbered from R9-6-103 and amended by final rulemaking at 10 A.A.R. 3559, effective October 2, 2004 (Supp. 04-3). Amended by final rulemaking at 14 A.A.R. 1502, effective April 1, 2008 (Supp. 08-2). Amended by final rulemaking at 23 A.A.R. 2605, effective January 1, 2018 (Supp. 17-3).

**R9-6-302. Local Health Agency Control Measures**

A local health agency shall:

1. Review each report received under Article 2 for completeness and accuracy;
2. Confirm each diagnosis;
3. Conduct epidemiologic and other investigations required by this Chapter or in cooperation with the Department;
4. Facilitate notification of known contacts;
5. Conduct surveillance;
6. Determine trends;
7. Implement control measures, quarantines, isolations, and exclusions as required by the Arizona Revised Statutes and this Chapter;
8. Disseminate surveillance information to health care providers;
9. Provide health education to a disease case or contact to reduce the risk of transmission of the respective disease; and
10. Report to the Department, as specified in R9-6-206 and this Article.

**Historical Note**

Renumbered from R9-6-702 and amended effective October 19, 1993 (Supp. 93-4). Former R9-6-302 renumbered to R9-6-304; new R9-6-302 renumbered from R9-6-204 and amended by final rulemaking at 10 A.A.R. 3559, effective October 2, 2004 (Supp. 04-3). Amended by final rulemaking at 14 A.A.R. 1502, effective April 1, 2008 (Supp. 08-2). Amended by final rulemaking at 23 A.A.R. 2605, effective January 1, 2018 (Supp. 17-3).

**R9-6-303. Isolation, Quarantine, Exclusion, and Other Control Measures**

- A. When a local health agency is required by this Article to isolate or quarantine an individual or group of individuals, the local health agency:
1. Shall issue a written order:
    - a. For isolation or quarantine and other control measures;
    - b. To each individual or group of individuals and, for each individual who is a minor or incapacitated adult, the individual's parent or guardian, except as provided in subsection (A)(2);
    - c. That specifies:
      - i. The isolation or quarantine and other control measure requirements being imposed, includ-



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- ing, if applicable, requirements for physical examinations and medical testing to ascertain and monitor each individual's health status;
  - ii. The identity of each individual or group of individuals subject to the order;
  - iii. The premises at which each individual or group of individuals is to be isolated or quarantined;
  - iv. The date and time at which isolation or quarantine and other control measure requirements begin; and
  - v. The justification for isolation or quarantine and other control measure requirements, including, if known, the disease for which the individual or individuals are believed to be cases, suspect cases, or contacts; and
- d. That may provide information about existing medical treatment, if available and necessary to render an individual less infectious, and the consequences of an individual's failure to obtain the medical treatment; and
- 2. May post the written order in a conspicuous place at the premises at which a group of individuals is to be isolated or quarantined if:
  - a. The written order applies to the group of individuals, and
  - b. It would be impractical to provide a copy to each individual in the group.
- B. A local health agency may issue a written order for additional control measures:
  - 1. Except as provided in subsection (A)(2), to each affected individual, group of individuals, or person and, for each individual who is a minor or incapacitated adult, the individual's parent or guardian;
  - 2. That specifies:
    - a. The control measure requirements being imposed, including, if applicable, requirements for:
      - i. Being excluded from working as a food handler, caring for patients or residents in a health care institution, or caring for children in or attending a school or child care establishment;
      - ii. Avoiding other locations where the individual or an individual in the group of individuals may pose a health risk to other individuals;
      - iii. Observing airborne precautions, droplet precautions, or contact precautions and the methods by which the individual shall comply with the requirement;
      - iv. Prophylaxis or immunization, as applicable, as an alternative to or to reduce the length of exclusion;
      - v. Physical examinations and medical testing to ascertain and monitor the individual's health status; or
      - vi. Not creating a situation where additional individuals may be exposed to the communicable disease;
    - b. The identity of each individual, group of individuals, or person subject to the order;
    - c. The date and time at which the control measure requirements begin; and
    - d. The justification for the control measure requirements, including:
      - i. If known, the disease for which the individual or individuals are believed to be cases, suspect cases, or contacts; and
      - ii. If applicable, the possible consequences of the individual, group of individuals, or person failing to follow the recommendations of the Department or the local health agency to control the spread of the communicable disease; and
  - 3. That may provide information about the disease, existing medical treatment, if applicable, and the consequences of an individual's failure to comply with the order.
- C. Within 10 calendar days after the issuing of a written order described in subsection (A) or (B), if a local health agency determines that isolation, quarantine, or other control measure requirements need to continue for more than 10 calendar days after the date of the order, the local health agency shall file a petition for a court order that:
  - 1. Authorizes the continuation of isolation, quarantine, or other control measure requirements pertaining to an individual, a group of individuals, or a person;
  - 2. Includes the following:
    - a. The isolation, quarantine, or other control measure requirements being imposed, including, if applicable, requirements for physical examinations and medical testing to ascertain and monitor an individual's health status;
    - b. The identity of each individual, group of individuals, or person subject to isolation, quarantine, or other control measure requirements;
    - c. If applicable, the premises at which each individual or group of individuals is isolated or quarantined;
    - d. The date and time at which isolation, quarantine, or other control measure requirements began; and
    - e. The justification for isolation, quarantine, or other control measure requirements, including, if applicable and known, the disease for which the individual or individuals are believed to be cases, suspect cases, or contacts; and
  - 3. Is accompanied by the sworn affidavit of a representative of the local health agency or the Department attesting to the facts asserted in the petition, together with any further information that may be relevant and material to the court's consideration.
- D. A local health agency that files a petition for a court order under subsection (C) shall provide notice to each individual, group of individuals, or person identified in the petition according to the Arizona Rules of Civil Procedure, except that notice shall be provided within 24 hours after the petition is filed.
- E. In the event of noncompliance with a written order issued under subsection (A) or (B), a local health agency may contact law enforcement to request assistance in enforcing the order.
- F. If the Department determines that isolation, quarantine, or other control measure requirements are necessary, the Department, under A.R.S. § 36-136(G), may take any of the actions specified in subsections (A) through (E).

**Historical Note**

Renumbered from R9-6-703 and amended effective October 19, 1993 (Supp. 93-4). Former R9-6-303 renumbered to R9-6-305; new R9-6-303 made by final rulemaking at 10 A.A.R. 3559, effective October 2, 2004 (Supp. 04-3). Former R9-6-303 renumbered to R9-6-304; new R9-6-303 renumbered from R9-6-388 and amended by final rulemaking at 14 A.A.R. 1502, effective April 1, 2008 (Supp. 08-2). Amended by final rulemaking at 23 A.A.R. 2605, effective January 1, 2018 (Supp. 17-3).

**R9-6-304. Food Establishment Control Measures**

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The person in charge of a food establishment shall ensure compliance with all food handler exclusion requirements in this Article or as ordered by a local health agency or the Department.

**Historical Note**

Renumbered from R9-6-704 and amended effective October 19, 1993 (Supp. 93-4). Former R9-6-304 renumbered to R9-6-306; new R9-6-304 renumbered from R9-6-302 and amended by final rulemaking at 10 A.A.R. 3559, effective October 2, 2004 (Supp. 04-3). Former R9-6-304 renumbered to R9-6-305; new R9-6-304 renumbered from R9-6-303 by final rulemaking at 14 A.A.R. 1502, effective April 1, 2008 (Supp. 08-2). Amended by final rulemaking at 23 A.A.R. 2605, effective January 1, 2018 (Supp. 17-3).

**R9-6-305. Control Measures for Multi-drug-resistant Organisms**

Case control measures:

1. A diagnosing health care provider or an administrator of a health care institution transferring a case with active infection of a bacterial disease, for which the agent is known to be a multi-drug-resistant organism, to another health care provider or health care institution or to a correctional facility shall, either personally or through a representative, ensure that the receiving health care provider, health care institution, or correctional facility is informed that the patient is infected with a multi-drug-resistant organism.
2. An administrator of the correctional facility transferring a case with active infection of a bacterial disease, for which the agent is known to be a multi-drug-resistant organism, to another correctional facility or to a health care institution shall, either personally or through a representative, ensure that the receiving correctional facility or health care institution is informed that the individual is infected with a multi-drug-resistant organism.

**Historical Note**

Renumbered from R9-6-705 and amended effective October 19, 1993 (Supp. 93-4). Former R9-6-305 renumbered to R9-6-308; new R9-6-305 renumbered from R9-6-303 and amended by final rulemaking at 10 A.A.R. 3559, effective October 2, 2004 (Supp. 04-3). Former R9-6-305 renumbered to R9-6-306; new R9-6-305 renumbered from R9-6-304 and amended by final rulemaking at 14 A.A.R. 1502, effective April 1, 2008 (Supp. 08-2). Section R9-6-305 renumbered to R9-6-306; new Section R9-6-305 made by final rulemaking at 23 A.A.R. 2605, effective January 1, 2018 (Supp. 17-3).

**R9-6-306. Amebiasis**

Case control measures: A local health agency shall:

1. Exclude an amebiasis case or suspect case with diarrhea from:
  - a. Working as a food handler, caring for children in or attending a child care establishment, or caring for patients or residents in a health care institution until:
    - i. Either:
      - (1) Treatment with an amebicide is initiated, and
      - (2) A stool specimen negative for amoebae is obtained from the amebiasis case or suspect case; or
    - ii. The local health agency has determined that the amebiasis case or suspect case is unlikely to infect other individuals; and

- b. Using an aquatic venue for two weeks after diarrhea has resolved;
2. Conduct an epidemiologic investigation of each reported amebiasis case or suspect case; and
3. For each amebiasis case, submit to the Department, as specified in Table 2.4, the information required under R9-6-206(D).

**Historical Note**

Renumbered from R9-6-706 and amended effective October 19, 1993 (Supp. 93-4). Former R9-6-306 renumbered to R9-6-309; new R9-6-306 renumbered from R9-6-304 and amended by final rulemaking at 10 A.A.R. 3559, effective October 2, 2004 (Supp. 04-3). Former R9-6-306 renumbered to R9-6-307; new R9-6-306 renumbered from R9-6-305 and amended by final rulemaking at 14 A.A.R. 1502, effective April 1, 2008 (Supp. 08-2). Section R9-6-306 renumbered to R9-6-308; new Section R9-6-306 renumbered from R9-6-305 and amended by final rulemaking at 23 A.A.R. 2605, effective January 1, 2018 (Supp. 17-3).

**R9-6-307. Anaplasmosis**

Case control measures: A local health agency shall:

1. Conduct an epidemiologic investigation of each reported anaplasmosis case or suspect case; and
2. For each anaplasmosis case, submit to the Department, as specified in Table 2.4, the information required under R9-6-206(D).

**Historical Note**

Former Section R9-6-115, Paragraph (5), renumbered and amended as R9-6-707 effective January 28, 1987 (Supp. 87-1). Former R9-6-307 renumbered to R9-6-310; new R9-6-307 made by final rulemaking at 10 A.A.R. 3559, effective October 2, 2004 (Supp. 04-3). Former R9-6-307 renumbered to R9-6-308; new R9-6-307 renumbered from R9-6-306 and amended by final rulemaking at 14 A.A.R. 1502, effective April 1, 2008 (Supp. 08-2). Section R9-6-307 repealed; new Section R9-6-307 made by final rulemaking at 23 A.A.R. 2605, effective January 1, 2018 (Supp. 17-3).

**R9-6-308. Anthrax**

A. Case control measures: A local health agency shall:

1. Upon receiving a report under R9-6-202 of an anthrax case or suspect case, notify the Department within 24 hours after receiving the report and provide to the Department the information contained in the report;
2. Conduct an epidemiologic investigation of each reported anthrax case or suspect case;
3. For each anthrax case, submit to the Department, as specified in Table 2.4, the information required under R9-6-206(D); and
4. Ensure that an isolate or a specimen, as available, from each anthrax case or suspect case is submitted to the Arizona State Laboratory.

B. Environmental control measures: A local health agency shall, in conjunction with the Department and applicable federal agencies, provide or arrange for disinfection of areas or objects contaminated by *Bacillus anthracis* through sterilization by dry heating, incineration of objects, or other appropriate means.

**Historical Note**

Adopted effective October 19, 1993 (Supp. 93-4). Amended by final rulemaking at 8 A.A.R. 1953, effective April 3, 2002 (Supp. 02-2). Former R9-6-308 renumbered to R9-6-311; new R9-6-308 renumbered from R9-

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6-305 and amended by final rulemaking at 10 A.A.R. 3559, effective October 2, 2004 (Supp. 04-3). Former R9-6-308 renumbered to R9-6-309; new R9-6-308 renumbered from R9-6-307 and amended by final rulemaking at 14 A.A.R. 1502, effective April 1, 2008 (Supp. 08-2). Section R9-6-308 renumbered to R9-6-311; new Section R9-6-308 renumbered from R9-6-306 and amended by final rulemaking at 23 A.A.R. 2605, effective January 1, 2018 (Supp. 17-3).

**R9-6-309. Arboviral Infection**

A. Case control measures: A local health agency shall:

1. Conduct an epidemiologic investigation of each reported arboviral infection case or suspect case;
2. For each arboviral infection case, submit to the Department, as specified in Table 2.4, the information required under R9-6-206(D); and
3. Ensure that each arboviral infection case is provided with health education that includes measures to:
  - a. Avoid mosquito bites, and
  - b. Reduce mosquito breeding sites.

B. Environmental control measures: In cooperation with the Department, a local health agency or another local agency responsible for vector control within a jurisdiction shall conduct an assessment of the environment surrounding each arboviral infection case or suspect case and implement vector control measures as necessary.

**Historical Note**

Renumbered from R9-6-708 and amended effective October 19, 1993 (Supp. 93-4). Amended by final rulemaking at 8 A.A.R. 1953, effective April 3, 2002 (Supp. 02-2). Former R9-6-309 renumbered to R9-6-312; new R9-6-309 renumbered from R9-6-306 and amended by final rulemaking at 10 A.A.R. 3559, effective October 2, 2004 (Supp. 04-3). Former R9-6-309 renumbered to R9-6-310; new R9-6-309 renumbered from R9-6-308 and amended by final rulemaking at 14 A.A.R. 1502, effective April 1, 2008 (Supp. 08-2). Section R9-6-309 renumbered to R9-6-312; new Section R9-6-309 made by final rulemaking at 23 A.A.R. 2605, effective January 1, 2018 (Supp. 17-3).

**R9-6-310. Babesiosis**

Case control measures: A local health agency shall:

1. Conduct an epidemiologic investigation of each reported babesiosis case or suspect case; and
2. For each babesiosis case, submit to the Department, as specified in Table 2.4, the information required under R9-6-206(D).

**Historical Note**

Renumbered from R9-6-709 and amended effective October 19, 1993 (Supp. 93-4). Amended effective April 4, 1997 (Supp. 97-2). Former R9-6-310 renumbered to R9-6-313; new R9-6-310 renumbered from R9-6-307 and amended by final rulemaking at 10 A.A.R. 3559, effective October 2, 2004 (Supp. 04-3). Former R9-6-310 renumbered to R9-6-311; new R9-6-310 renumbered from R9-6-309 and amended by final rulemaking at 14 A.A.R. 1502, effective April 1, 2008 (Supp. 08-2). Section R9-6-310 renumbered to R9-6-313; new Section R9-6-310 made by final rulemaking at 23 A.A.R. 2605, effective January 1, 2018 (Supp. 17-3).

**R9-6-311. Basidiobolomycosis**

Case control measures: A local health agency shall:

1. Conduct an epidemiologic investigation of each reported basidiobolomycosis case or suspect case; and
2. For each basidiobolomycosis case, submit to the Department, as specified in Table 2.4, the information required under R9-6-206(D).

**Historical Note**

Repealed effective May 2, 1991 (Supp. 91-2). New Section R9-6-311 renumbered from R9-6-710 and amended effective October 19, 1993 (Supp. 93-4). Former R9-6-311 renumbered to R9-6-314; new R9-6-311 renumbered from R9-6-308 and amended by final rulemaking at 10 A.A.R. 3559, effective October 2, 2004 (Supp. 04-3). Former R9-6-311 renumbered to R9-6-313; new R9-6-311 renumbered from R9-6-310 and amended by final rulemaking at 14 A.A.R. 1502, effective April 1, 2008 (Supp. 08-2). Section R9-6-311 renumbered to R9-6-314; new Section R9-6-311 renumbered from R9-6-308 and amended by final rulemaking at 23 A.A.R. 2605, effective January 1, 2018 (Supp. 17-3).

**R9-6-312. Botulism**

A. Case control measures: A local health agency shall:

1. Upon receiving a report under R9-6-202 of a botulism case or suspect case, notify the Department within 24 hours after receiving the report and provide to the Department the information contained in the report;
2. Conduct an epidemiologic investigation of each reported botulism case or suspect case; and
3. For each botulism case or suspect case:
  - a. Submit to the Department, as specified in Table 2.4, the information required under R9-6-206(D); and
  - b. Ensure that one or more specimens from each botulism case or suspect case are submitted to the Arizona State Laboratory.

B. Environmental control measures: An individual in possession of:

1. Food known to be contaminated by *Clostridium botulinum* or *Clostridium botulinum* toxin shall boil the contaminated food for 10 minutes and then discard it, and
2. Utensils known to be contaminated by *Clostridium botulinum* or *Clostridium botulinum* toxin shall boil the contaminated utensils for 10 minutes before reuse or disposal.

**Historical Note**

Adopted effective October 19, 1993 (Supp. 93-4). Former R9-6-312 renumbered to R9-6-315; new R9-6-312 renumbered from R9-6-309 and amended by final rulemaking at 10 A.A.R. 3559, effective October 2, 2004 (Supp. 04-3). Former R9-6-312 renumbered to R9-6-314; new R9-6-312 made by final rulemaking at 14 A.A.R. 1502, effective April 1, 2008 (Supp. 08-2). Section R9-6-312 renumbered to R9-6-316; new Section R9-6-312 renumbered from R9-6-309 and amended by final rulemaking at 23 A.A.R. 2605, effective January 1, 2018 (Supp. 17-3).

**R9-6-313. Brucellosis**

Case control measures: A local health agency shall:

1. Conduct an epidemiologic investigation of each reported brucellosis case or suspect case;
2. For each brucellosis case, submit to the Department, as specified in Table 2.4, the information required under R9-6-206(D); and
3. Ensure that an isolate or a specimen, as available, from each brucellosis case is submitted to the Arizona State Laboratory.

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**Historical Note**

Renumbered from R9-6-711 and amended effective October 19, 1993 (Supp. 93-4). Amended effective April 4, 1997 (Supp. 97-2). Former R9-6-313 renumbered to R9-6-316; new R9-6-313 renumbered from R9-6-310 and amended by final rulemaking at 10 A.A.R. 3559, effective October 2, 2004 (Supp. 04-3). Former R9-6-313 renumbered to R9-6-315; new R9-6-313 renumbered from R9-6-311 and amended by final rulemaking at 14 A.A.R. 1502, effective April 1, 2008 (Supp. 08-2). Section R9-6-313 renumbered to R9-6-317; new Section R9-6-313 renumbered from R9-6-310 and amended by final rulemaking at 23 A.A.R. 2605, effective January 1, 2018 (Supp. 17-3).

**R9-6-314. Campylobacteriosis**

Case control measures: A local health agency shall:

1. Exclude a campylobacteriosis case or suspect case with diarrhea from:
  - a. Working as a food handler, caring for children in or attending a child care establishment, or caring for patients or residents in a health care institution until:
    - i. Diarrhea has resolved,
    - ii. A stool specimen negative for *Campylobacter* spp. is obtained from the campylobacteriosis case or suspect case, or
    - iii. The local health agency has determined that the case or suspect case is unlikely to infect other individuals; and
  - b. Using an aquatic venue until diarrhea has resolved;
2. Conduct an epidemiologic investigation of each reported campylobacteriosis case or suspect case; and
3. For each campylobacteriosis case, submit to the Department, as specified in Table 2.4, the information required under R9-6-206(D).

**Historical Note**

Adopted effective October 19, 1993 (Supp. 93-4). Amended effective April 4, 1997 (Supp. 97-2). Former R9-6-314 renumbered to R9-6-318; new R9-6-314 renumbered from R9-6-311 and amended by final rulemaking at 10 A.A.R. 3559, effective October 2, 2004 (Supp. 04-3). Former R9-6-314 renumbered to R9-6-316; new R9-6-314 renumbered from R9-6-312 and amended by final rulemaking at 14 A.A.R. 1502, effective April 1, 2008 (Supp. 08-2). Section R9-6-314 renumbered to R9-6-319; new Section R9-6-314 renumbered from R9-6-311 and amended by final rulemaking at 23 A.A.R. 2605, effective January 1, 2018 (Supp. 17-3).

**R9-6-315. Carbapenem-resistant Enterobacteriaceae**

A. Case control measures:

1. A diagnosing health care provider or an administrator of a health care institution, either personally or through a representative, shall:
  - a. Institute isolation precautions as necessary for a carbapenem-resistant enterobacteriaceae case or carrier to prevent transmission; and
  - b. If a carbapenem-resistant enterobacteriaceae case or carrier is being transferred to another health care provider or health care institution or to a correctional facility, comply with R9-6-305.
2. An administrator of a correctional facility, either personally or through a representative, shall:
  - a. Institute isolation precautions as necessary for a carbapenem-resistant enterobacteriaceae case or carrier to prevent transmission; and

- b. If a carbapenem-resistant enterobacteriaceae case or carrier is being transferred to another correctional facility or to a health care institution, comply with R9-6-305.
3. A local health agency, in consultation with the Department, shall:
    - a. Ensure that a case or carrier of carbapenem-resistant enterobacteriaceae is isolated as necessary to prevent transmission; and
    - b. Upon request, ensure that an isolate or a specimen, as available, from each case or carrier of carbapenem-resistant enterobacteriaceae is submitted to the Arizona State Laboratory.

B. Outbreak control measures: A local health agency shall:

1. Conduct an epidemiologic investigation for each outbreak or suspected outbreak of carbapenem-resistant enterobacteriaceae; and
2. For each outbreak or suspected outbreak of carbapenem-resistant enterobacteriaceae, submit to the Department the information required under R9-6-206(E).

**Historical Note**

Renumbered from R9-6-712 and amended effective October 19, 1993 (Supp. 93-4). Former R9-6-315 renumbered to R9-6-321; new R9-6-315 renumbered from R9-6-312 and amended by final rulemaking at 10 A.A.R. 3559, effective October 2, 2004 (Supp. 04-3). Former R9-6-315 renumbered to R9-6-317; new R9-6-315 renumbered from R9-6-313 and amended by final rulemaking at 14 A.A.R. 1502, effective April 1, 2008 (Supp. 08-2). Section R9-6-315 renumbered to R9-6-320; new Section R9-6-315 made by final rulemaking at 23 A.A.R. 2605, effective January 1, 2018 (Supp. 17-3).

**R9-6-316. Chagas Infection and Related Disease (*American Trypanosomiasis*)**

Case control measures: A local health agency shall:

1. Conduct an epidemiologic investigation of each reported Chagas infection or disease case or suspect case; and
2. For each Chagas infection or disease case:
  - a. Submit to the Department, as specified in Table 2.4, the information required under R9-6-206(D); and
  - b. Provide to the Chagas infection or disease case or ensure that another person provides to the Chagas infection or disease case health education that includes:
    - i. The treatment options for Chagas infection or disease,
    - ii. Where the Chagas infection or disease case may receive treatment for Chagas infection or disease, and
    - iii. For women of childbearing age, the risks of transmission of Chagas infection or disease to a fetus.

**Historical Note**

Renumbered from R9-6-713 and amended effective October 19, 1993 (Supp. 93-4). Amended effective April 4, 1997 (Supp. 97-2). Former R9-6-316 repealed; new R9-6-316 renumbered from R9-6-313 and amended by final rulemaking at 10 A.A.R. 3559, effective October 2, 2004 (Supp. 04-3). Former R9-6-316 renumbered to R9-6-318; new R9-6-316 renumbered from R9-6-314 and amended by final rulemaking at 14 A.A.R. 1502, effective April 1, 2008 (Supp. 08-2). Section R9-6-316 renumbered to R9-6-322; new Section R9-6-316 renumbered

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from R9-6-312 and amended by final rulemaking at 23 A.A.R. 2605, effective January 1, 2018 (Supp. 17-3).

**R9-6-317. Chancroid (*Haemophilus ducreyi*)**

- A. Case control measures: A local health agency shall:
1. Conduct an epidemiologic investigation of each reported chancroid case or suspect case;
  2. For each chancroid case, submit to the Department, as specified in Table 2.4, the information required under R9-6-206(D); and
  3. Comply with the requirements specified in R9-6-1103 concerning treatment and health education for a chancroid case.
- B. Contact control measures: When a chancroid case has named a contact, a local health agency shall comply with the requirements specified in R9-6-1103 concerning notification, testing, treatment, and health education for the contact.

**Historical Note**

Renumbered from R9-6-714 and amended effective October 19, 1993 (Supp. 93-4). Former R9-6-317 renumbered to R9-6-323; new R9-6-317 made by final rulemaking at 10 A.A.R. 3559, effective October 2, 2004 (Supp. 04-3). Former R9-6-317 renumbered to R9-6-319; new R9-6-317 renumbered from R9-6-315 and amended by final rulemaking at 14 A.A.R. 1502, effective April 1, 2008 (Supp. 08-2). Section R9-6-317 renumbered to R9-6-323; new Section R9-6-317 renumbered from R9-6-313 and amended by final rulemaking at 23 A.A.R. 2605, effective January 1, 2018 (Supp. 17-3).

**R9-6-318. Chikungunya**

- A. Case control measures: A local health agency shall:
1. Upon receiving a report under R9-6-202 of a chikungunya case or suspect case, notify the Department within one working day after receiving the report and provide to the Department the information contained in the report;
  2. Conduct an epidemiologic investigation of each reported chikungunya case or suspect case;
  3. For each chikungunya case, submit to the Department, as specified in Table 2.4, the information required under R9-6-206(D); and
  4. Ensure that each chikungunya case is provided with health education that includes measures to:
    - a. Avoid mosquito bites, and
    - b. Reduce mosquito breeding sites.
- B. Environmental control measures: In cooperation with the Department, a local health agency or another local agency responsible for vector control within a jurisdiction shall conduct an assessment of the environment surrounding each chikungunya case or suspect case and implement vector control measures as necessary.

**Historical Note**

Adopted effective October 19, 1993 (Supp. 93-4). Former R9-6-318 renumbered to R9-6-324; new R9-6-318 renumbered from R9-6-314 and amended by final rulemaking at 10 A.A.R. 3559, effective October 2, 2004 (Supp. 04-3). Former R9-6-318 renumbered to R9-6-320; new R9-6-318 renumbered from R9-6-316 and amended by final rulemaking at 14 A.A.R. 1502, effective April 1, 2008 (Supp. 08-2). Section R9-6-318 renumbered to R9-6-324; new Section R9-6-318 made by final rulemaking at 23 A.A.R. 2605, effective January 1, 2018 (Supp. 17-3).

**R9-6-319. *Chlamydia trachomatis* Infection**

- A. Case control measures: A local health agency shall comply with the requirements specified in R9-6-1103 concerning treatment and health education for a *Chlamydia trachomatis* infection case that seeks treatment from the local health agency.
- B. Contact control measures: If an individual who may have been exposed to chlamydia through sexual contact with a *Chlamydia trachomatis* infection case seeks treatment for symptoms of chlamydia infection from a local health agency, the local health agency shall comply with the requirements specified in R9-6-1103 concerning treatment and health education for the individual.

**Historical Note**

Renumbered from R9-6-715 and amended effective October 19, 1993 (Supp. 93-4). Former R9-6-319 renumbered to R9-6-326; new R9-6-319 made by final rulemaking at 10 A.A.R. 3559, effective October 2, 2004 (Supp. 04-3). Former R9-6-319 renumbered to R9-6-321; new R9-6-319 renumbered from R9-6-317 and amended by final rulemaking at 14 A.A.R. 1502, effective April 1, 2008 (Supp. 08-2). Section R9-6-319 renumbered to R9-6-325; new Section R9-6-319 renumbered from R9-6-314 and amended by final rulemaking at 23 A.A.R. 2605, effective January 1, 2018 (Supp. 17-3).

**R9-6-320. Cholera**

- A. Case control measures: A local health agency shall:
1. Upon receiving a report under R9-6-202 of a cholera case or suspect case, notify the Department within one working day after receiving the report and provide to the Department the information contained in the report;
  2. Exclude a cholera case or suspect case from:
    - a. Working as a food handler, caring for patients or residents in a health care institution, or caring for children in or attending a child care establishment until a stool specimen negative for toxigenic *Vibrio cholerae* is obtained from the cholera case or suspect case; and
    - b. Using an aquatic venue until diarrhea has resolved;
  3. Conduct an epidemiologic investigation of each reported cholera case or suspect case; and
  4. For each cholera case, submit to the Department, as specified in Table 2.4, the information required under R9-6-206(D).
- B. Contact control measures: A local health agency shall provide follow-up for each cholera contact for five calendar days after exposure.

**Historical Note**

Renumbered from R9-6-716 and amended effective October 19, 1993 (Supp. 93-4). Former Section R9-6-320 renumbered to Section R9-6-321; new Section R9-6-320 adopted effective April 4, 1997 (Supp. 97-2). Section repealed; new Section made by final rulemaking at 10 A.A.R. 3559, effective October 2, 2004 (Supp. 04-3). Former R9-6-320 renumbered to R9-6-322; new R9-6-320 renumbered from R9-6-318 and amended by final rulemaking at 14 A.A.R. 1502, effective April 1, 2008 (Supp. 08-2). Section R9-6-320 renumbered to R9-6-326; new Section R9-6-320 renumbered from R9-6-315 and amended by final rulemaking at 23 A.A.R. 2605, effective January 1, 2018 (Supp. 17-3).

**R9-6-321. *Clostridium difficile***

Case control measures:

1. A diagnosing health care provider or an administrator of a health care institution transferring a known *Clostridium difficile* case with active infection and diarrhea to another

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health care provider or health care institution or to a correctional facility shall, either personally or through a representative, ensure that the receiving health care provider, health care institution, or correctional facility is informed that the patient is a known *Clostridium difficile* case.

2. If a known *Clostridium difficile* case with active infection and diarrhea is being transferred from a correctional facility to another correctional facility or to a health care institution, an administrator of the correctional facility, either personally or through a representative, shall ensure that the receiving correctional facility or health care institution is informed that the individual is a known *Clostridium difficile* case.

**Historical Note**

Renumbered from R9-6-717 and amended effective October 19, 1993 (Supp. 93-4). Former Section R9-6-321 renumbered to R9-6-322; new Section R9-6-321 renumbered from R9-6-320 effective April 4, 1997 (Supp. 97-2). Former R9-6-321 renumbered to R9-6-322; new R9-6-321 renumbered from R9-6-315 and amended by final rulemaking at 10 A.A.R. 3559, effective October 2, 2004 (Supp. 04-3). Former R9-6-321 renumbered to R9-6-323; new R9-6-321 renumbered from R9-6-319 and amended by final rulemaking at 14 A.A.R. 1502, effective April 1, 2008 (Supp. 08-2). Section R9-6-321 renumbered to R9-6-327; new Section R9-6-321 made by final rulemaking at 23 A.A.R. 2605, effective January 1, 2018 (Supp. 17-3).

**R9-6-322. Coccidioidomycosis (Valley Fever)**

Outbreak control measures: A local health agency shall:

1. Conduct an epidemiologic investigation of each reported outbreak of coccidioidomycosis; and
2. For each outbreak of coccidioidomycosis, submit to the Department the information required under R9-6-206(E).

**Historical Note**

Renumbered from R9-6-718 and amended effective October 19, 1993 (Supp. 93-4). Former Section R9-6-322 renumbered to R9-6-323; new Section R9-6-322 renumbered from R9-6-321 effective April 4, 1997 (Supp. 97-2). Former R9-6-322 renumbered to R9-6-329; new R9-6-322 renumbered from R9-6-321 and amended by final rulemaking at 10 A.A.R. 3559, effective October 2, 2004 (Supp. 04-3). Former R9-6-322 renumbered to R9-6-324; new R9-6-322 renumbered from R9-6-320 and amended by final rulemaking at 14 A.A.R. 1502, effective April 1, 2008 (Supp. 08-2). Section R9-6-322 renumbered to R9-6-328; new Section R9-6-322 renumbered from R9-6-316 and amended by final rulemaking at 23 A.A.R. 2605, effective January 1, 2018 (Supp. 17-3).

**R9-6-323. Colorado Tick Fever**

Case control measures: A local health agency shall:

1. Conduct an epidemiologic investigation of each reported Colorado tick fever case or suspect case; and
2. For each Colorado tick fever case, submit to the Department, as specified in Table 2.4, the information required under R9-6-206(D).

**Historical Note**

Renumbered from R9-6-719 and amended effective October 19, 1993 (Supp. 93-4). Former Section R9-6-323 renumbered to R9-6-324; new Section R9-6-323 renumbered from R9-6-322 and amended effective April 4, 1997 (Supp. 97-2). Amended by final rulemaking at 8 A.A.R. 1953, effective April 3, 2002 (Supp. 02-2). Former R9-6-323 renumbered to R9-6-330; new R9-6-323

renumbered from R9-6-317 and amended by final rulemaking at 10 A.A.R. 3559, effective October 2, 2004 (Supp. 04-3). Former R9-6-323 renumbered to R9-6-325; new R9-6-323 renumbered from R9-6-321 and amended by final rulemaking at 14 A.A.R. 1502, effective April 1, 2008 (Supp. 08-2). Section R9-6-323 renumbered to R9-6-329; new Section R9-6-323 renumbered from R9-6-317 and amended by final rulemaking at 23 A.A.R. 2605, effective January 1, 2018 (Supp. 17-3).

**R9-6-324. Conjunctivitis: Acute**

- A. Case control measures: An administrator of a school or child care establishment, either personally or through a representative, shall exclude an acute conjunctivitis case from attending the school or child care establishment until the symptoms of acute conjunctivitis subside or treatment for acute conjunctivitis is initiated and maintained for 24 hours.
- B. Outbreak control measures: A local health agency shall:
  1. Conduct an epidemiologic investigation of each reported conjunctivitis outbreak; and
  2. For each conjunctivitis outbreak, submit to the Department the information required under R9-6-206(E).

**Historical Note**

Renumbered from R9-6-720 and amended effective October 19, 1993 (Supp. 93-4). Former Section R9-6-324 renumbered to R9-6-326; new Section R9-6-324 renumbered from R9-6-323, effective April 4, 1997 (Supp. 97-2). Former R9-6-324 renumbered to R9-6-331; new R9-6-324 renumbered from R9-6-318 and amended by final rulemaking at 10 A.A.R. 3559, effective October 2, 2004 (Supp. 04-3). Former R9-6-324 renumbered to R9-6-326; new R9-6-324 renumbered from R9-6-322 and amended by final rulemaking at 14 A.A.R. 1502, effective April 1, 2008 (Supp. 08-2). Section R9-6-324 renumbered to R9-6-330; new Section R9-6-324 renumbered from R9-6-318 and amended by final rulemaking at 23 A.A.R. 2605, effective January 1, 2018 (Supp. 17-3).

**R9-6-325. Creutzfeldt-Jakob Disease**

Case control measures: A local health agency shall:

1. Conduct an epidemiologic investigation of each reported Creutzfeldt-Jakob disease case or suspect case; and
2. For each Creutzfeldt-Jakob disease case, submit to the Department, as specified in Table 2.4, the information required under R9-6-206(D).

**Historical Note**

Renumbered from R9-6-721 and amended effective October 19, 1993 (Supp. 93-4). Former Section R9-6-325 renumbered to R9-6-327; new Section R9-6-325 adopted effective April 4, 1997 (Supp. 97-2). Former R9-6-325 renumbered to R9-6-333; new R9-6-325 made by final rulemaking at 10 A.A.R. 3559, effective October 2, 2004 (Supp. 04-3). Former R9-6-325 renumbered to R9-6-327; new R9-6-325 renumbered from R9-6-323 and amended by final rulemaking at 14 A.A.R. 1502, effective April 1, 2008 (Supp. 08-2). Section R9-6-325 renumbered to R9-6-331; new Section R9-6-325 renumbered from R9-6-319 and amended by final rulemaking at 23 A.A.R. 2605, effective January 1, 2018 (Supp. 17-3).

**R9-6-326. Cryptosporidiosis**

A. Case control measures: A local health agency shall:

1. Exclude a cryptosporidiosis case or suspect case with diarrhea from:
  - a. Working as a food handler, caring for patients or residents in a health care institution, or caring for chil-

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- dren in or attending a child care establishment until diarrhea has resolved; and
- b. Using an aquatic venue for two weeks after diarrhea has resolved;
- 2. Conduct an epidemiologic investigation of each reported cryptosporidiosis case or suspect case; and
- 3. For each cryptosporidiosis case, submit to the Department, as specified in Table 2.4, the information required under R9-6-206(D).

- B.** Environmental control measures: A local health agency shall conduct a sanitary inspection or ensure that a sanitary inspection is conducted of each facility or location regulated under 9 A.A.C. 8 that is associated with an outbreak of cryptosporidiosis.

**Historical Note**

Adopted effective October 19, 1993 (Supp. 93-4). Former Section R9-6-326 renumbered to R9-6-329; new Section R9-6-326 renumbered from R9-6-324 and amended effective April 4, 1997 (Supp. 97-2). Former R9-6-326 renumbered to R9-6-335; new R9-6-326 renumbered from R9-6-319 and amended by final rulemaking at 10 A.A.R. 3559, effective October 2, 2004 (Supp. 04-3). Former R9-6-326 renumbered to R9-6-328; new R9-6-326 renumbered from R9-6-324 and amended by final rulemaking at 14 A.A.R. 1502, effective April 1, 2008 (Supp. 08-2). Section R9-6-326 renumbered to R9-6-332; new Section R9-6-326 renumbered from R9-6-320 and amended by final rulemaking at 23 A.A.R. 2605, effective January 1, 2018 (Supp. 17-3).

**R9-6-327. Cyclospora Infection**

Case control measures: A local health agency shall:

- 1. Conduct an epidemiologic investigation of each reported *Cyclospora* infection case or suspect case; and
- 2. For each *Cyclospora* infection case submit to the Department, as specified in Table 2.4, the information required under R9-6-206(D).

**Historical Note**

Renumbered from R9-6-722 and amended effective October 19, 1993 (Supp. 93-4). Former Section R9-6-327 renumbered to R9-6-330; new Section R9-6-327 renumbered from R9-6-325 and amended effective April 4, 1997 (Supp. 97-2). Former R9-6-327 renumbered to R9-6-336; new R9-6-327 made by final rulemaking at 10 A.A.R. 3559, effective October 2, 2004 (Supp. 04-3). Former R9-6-327 renumbered to R9-6-329; new R9-6-327 renumbered from R9-6-325 and amended by final rulemaking at 14 A.A.R. 1502, effective April 1, 2008 (Supp. 08-2). Section R9-6-327 renumbered to R9-6-333; new Section R9-6-327 renumbered from R9-6-321 and amended by final rulemaking at 23 A.A.R. 2605, effective January 1, 2018 (Supp. 17-3).

**R9-6-328. Cysticercosis**

Case control measures: A local health agency shall:

- 1. Conduct an epidemiologic investigation of each reported cysticercosis case or suspect case; and
- 2. For each cysticercosis case, submit to the Department, as specified in Table 2.4, the information required under R9-6-206(D).

**Historical Note**

Renumbered from R9-6-701 and amended effective October 19, 1993 (Supp. 93-4). Former Section R9-6-328 renumbered to R9-6-331; new Section R9-6-328 adopted effective April 4, 1997 (Supp. 97-2). Former R9-6-328 renumbered to R9-6-337; new R9-6-328 made by final

rulemaking at 10 A.A.R. 3559, effective October 2, 2004 (Supp. 04-3). Former R9-6-328 renumbered to R9-6-330; new R9-6-328 renumbered from R9-6-326 and amended by final rulemaking at 14 A.A.R. 1502, effective April 1, 2008 (Supp. 08-2). Section R9-6-328 renumbered to R9-6-334; new Section R9-6-328 renumbered from R9-6-322 and amended by final rulemaking at 23 A.A.R. 2605, effective January 1, 2018 (Supp. 17-3).

**R9-6-329. Dengue**

**A.** Case control measures: A local health agency shall:

- 1. Upon receiving a report under R9-6-202 of a dengue case or suspect case, notify the Department within one working day after receiving the report and provide to the Department the information contained in the report;
- 2. Conduct an epidemiologic investigation of each reported dengue case or suspect case;
- 3. For each dengue case, submit to the Department, as specified in Table 2.4, the information required under R9-6-206(D); and
- 4. Ensure that each dengue case is provided with health education that includes measures to:
  - a. Avoid mosquito bites, and
  - b. Reduce mosquito breeding sites.

- B.** Environmental control measures: In cooperation with the Department, a local health agency or another local agency responsible for vector control within a jurisdiction shall conduct an assessment of the environment surrounding each dengue case or suspect case and implement vector control measures as necessary.

**Historical Note**

Adopted effective October 19, 1993 (Supp. 93-4). Section R9-6-329 renumbered to R9-6-332; new Section R9-6-329 renumbered from R9-6-326 and amended effective April 4, 1997 (Supp. 97-2). Former R9-6-329 repealed; new R9-6-329 renumbered from R9-6-322 and amended by final rulemaking at 10 A.A.R. 3559, effective October 2, 2004 (Supp. 04-3). Former R9-6-329 renumbered to R9-6-331; new R9-6-329 renumbered from R9-6-327 and amended by final rulemaking at 14 A.A.R. 1502, effective April 1, 2008 (Supp. 08-2). Section R9-6-329 renumbered to R9-6-335; new Section R9-6-329 renumbered from R9-6-323 and amended by final rulemaking at 23 A.A.R. 2605, effective January 1, 2018 (Supp. 17-3).

**R9-6-330. Diarrhea, Nausea, or Vomiting**

**A.** Outbreak control measures: A local health agency shall:

- 1. Conduct an epidemiologic investigation of each reported outbreak of diarrhea, nausea, or vomiting;
- 2. Submit to the Department the information required under R9-6-206(E); and
- 3. Exclude each case that is part of an outbreak of diarrhea, nausea, or vomiting from:
  - a. Working as a food handler, caring for patients or residents in a health care institution, or caring for children in or attending a child care establishment until:
    - i. Diarrhea and vomiting have resolved, or
    - ii. The local health agency has determined that the case is unlikely to infect other individuals; and
  - b. Using an aquatic venue for two weeks after diarrhea has resolved.

- B.** Environmental control measures: A local health agency shall conduct a sanitary inspection or ensure that a sanitary inspection is conducted of each facility or location regulated under 9 A.A.C. 8 that is associated with an outbreak of diarrhea, nausea, or vomiting.

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**Historical Note**

Renumbered from R9-6-723 and amended effective October 19, 1993 (Supp. 93-4). Section R9-6-330 renumbered to R9-6-333; new Section R9-6-330 renumbered from R9-6-327 effective April 4, 1997 (Supp. 97-2). Amended by final rulemaking at 8 A.A.R. 1953, effective April 3, 2002 (Supp. 02-2). Former R9-6-330 repealed; new R9-6-330 renumbered from R9-6-323 and amended by final rulemaking at 10 A.A.R. 3559, effective October 2, 2004 (Supp. 04-3). Former R9-6-330 renumbered to R9-6-332; new R9-6-330 renumbered from R9-6-328 and amended by final rulemaking at 14 A.A.R. 1502, effective April 1, 2008 (Supp. 08-2). Section expired under A.R.S. § 41-1056(J) at 19 A.A.R. 1928, effective April 30, 2013 (Supp. 13-3). New Section R9-6-330 renumbered from R9-6-324 and amended by final rulemaking at 23 A.A.R. 2605, effective January 1, 2018 (Supp. 17-3).

**R9-6-331. Diphtheria****A. Case control measures:**

1. A diagnosing health care provider or an administrator of a health care institution, either personally or through a representative, shall:
  - a. Isolate and institute droplet precautions for a pharyngeal diphtheria case or suspect case until two successive sets of cultures negative for *Corynebacterium diphtheriae* are obtained from nose and throat specimens collected from the case or suspect case at least 24 hours apart and at least 24 hours after cessation of treatment; and
  - b. Isolate and institute contact precautions for a cutaneous diphtheria case or suspect case until two successive sets of cultures negative for *Corynebacterium diphtheriae* are obtained from skin specimens collected from the case or suspect case at least 24 hours apart and at least 24 hours after cessation of treatment.
2. A local health agency shall:
  - a. Upon receiving a report under R9-6-202 of a diphtheria case or suspect case, notify the Department within 24 hours after receiving the report and provide to the Department the information contained in the report;
  - b. Conduct an epidemiologic investigation of each reported diphtheria case or suspect case; and
  - c. For each diphtheria case, submit to the Department, as specified in Table 2.4, the information required under R9-6-206(D).

**B. Contact control measures: A local health agency shall:**

1. Exclude each diphtheria contact from working as a food handler, caring for patients or residents in a health care institution, or caring for children in or attending a school or child care establishment until a set of cultures negative for *Corynebacterium diphtheriae* is obtained from the contact's nose and throat specimens;
2. In consultation with the Department, quarantine a contact of a diphtheria case, if indicated, until two successive sets of cultures negative for *Corynebacterium diphtheriae* are obtained from nose and throat specimens collected from the contact at least 24 hours apart;
3. Offer each previously immunized diphtheria contact prophylaxis and a vaccine containing diphtheria toxoid; and
4. Offer each unimmunized diphtheria contact prophylaxis and the primary vaccine series.

**Historical Note**

Renumbered from R9-6-724 and amended effective October 19, 1993 (Supp. 93-4). Former Section R9-6-331 renumbered to R9-6-334; new Section R9-6-331 renumbered from R9-6-328 effective April 4, 1997 (Supp. 97-2). Amended by final rulemaking at 8 A.A.R. 1953, effective April 3, 2002 (Supp. 02-2). Former R9-6-331 renumbered to R9-6-339; new R9-6-331 renumbered from R9-6-324 and amended by final rulemaking at 10 A.A.R. 3559, effective October 2, 2004 (Supp. 04-3). Former R9-6-331 renumbered to R9-6-333; new R9-6-331 renumbered from R9-6-329 and amended by final rulemaking at 14 A.A.R. 1502, effective April 1, 2008 (Supp. 08-2). Section R9-6-331 renumbered to R9-6-336; new Section R9-6-331 renumbered from R9-6-325 and amended by final rulemaking at 23 A.A.R. 2605, effective January 1, 2018 (Supp. 17-3).

**R9-6-332. Ehrlichiosis****Case control measures: A local health agency shall:**

1. Conduct an epidemiologic investigation of each reported ehrlichiosis case or suspect case; and
2. For each ehrlichiosis case, submit to the Department, as specified in Table 2.4, the information required under R9-6-206(D).

**Historical Note**

Renumbered from R9-6-725 and amended effective October 19, 1993 (Supp. 93-4). Former Section R9-6-332 renumbered to R9-6-335; new Section R9-6-332 renumbered from R9-6-329 effective April 4, 1997 (Supp. 97-2). Former R9-6-332 repealed; new R9-6-332 renumbered from R9-6-334 and amended by final rulemaking at 10 A.A.R. 3559, effective October 2, 2004 (Supp. 04-3). Former R9-6-332 renumbered to R9-6-334; new R9-6-332 renumbered from R9-6-330 and amended by final rulemaking at 14 A.A.R. 1502, effective April 1, 2008 (Supp. 08-2). Section R9-6-332 renumbered to R9-6-338; new Section R9-6-332 renumbered from R9-6-326 and amended by final rulemaking at 23 A.A.R. 2605, effective January 1, 2018 (Supp. 17-3).

**R9-6-333. Emerging or Exotic Disease****A. Case control measures: A local health agency shall:**

1. Upon receiving a report under R9-6-202 of an emerging or exotic disease case or suspect case, notify the Department within 24 hours after receiving the report and provide to the Department the information contained in the report;
2. In consultation with the Department, isolate an emerging or exotic disease case or suspect case as necessary to prevent transmission;
3. Conduct an epidemiologic investigation of each reported emerging or exotic disease case or suspect case; and
4. For each emerging or exotic disease case, submit to the Department, as specified in Table 2.4, the information required under R9-6-206(D).

**B. Contact control measures: A local health agency, in consultation with the Department, shall quarantine or exclude an emerging or exotic disease contact as necessary, according to R9-6-303, to prevent transmission.****Historical Note**

Renumbered from R9-6-726 and amended effective October 19, 1993 (Supp. 93-4). Former Section R9-6-333 renumbered to R9-6-336; new Section R9-6-333 renumbered from R9-6-330 effective April 4, 1997 (Supp. 97-2). Former R9-6-333 renumbered to R9-6-341; new R9-



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6-333 renumbered from R9-6-325 and amended by final rulemaking at 10 A.A.R. 3559, effective October 2, 2004 (Supp. 04-3). Former R9-6-333 renumbered to R9-6-335; new R9-6-333 renumbered from R9-6-331 and amended by final rulemaking at 14 A.A.R. 1502, effective April 1, 2008 (Supp. 08-2). Section R9-6-333 renumbered to R9-6-339; new Section R9-6-333 renumbered from R9-6-327 and amended by final rulemaking at 23 A.A.R. 2605, effective January 1, 2018 (Supp. 17-3).

**R9-6-334. Encephalitis, Viral or Parasitic**

Case control measures: A local health agency shall:

1. Upon receiving a report of encephalitis under R9-6-202, notify the Department:
  - a. For a case or suspect case of parasitic encephalitis, within 24 hours after receiving the report and provide to the Department the information contained in the report; and
  - b. For a case or suspect case of viral encephalitis, within one working day after receiving the report and provide to the Department the information contained in the report;
2. Conduct an epidemiologic investigation of each reported viral or parasitic encephalitis case or suspect case; and
3. For each encephalitis case, submit to the Department, as specified in Table 2.4, the information required under R9-6-206(D).

**Historical Note**

Renumbered from R9-6-727 and amended effective October 19, 1993 (Supp. 93-4). Former Section R9-6-334 renumbered to R9-6-337; new Section R9-6-334 renumbered from R9-6-331 effective April 4, 1997 (Supp. 97-2). Former R9-6-334 renumbered to R9-6-332; new R9-6-334 made by final rulemaking at 10 A.A.R. 3559, effective October 2, 2004 (Supp. 04-3). Former R9-6-334 renumbered to R9-6-336; new R9-6-334 renumbered from R9-6-332 and amended by final rulemaking at 14 A.A.R. 1502, effective April 1, 2008 (Supp. 08-2). Section R9-6-334 renumbered to R9-6-340; new Section R9-6-334 renumbered from R9-6-328 and amended by final rulemaking at 23 A.A.R. 2605, effective January 1, 2018 (Supp. 17-3).

**R9-6-335. *Escherichia coli*, Shiga Toxin-producing**

A. Case control measures: A local health agency shall:

1. Upon receiving a report under R9-6-202 or R9-6-203 of a Shiga toxin-producing *Escherichia coli* case or suspect case, notify the Department within one working day after receiving the report and provide to the Department the information contained in the report;
2. Exclude a Shiga toxin-producing *Escherichia coli* case or suspect case with diarrhea from:
  - a. Working as a food handler, caring for patients or residents in a health care institution, or caring for children in or attending a child care establishment until:
    - i. Two successive stool specimens, collected from the Shiga toxin-producing *Escherichia coli* case or suspect case at least 24 hours apart, are negative for Shiga toxin-producing *Escherichia coli*;
    - ii. Diarrhea has resolved; or
    - iii. The local health agency has determined that the case or suspect case is unlikely to infect other individuals; and
  - b. Using an aquatic venue for two weeks after diarrhea has resolved;

3. Conduct an epidemiologic investigation of each reported Shiga toxin-producing *Escherichia coli* case or suspect case; and
4. For each Shiga toxin-producing *Escherichia coli* case, submit to the Department, as specified in Table 2.4, the information required under R9-6-206(D).

B. Environmental control measures: A local health agency shall:

1. If an animal located in a private residence is suspected to be the source of infection for a Shiga toxin-producing *Escherichia coli* case or outbreak, provide health education for the animal's owner about Shiga toxin-producing *Escherichia coli* and the risks of becoming infected with Shiga toxin-producing *Escherichia coli*; and
2. If an animal located in a setting other than a private residence is suspected to be the source of infection for a Shiga toxin-producing *Escherichia coli* case or outbreak:
  - a. Provide health education for the animal's owner about Shiga toxin-producing *Escherichia coli* and the risks of becoming infected with Shiga toxin-producing *Escherichia coli*; and
  - b. Require the animal's owner to provide information to individuals with whom the animal may come into contact about Shiga toxin-producing *Escherichia coli* and methods to reduce the risk of transmission.

**Historical Note**

Renumbered from R9-6-728 and amended effective October 19, 1993 (Supp. 93-4). Former Section R9-6-335 renumbered to R9-6-338; new Section R9-6-335 renumbered from R9-6-332 effective April 4, 1997 (Supp. 97-2). Former R9-6-335 renumbered to R9-6-342; new R9-6-335 renumbered from R9-6-326 and amended by final rulemaking at 10 A.A.R. 3559, effective October 2, 2004 (Supp. 04-3). Former R9-6-335 renumbered to R9-6-337; new R9-6-335 renumbered from R9-6-333 and amended by final rulemaking at 14 A.A.R. 1502, effective April 1, 2008 (Supp. 08-2). Section R9-6-335 renumbered to R9-6-341; new Section R9-6-335 renumbered from R9-6-329 and amended by final rulemaking at 23 A.A.R. 2605, effective January 1, 2018 (Supp. 17-3).

**R9-6-336. Giardiasis**

Case control measures: A local health agency shall:

1. Exclude a giardiasis case or suspect case with diarrhea from:
  - a. Working as a food handler, caring for patients or residents in a health care institution, or caring for children in or attending a child care establishment until:
    - i. Treatment for giardiasis is initiated and diarrhea has resolved; or
    - ii. The local health agency has determined that the case or suspect case is unlikely to infect other individuals; and
  - b. Using an aquatic venue for two weeks after diarrhea has resolved;
2. Conduct an epidemiologic investigation of each reported giardiasis case or suspect case; and
3. For each giardiasis case, submit to the Department, as specified in Table 2.4, the information required under R9-6-206(D).

**Historical Note**

Renumbered from R9-6-729 and amended effective October 19, 1993 (Supp. 93-4). Former Section R9-6-336 renumbered to R9-6-339; new Section R9-6-336 renumbered from R9-6-333 effective April 4, 1997 (Supp. 97-2). Former R9-6-336 renumbered to R9-6-343; new R9-6-336 renumbered from R9-6-327 and amended by final

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rulemaking at 10 A.A.R. 3559, effective October 2, 2004 (Supp. 04-3). Former R9-6-336 renumbered to R9-6-338; new R9-6-336 renumbered from R9-6-334 and amended by final rulemaking at 14 A.A.R. 1502, effective April 1, 2008 (Supp. 08-2). Section R9-6-336 renumbered to R9-6-342; new Section R9-6-336 renumbered from R9-6-331 and amended by final rulemaking at 23 A.A.R. 2605, effective January 1, 2018 (Supp. 17-3).

**R9-6-337. Glanders**

Case control measures: A local health agency shall:

1. Upon receiving a report under R9-6-202 of a glanders case or suspect case, notify the Department within one working day after receiving the report and provide to the Department the information contained in the report;
2. Conduct an epidemiologic investigation of each reported glanders case or suspect case;
3. For each glanders case, submit to the Department, as specified in Table 2.4, the information required under R9-6-206(D); and
4. Ensure that an isolate or a specimen, as available, from each glanders case or suspect case is submitted to the Arizona State Laboratory.

**Historical Note**

Renumbered from R9-6-730 and amended effective October 19, 1993 (Supp. 93-4). Former Section R9-6-337 renumbered to R9-6-340; new Section R9-6-337 renumbered from R9-6-334 effective April 4, 1997 (Supp. 97-2). Former R9-6-337 renumbered to R9-6-344; new R9-6-337 renumbered from R9-6-328 and amended by final rulemaking at 10 A.A.R. 3559, effective October 2, 2004 (Supp. 04-3). Former R9-6-337 renumbered to R9-6-339; new R9-6-337 renumbered from R9-6-335 and amended by final rulemaking at 14 A.A.R. 1502, effective April 1, 2008 (Supp. 08-2). Section R9-6-337 renumbered to R9-6-343; new Section R9-6-337 made by final rulemaking at 23 A.A.R. 2605, effective January 1, 2018 (Supp. 17-3).

**R9-6-338. Gonorrhea**

A. Case control measures:

1. For the prevention of gonorrheal ophthalmia, a physician, physician assistant, registered nurse practitioner, or midwife attending the birth of an infant in this state shall treat the eyes of the infant immediately after the birth with one of the following, unless treatment is refused by the parent or guardian:
  - a. Erythromycin ophthalmic ointment 0.5%, or
  - b. Tetracycline ophthalmic ointment 1%.
2. A local health agency shall comply with the requirements specified in R9-6-1103 concerning treatment and health education for a gonorrhea case that seeks treatment from the local health agency.

B. Contact control measures: If an individual who may have been exposed to gonorrhea through sexual contact with a gonorrhea case seeks treatment for symptoms of gonorrhea from a local health agency, the local health agency shall comply with the requirements specified in R9-6-1103 concerning treatment and health education for the individual.

**Historical Note**

Renumbered from R9-6-731 and amended effective October 19, 1993 (Supp. 93-4). Former Section R9-6-338 renumbered to R9-6-341; new Section R9-6-338 renumbered from R9-6-335 effective April 4, 1997 (Supp. 97-2). Former R9-6-338 renumbered to R9-6-346; new R9-6-338 made by final rulemaking at 10 A.A.R. 3559,

effective October 2, 2004 (Supp. 04-3). Former R9-6-338 renumbered to R9-6-340; new R9-6-338 renumbered from R9-6-336 and amended by final rulemaking at 14 A.A.R. 1502, effective April 1, 2008 (Supp. 08-2). Section R9-6-338 renumbered to R9-6-344; new Section R9-6-338 renumbered from R9-6-332 and amended by final rulemaking at 23 A.A.R. 2605, effective January 1, 2018 (Supp. 17-3).

**R9-6-339. *Haemophilus influenzae*: Invasive Disease**

A. Case control measures:

1. A diagnosing health care provider or an administrator of a health care institution, either personally or through a representative, shall isolate and institute droplet precautions for a *Haemophilus influenzae* meningitis or epiglottitis case or suspect case for 24 hours after the initiation of treatment.
2. A local health agency shall:
  - a. Upon receiving a report under R9-6-202 or R9-6-203 of a *Haemophilus influenzae* invasive disease case or suspect case, notify the Department within one working day after receiving the report and provide to the Department the information contained in the report;
  - b. Conduct an epidemiologic investigation of each reported *Haemophilus influenzae* invasive disease case or suspect case; and
  - c. For each *Haemophilus influenzae* invasive disease case, submit to the Department, as specified in Table 2.4, the information required under R9-6-206(D).

B. Contact control measures: A local health agency shall evaluate the level of risk of transmission from each contact's exposure to a *Haemophilus influenzae* invasive disease case and, if indicated, shall provide or arrange for each contact to receive immunization or treatment.

**Historical Note**

Renumbered from R9-6-732 and amended effective October 19, 1993 (Supp. 93-4). Former Section R9-6-339 renumbered to R9-6-342; new Section R9-6-339 renumbered from R9-6-336 and amended effective April 4, 1997 (Supp. 97-2). Former R9-6-339 renumbered to R9-6-347; new R9-6-339 renumbered from R9-6-331 and amended by final rulemaking at 10 A.A.R. 3559, effective October 2, 2004 (Supp. 04-3). Former R9-6-339 renumbered to R9-6-341; new R9-6-339 renumbered from R9-6-337 and amended by final rulemaking at 14 A.A.R. 1502, effective April 1, 2008 (Supp. 08-2). Section R9-6-339 renumbered to R9-6-345; new Section R9-6-339 renumbered from R9-6-333 and amended by final rulemaking at 23 A.A.R. 2605, effective January 1, 2018 (Supp. 17-3).

**R9-6-340. Hansen's Disease (Leprosy)**

A. Case control measures: A local health agency shall:

1. Conduct an epidemiologic investigation of each reported Hansen's disease case or suspect case; and
2. For each Hansen's disease case, submit to the Department, as specified in Table 2.4, the information required under R9-6-206(D).

B. Contact control measures: In consultation with the Department, a local health agency shall examine contacts of a Hansen's disease case, if indicated, for signs and symptoms of leprosy at six-to-twelve month intervals for five years after the last exposure to an infectious case.

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**Historical Note**

Renumbered from R9-6-733 and amended effective October 19, 1993 (Supp. 93-4). Former Section R9-6-340 renumbered to R9-6-343; new Section R9-6-340 renumbered from R9-6-337 effective April 4, 1997 (Supp. 97-2). Former R9-6-340 renumbered to R9-6-348; new R9-6-340 made by final rulemaking at 10 A.A.R. 3559, effective October 2, 2004 (Supp. 04-3). Former R9-6-340 renumbered to R9-6-343; new R9-6-340 renumbered from R9-6-338 and amended by final rulemaking at 14 A.A.R. 1502, effective April 1, 2008 (Supp. 08-2). Section R9-6-340 renumbered to R9-6-346; new Section R9-6-340 renumbered from R9-6-334 and amended by final rulemaking at 23 A.A.R. 2605, effective January 1, 2018 (Supp. 17-3).

**R9-6-341. Hantavirus Infection**

- A.** Case control measures: A local health agency shall:
1. Upon receiving a report under R9-6-202 of a hantavirus infection case or suspect case, notify the Department within one working day after receiving the report and provide to the Department the information contained in the report;
  2. Ensure that a hantavirus infection case or, if the case is a child or incapacitated adult, the parent or guardian of the case receives health education about reducing the risks of becoming reinfected with or of having others become infected with hantavirus;
  3. Conduct an epidemiologic investigation of each reported hantavirus infection case or suspect case; and
  4. For each hantavirus infection case, submit to the Department, as specified in Table 2.4, the information required under R9-6-206(D).
- B.** Environmental control measures: A local health agency shall conduct an environmental assessment for each hantavirus infection case or suspect case.

**Historical Note**

Renumbered from R9-6-734 and amended effective October 19, 1993 (Supp. 93-4). Former Section R9-6-341 renumbered to R9-6-344; new Section R9-6-341 renumbered from R9-6-338 and amended effective April 4, 1997 (Supp. 97-2). Former R9-6-341 renumbered to R9-6-349; new R9-6-341 renumbered from R9-6-333 and amended by final rulemaking at 10 A.A.R. 3559, effective October 2, 2004 (Supp. 04-3). Former R9-6-341 renumbered to R9-6-344; new R9-6-341 renumbered from R9-6-339 and amended by final rulemaking at 14 A.A.R. 1502, effective April 1, 2008 (Supp. 08-2). Section R9-6-341 renumbered to R9-6-347; new Section R9-6-341 renumbered from R9-6-335 and amended by final rulemaking at 23 A.A.R. 2605, effective January 1, 2018 (Supp. 17-3).

**R9-6-342. Hemolytic Uremic Syndrome**

- A.** Case control measures: A local health agency shall:
1. Upon receiving a report under R9-6-202 of a hemolytic uremic syndrome case or suspect case, notify the Department within one working day after receiving the report and provide to the Department the information contained in the report;
  2. Conduct an epidemiologic investigation of each reported hemolytic uremic syndrome case or suspect case; and
  3. For each hemolytic uremic syndrome case, submit to the Department, as specified in Table 2.4, the information required under R9-6-206(D).
- B.** Contact control measures: A local health agency shall exclude a hemolytic uremic syndrome contact with diarrhea of

unknown cause from working as a food handler until diarrhea has resolved.

**Historical Note**

Renumbered from R9-6-735 and amended effective October 19, 1993 (Supp. 93-4). Former Section R9-6-342 renumbered to R9-6-345; new Section R9-6-342 renumbered from R9-6-339 and amended effective April 4, 1997 (Supp. 97-2). Former R9-6-342 renumbered to R9-6-350; new R9-6-342 renumbered from R9-6-335 and amended by final rulemaking at 10 A.A.R. 3559, effective October 2, 2004 (Supp. 04-3). Former R9-6-342 renumbered to R9-6-345; new R9-6-342 made by final rulemaking at 14 A.A.R. 1502, effective April 1, 2008 (Supp. 08-2). Section R9-6-342 renumbered to R9-6-348; new Section R9-6-342 renumbered from R9-6-336 and amended by final rulemaking at 23 A.A.R. 2605, effective January 1, 2018 (Supp. 17-3).

**R9-6-343. Hepatitis A**

- A.** Case control measures: A local health agency shall:
1. Upon receiving a report under R9-6-202 or R9-6-203 of a hepatitis A case or suspect case, notify the Department within one working day after receiving the report and provide to the Department the information contained in the report;
  2. Exclude a hepatitis A case or suspect case from working as a food handler, caring for patients or residents in a health care institution, or caring for children in or attending a child care establishment during the first 14 calendar days of illness or for seven calendar days after onset of jaundice;
  3. Conduct an epidemiologic investigation of each reported hepatitis A case or suspect case; and
  4. For each hepatitis A case, submit to the Department, as specified in Table 2.4, the information required under R9-6-206(D).
- B.** Contact control measures: A local health agency shall:
1. Exclude a hepatitis A contact with symptoms of hepatitis A from working as a food handler during the first 14 calendar days of illness or for seven calendar days after onset of jaundice;
  2. For 45 calendar days after exposure, monitor a food handler who was a contact of a hepatitis A case during the infectious period for symptoms of hepatitis A; and
  3. Evaluate the level of risk of transmission from each contact's exposure to a hepatitis A case and, if indicated, provide or arrange for each contact to receive prophylaxis and immunization.

**Historical Note**

Renumbered from R9-6-736 and amended effective October 19, 1993 (Supp. 93-4). Former Section R9-6-343 renumbered to R9-6-346; new Section R9-4-343 renumbered from R9-6-340 and amended effective April 4, 1997 (Supp. 97-2). Former R9-6-343 renumbered to R9-6-351; new R9-6-343 renumbered from R9-6-336 and amended by final rulemaking at 10 A.A.R. 3559, effective October 2, 2004 (Supp. 04-3). Former R9-6-343 renumbered to R9-6-346; new R9-6-343 renumbered from R9-6-340 and amended by final rulemaking at 14 A.A.R. 1502, effective April 1, 2008 (Supp. 08-2). Section expired under A.R.S. § 41-1056(J) at 19 A.A.R. 1928, effective April 30, 2013 (Supp. 13-3). New Section R9-6-343 renumbered from R9-6-337 and amended by

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final rulemaking at 23 A.A.R. 2605, effective January 1, 2018 (Supp. 17-3).

**R9-6-344. Hepatitis B and Hepatitis D****A. Case control measures:**

1. A local health agency shall:
  - a. Evaluate a health care provider identified as the source of hepatitis B virus transmission in the work place and, if indicated, ensure reassignment of the health care provider to a position where the occupational risk of transmission is eliminated;
  - b. Conduct an epidemiologic investigation of each reported case or suspect case of hepatitis B or hepatitis B co-infected with hepatitis D; and
  - c. For each acute case of hepatitis B or hepatitis B co-infected with hepatitis D or case of perinatal hepatitis B, submit to the Department, as specified in Table 2.4, the information required under R9-6-206(D).
2. The operator of a blood bank, blood center, or plasma center shall notify a donor of a test result with significant evidence suggestive of hepatitis B, as required under A.R.S. § 32-1483 and 21 CFR 630.6.

**B. Contact control measures: A local health agency shall:**

1. Refer each non-immune hepatitis B contact to a health care provider for prophylaxis and initiation of the hepatitis B vaccine series, and
2. Provide health education related to the progression of hepatitis B disease and the prevention of transmission of hepatitis B infection to each non-immune hepatitis B contact.

**Historical Note**

Renumbered from R9-6-737 and amended effective October 19, 1993 (Supp. 93-4). Former Section R9-6-344 renumbered to R9-6-347; new Section R9-6-344 renumbered from R9-6-341 and amended effective April 4, 1997 (Supp. 97-2). Former R9-6-344 renumbered to R9-6-352; new R9-6-344 renumbered from R9-6-337 and amended by final rulemaking at 10 A.A.R. 3559, effective October 2, 2004 (Supp. 04-3). Former R9-6-344 renumbered to R9-6-347; new R9-6-344 renumbered from R9-6-341 and amended by final rulemaking at 14 A.A.R. 1502, effective April 1, 2008 (Supp. 08-2). Section R9-6-344 renumbered to R9-6-349; new Section R9-6-344 renumbered from R9-6-338 and amended by final rulemaking at 23 A.A.R. 2605, effective January 1, 2018 (Supp. 17-3).

**R9-6-345. Hepatitis C****Outbreak control measures: A local health agency shall:**

1. Conduct an epidemiologic investigation of each reported hepatitis C outbreak;
2. For each hepatitis C outbreak, submit to the Department, as specified in Table 2.4, the information required under R9-6-206(E);
3. Evaluate a health care provider identified as the source of hepatitis C virus transmission in the work place and, if indicated, ensure reassignment of the health care provider to a position where the occupational risk of transmission is eliminated; and
4. Ensure that health education related to the progression of hepatitis C disease and the prevention of transmission of hepatitis C infection is provided to each individual who may have been exposed to hepatitis C during the outbreak.

**Historical Note**

Renumbered from R9-6-738 and amended effective October 19, 1993 (Supp. 93-4). Former Section R9-6-345 renumbered to R9-6-348; new Section R9-6-345 renumbered from R9-6-342 and amended effective April 4, 1997 (Supp. 97-2). Former R9-6-345 renumbered to R9-6-353; new R9-6-345 made by final rulemaking at 10 A.A.R. 3559, effective October 2, 2004 (Supp. 04-3). Former R9-6-345 renumbered to R9-6-348; new R9-6-345 renumbered from R9-6-342 and amended by final rulemaking at 14 A.A.R. 1502, effective April 1, 2008 (Supp. 08-2). Section R9-6-345 renumbered to R9-6-350; new Section R9-6-345 renumbered from R9-6-339 and amended by final rulemaking at 23 A.A.R. 2605, effective January 1, 2018 (Supp. 17-3).

**R9-6-346. Hepatitis E****Case control measures: A local health agency shall:**

1. Exclude a hepatitis E case or suspect case from working as a food handler, caring for patients or residents in a health care institution, or caring for children in or attending a child care establishment during the first 14 calendar days of illness or for seven calendar days after onset of jaundice;
2. Conduct an epidemiologic investigation of each reported hepatitis E case or suspect case; and
3. For each hepatitis E case, submit to the Department, as specified in Table 2.4, the information required under R9-6-206(D).

**Historical Note**

Renumbered from R9-6-739 and amended effective October 19, 1993 (Supp. 93-4). Former Section R9-6-346 renumbered to R9-6-349; new Section R9-6-346 renumbered from R9-6-343 effective April 4, 1997 (Supp. 97-2). Former R9-6-346 renumbered to R9-6-354; new R9-6-346 renumbered from R9-6-338 and amended by final rulemaking at 10 A.A.R. 3559, effective October 2, 2004 (Supp. 04-3). Former R9-6-346 renumbered to R9-6-349; new R9-6-346 renumbered from R9-6-343 and amended by final rulemaking at 14 A.A.R. 1502, effective April 1, 2008 (Supp. 08-2). Section R9-6-346 renumbered to R9-6-351; new Section R9-6-346 renumbered from R9-6-340 and amended by final rulemaking at 23 A.A.R. 2605, effective January 1, 2018 (Supp. 17-3).

**R9-6-347. HIV Infection and Related Disease****A. Case control measures:**

1. A local health agency shall:
  - a. Conduct an epidemiologic investigation, including a review of medical records, of each reported HIV-infected individual or suspect case; and
  - b. For each HIV-infected individual, submit to the Department, as specified in Table 2.4, the information required under R9-6-206(D).
2. The operator of a blood bank, blood center, or plasma center shall notify a donor of a test result with significant evidence suggestive of HIV infection, as required under A.R.S. § 32-1483 and 21 CFR 630.6.
3. The Department and a local health agency shall offer anonymous HIV-testing to an individual as specified in R9-6-1005.

**B. Contact control measures: The Department or the Department's designee shall confidentially notify an individual reported to be at risk for HIV infection under A.R.S. § 36-664(I) as specified in R9-6-1006(A).****C. Environmental control measures: An employer, as defined under A.R.S. § 23-401, or health care provider shall comply**

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with the requirements specified in A.R.S. § 23-403 and A.A.C. R20-5-602.

**Historical Note**

Renumbered from R9-6-740 and amended effective October 19, 1993 (Supp. 93-4). Former Section R9-6-347 renumbered to R9-6-350; new Section R9-6-347 renumbered from R9-6-344 effective April 4, 1997 (Supp. 97-2). Former R9-6-347 renumbered to R9-6-355; new R9-6-347 renumbered from R9-6-339 and amended by final rulemaking at 10 A.A.R. 3559, effective October 2, 2004 (Supp. 04-3). Former R9-6-347 renumbered to R9-6-350; new R9-6-347 renumbered from R9-6-344 and amended by final rulemaking at 14 A.A.R. 1502, effective April 1, 2008 (Supp. 08-2). Section R9-6-347 renumbered to R9-6-352; new Section R9-6-347 renumbered from R9-6-341 and amended by final rulemaking at 23 A.A.R. 2605, effective January 1, 2018 (Supp. 17-3).

**R9-6-348. Influenza-Associated Mortality in a Child**

Case control measures: A local health agency shall:

1. Upon receiving a report under R9-6-202 of a case or suspect case of an influenza-associated death of a child, notify the Department within one working day after receiving the report and provide to the Department the information contained in the report;
2. Conduct an epidemiologic investigation of each reported case or suspect case of influenza-associated mortality in a child; and
3. For each case of influenza-associated mortality in a child, submit to the Department, as specified in Table 2.4, the information required under R9-6-206(D).

**Historical Note**

Renumbered from R9-6-741 and amended effective October 19, 1993 (Supp. 93-4). Former Section R9-6-348 renumbered to R9-6-351; new Section R9-6-348 renumbered from R9-6-345 and amended effective April 4, 1997 (Supp. 97-2). Former R9-6-348 renumbered to R9-6-356; new R9-6-348 renumbered from R9-6-340 and amended by final rulemaking at 10 A.A.R. 3559, effective October 2, 2004 (Supp. 04-3). Former R9-6-348 renumbered to R9-6-352; new R9-6-348 renumbered from R9-6-345 and amended by final rulemaking at 14 A.A.R. 1502, effective April 1, 2008 (Supp. 08-2). Section R9-6-348 renumbered to R9-6-353; new Section R9-6-348 renumbered from R9-6-342 and amended by final rulemaking at 23 A.A.R. 2605, effective January 1, 2018 (Supp. 17-3).

**R9-6-349. Legionellosis (Legionnaires' Disease)**

A. Case control measures: A local health agency shall:

1. Upon receiving a report under R9-6-202 of a legionellosis case or suspect case, notify the Department within one working day after receiving the report and provide to the Department the information contained in the report;
2. Conduct an epidemiologic investigation of each reported legionellosis case or suspect case; and
3. For each legionellosis case, submit to the Department, as specified in Table 2.4, the information required under R9-6-206(D).

B. Environmental control measures: The owner of a water, cooling, or ventilation system or equipment that is determined by the Department or a local health agency to be associated with a case of *Legionella* infection shall comply with the environmental control measures recommended by the Department or local health agency to prevent the exposure of other individuals.

**Historical Note**

Renumbered from R9-6-742 and amended effective October 19, 1993 (Supp. 93-4). Former Section R9-6-349 renumbered to R9-6-352; new Section R9-6-349 renumbered from R9-6-346 effective April 4, 1997 (Supp. 97-2). Former R9-6-349 renumbered to R9-6-357; new R9-6-349 renumbered from R9-6-341 and amended by final rulemaking at 10 A.A.R. 3559, effective October 2, 2004 (Supp. 04-3). Former R9-6-349 renumbered to R9-6-353; new R9-6-349 renumbered from R9-6-346 and amended by final rulemaking at 14 A.A.R. 1502, effective April 1, 2008 (Supp. 08-2). Section R9-6-349 renumbered to R9-6-354; new Section R9-6-349 renumbered from R9-6-344 and amended by final rulemaking at 23 A.A.R. 2605, effective January 1, 2018 (Supp. 17-3).

**R9-6-350. Leptospirosis**

Case control measures: A local health agency shall:

1. Upon receiving a report under R9-6-202 of a leptospirosis case or suspect case, notify the Department within one working day after receiving the report and provide to the Department the information contained in the report;
2. Conduct an epidemiologic investigation of each reported leptospirosis case or suspect case; and
3. For each leptospirosis case, submit to the Department, as specified in Table 2.4, the information required under R9-6-206(D).

**Historical Note**

Renumbered from R9-6-743 and amended effective October 19, 1993 (Supp. 93-4). Former Section R9-6-350 renumbered to R9-6-353; new Section R9-6-350 renumbered from R9-6-347 effective April 4, 1997 (Supp. 97-2). Former R9-6-350 renumbered to R9-6-358; new R9-6-350 renumbered from R9-6-342 and amended by final rulemaking at 10 A.A.R. 3559, effective October 2, 2004 (Supp. 04-3). Former R9-6-350 renumbered to R9-6-355; new R9-6-350 renumbered from R9-6-347 and amended by final rulemaking at 14 A.A.R. 1502, effective April 1, 2008 (Supp. 08-2). Section R9-6-350 renumbered to R9-6-355; new Section R9-6-350 renumbered from R9-6-345 and amended by final rulemaking at 23 A.A.R. 2605, effective January 1, 2018 (Supp. 17-3).

**R9-6-351. Listeriosis**

Case control measures: A local health agency shall:

1. Upon receiving a report under R9-6-202 of a listeriosis case or suspect case, notify the Department within one working day after receiving the report and provide to the Department the information contained in the report;
2. Conduct an epidemiologic investigation of each reported listeriosis case or suspect case;
3. For each listeriosis case, submit to the Department, as specified in Table 2.4, the information required under R9-6-206(D); and
4. Ensure that an isolate or a specimen, as available, from each listeriosis case is submitted to the Arizona State Laboratory.

**Historical Note**

Renumbered from R9-6-744 and amended effective October 19, 1993 (Supp. 93-4). Former Section R9-6-351 renumbered to R9-6-354; new Section R9-6-351 renumbered from R9-6-348 effective April 4, 1997 (Supp. 97-2). Former R9-6-351 renumbered to R9-6-359; new R9-6-351 renumbered from R9-6-343 and amended by final rulemaking at 10 A.A.R. 3559, effective October 2, 2004 (Supp. 04-3). Former R9-6-351 renumbered to R9-6-356;

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new R9-6-351 made by final rulemaking at 14 A.A.R. 1502, effective April 1, 2008 (Supp. 08-2). Section R9-6-351 renumbered to R9-6-356; new Section R9-6-351 renumbered from R9-6-346 and amended by final rulemaking at 23 A.A.R. 2605, effective January 1, 2018 (Supp. 17-3).

**R9-6-352. Lyme Disease**

Case control measures: A local health agency shall:

1. Conduct an epidemiologic investigation of each reported Lyme disease case or suspect case; and
2. For each Lyme disease case, submit to the Department, as specified in Table 2.4, the information required under R9-6-206(D).

**Historical Note**

Renumbered from R9-6-745 and amended effective October 19, 1993 (Supp. 93-4). Former Section R9-6-352 renumbered to R9-6-355; new Section R9-6-352 renumbered from R9-6-349 effective April 4, 1997 (Supp. 97-2). Former R9-6-352 renumbered to R9-6-360; new R9-6-352 renumbered from R9-6-344 and amended by final rulemaking at 10 A.A.R. 3559, effective October 2, 2004 (Supp. 04-3). Former R9-6-352 renumbered to R9-6-357; new R9-6-352 renumbered from R9-6-348 and amended by final rulemaking at 14 A.A.R. 1502, effective April 1, 2008 (Supp. 08-2). Section R9-6-352 renumbered to R9-6-357; new Section R9-6-352 renumbered from R9-6-347 and amended by final rulemaking at 23 A.A.R. 2605, effective January 1, 2018 (Supp. 17-3).

**R9-6-353. Lymphocytic Choriomeningitis**

Case control measures: A local health agency shall:

1. Upon receiving a report under R9-6-202 of a lymphocytic choriomeningitis case or suspect case, notify the Department within one working day after receiving the report and provide to the Department the information contained in the report;
2. Conduct an epidemiologic investigation of each reported lymphocytic choriomeningitis case or suspect case; and
3. For each lymphocytic choriomeningitis case, submit to the Department, as specified in Table 2.4, the information required under R9-6-206(D).

**Historical Note**

Renumbered from R9-6-746 and amended effective October 19, 1993 (Supp. 93-4). Former Section R9-6-353 renumbered to R9-6-356; new Section R9-6-353 renumbered from R9-6-350 effective April 4, 1997 (Supp. 97-2). Former R9-6-353 renumbered to R9-6-361; new R9-6-353 renumbered from R9-6-345 and amended by final rulemaking at 10 A.A.R. 3559, effective October 2, 2004 (Supp. 04-3). Former R9-6-353 renumbered to R9-6-358; new R9-6-353 renumbered from R9-6-349 and amended by final rulemaking at 14 A.A.R. 1502, effective April 1, 2008 (Supp. 08-2). Section R9-6-353 renumbered to R9-6-359; new Section R9-6-353 renumbered from R9-6-348 and amended by final rulemaking at 23 A.A.R. 2605, effective January 1, 2018 (Supp. 17-3).

**R9-6-354. Malaria**

A. Case control measures: A local health agency shall:

1. Conduct an epidemiologic investigation of each reported malaria case or suspect case; and
2. For each malaria case, submit to the Department, as specified in Table 2.4, the information required under R9-6-206(D).

B. Environmental control measures: In cooperation with the Department, a local health agency or another local agency responsible for vector control within a jurisdiction shall conduct an assessment of the environment surrounding each malaria case or suspect case and implement vector control measures as necessary.

**Historical Note**

Renumbered from R9-6-748 and amended effective October 19, 1993 (Supp. 93-4). Former Section R9-6-354 renumbered to R9-6-357; new Section R9-6-354 renumbered from R9-6-351 and amended effective April 4, 1997 (Supp. 97-2). Former R9-6-354 renumbered to R9-6-362; new R9-6-354 renumbered from R9-6-346 and amended by final rulemaking at 10 A.A.R. 3559, effective October 2, 2004 (Supp. 04-3). Former R9-6-354 renumbered to R9-6-359; new R9-6-354 made by final rulemaking at 14 A.A.R. 1502, effective April 1, 2008 (Supp. 08-2). Section R9-6-354 renumbered to R9-6-360; new Section R9-6-354 renumbered from R9-6-349 and amended by final rulemaking at 23 A.A.R. 2605, effective January 1, 2018 (Supp. 17-3).

**R9-6-355. Measles (Rubeola)**

A. Case control measures:

1. An administrator of a school or child care establishment, either personally or through a representative, shall:
  - a. Exclude a measles case from the school or child care establishment and from school- or child-care-establishment-sponsored events from the onset of illness through the fourth calendar day after the rash appears; and
  - b. Exclude a measles suspect case from the school or child care establishment and from school- or child-care-establishment-sponsored events until the local health agency has determined that the suspect case is unlikely to infect other individuals.
2. A diagnosing health care provider or an administrator of a health care institution, either personally or through a representative, shall isolate and institute airborne precautions for a measles case from onset of illness through the fourth calendar day after the rash appears.
3. An administrator of a health care institution, either personally or through a representative, shall exclude a measles:
  - a. Case from working at the health care institution from the onset of illness through the fourth calendar day after the rash appears; and
  - b. Suspect case from working at the health care institution until the local health agency has determined that the suspect case may return to work.
4. A local health agency shall:
  - a. Upon receiving a report under R9-6-202 or R9-6-203 of a measles case or suspect case, notify the Department within 24 hours after receiving the report and provide to the Department the information contained in the report;
  - b. Conduct an epidemiologic investigation of each reported measles case or suspect case;
  - c. For each measles case, submit to the Department, as specified in Table 2.4, the information required under R9-6-206(D); and
  - d. Ensure that one or more specimens from each measles case or suspect case, as required by the Department, are submitted to the Arizona State Laboratory.
5. An administrator of a correctional facility or shelter, either personally or through a representative, shall com-

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ply with the measles control measures recommended by a local health agency or the Department.

**B. Contact control measures:**

1. When a measles case has been at a school or child care establishment, the administrator of the school or child care establishment, either personally or through a representative, shall:
  - a. Consult with the local health agency to determine who shall be excluded and how long each individual shall be excluded from the school or child care establishment, and
  - b. Comply with the local health agency's recommendations for exclusion.
2. A local health agency shall:
  - a. Determine which measles contacts will be quarantined or excluded, according to R9-6-303, to prevent transmission; and
  - b. Provide or arrange for immunization of each non-immune measles contact within 72 hours after last exposure, if possible.
3. An administrator of a health care institution shall ensure that a paid or volunteer full-time or part-time worker at a health care institution does not participate in the direct care of a measles case or suspect case unless the worker is able to provide evidence of immunity to measles through one of the following:
  - a. A record of immunization against measles with two doses of live virus vaccine given on or after the first birthday and at least one month apart;
  - b. A statement signed by a physician, physician assistant, registered nurse practitioner, state health officer, or local health officer affirming serologic evidence of immunity to measles; or
  - c. Documentary evidence of birth before January 1, 1957.

**Historical Note**

Renumbered from R9-6-749 and amended effective October 19, 1993 (Supp. 93-4). Former Section R9-6-355 renumbered to R9-6-358; new Section R9-6-355 renumbered from R9-6-352 effective April 4, 1997 (Supp. 97-2). Former R9-6-355 renumbered to R9-6-363; new R9-6-355 renumbered from R9-6-347 and amended by final rulemaking at 10 A.A.R. 3559, effective October 2, 2004 (Supp. 04-3). Former R9-6-355 renumbered to R9-6-360; new R9-6-355 renumbered from R9-6-350 by final rulemaking at 14 A.A.R. 1502, effective April 1, 2008 (Supp. 08-2). Section R9-6-355 renumbered to R9-6-362; new Section R9-6-355 renumbered from R9-6-350 and amended by final rulemaking at 23 A.A.R. 2605, effective January 1, 2018 (Supp. 17-3).

**R9-6-356. Melioidosis**

Case control measures: A local health agency shall:

1. Upon receiving a report under R9-6-202 of a melioidosis case or suspect case, notify the Department within one working day after receiving the report and provide to the Department the information contained in the report;
2. Conduct an epidemiologic investigation of each reported melioidosis case or suspect case;
3. For each melioidosis case, submit to the Department, as specified in Table 2.4, the information required under R9-6-206(D); and
4. Ensure that an isolate or a specimen, as available, from each melioidosis case or suspect case is submitted to the Arizona State Laboratory.

**Historical Note**

Former Section R9-6-115, Paragraph (38), renumbered and amended as R9-6-750 effective January 28, 1987 (Supp. 87-1). Renumbered from R9-6-750 and amended effective October 19, 1993 (Supp. 93-4). Former Section R9-6-356 renumbered to R9-6-360; new Section R9-6-356 renumbered from R9-6-353 and amended effective April 4, 1997 (Supp. 97-2). Former R9-6-356 renumbered to R9-6-365; new R9-6-356 renumbered from R9-6-348 and amended by final rulemaking at 10 A.A.R. 3559, effective October 2, 2004 (Supp. 04-3). Former R9-6-356 renumbered to R9-6-361; new R9-6-356 renumbered from R9-6-351 and amended by final rulemaking at 14 A.A.R. 1502, effective April 1, 2008 (Supp. 08-2). Section R9-6-356 renumbered to R9-6-363; new Section R9-6-356 renumbered from R9-6-351 and amended by final rulemaking at 23 A.A.R. 2605, effective January 1, 2018 (Supp. 17-3).

**R9-6-357. Meningococcal Invasive Disease**

**A. Case control measures:**

1. A diagnosing health care provider or an administrator of a health care institution, either personally or through a representative, shall isolate and institute droplet precautions for a meningococcal invasive disease case for 24 hours after the initiation of treatment.
2. A local health agency shall:
  - a. Upon receiving a report under R9-6-202 or R9-6-203 of a meningococcal invasive disease case or suspect case, notify the Department within 24 hours after receiving the report and provide to the Department the information contained in the report;
  - b. Conduct an epidemiologic investigation of each reported meningococcal invasive disease case or suspect case;
  - c. For each meningococcal invasive disease case, submit to the Department, as specified in Table 2.4, the information required under R9-6-206(D); and
  - d. Ensure that an isolate or a specimen, as available, from each meningococcal invasive disease case is submitted to the Arizona State Laboratory.

- B. Contact control measures:** A local health agency shall evaluate the level of risk of transmission from each contact's exposure to a meningococcal invasive disease case and, if indicated, provide or arrange for each contact to receive prophylaxis.

**Historical Note**

Adopted effective October 19, 1993 (Supp. 93-4). Former Section R9-6-357 renumbered to R9-6-361; new Section R9-6-357 renumbered from R9-6-354 and amended effective April 4, 1997 (Supp. 97-2). Former R9-6-357 repealed; new R9-6-357 renumbered from R9-6-349 and amended by final rulemaking at 10 A.A.R. 3559, effective October 2, 2004 (Supp. 04-3). Former R9-6-357 renumbered to R9-6-362; new R9-6-357 renumbered from R9-6-352 and amended by final rulemaking at 14 A.A.R. 1502, effective April 1, 2008 (Supp. 08-2). Section R9-6-357 renumbered to R9-6-364; new Section R9-6-357 renumbered from R9-6-352 and amended by final rulemaking at 23 A.A.R. 2605, effective January 1, 2018 (Supp. 17-3).

**R9-6-358. Methicillin-resistant *Staphylococcus aureus* (MRSA)**

**A. Case control measures:**

1. A diagnosing health care provider or an administrator of a health care institution transferring a known methicillin-resistant *Staphylococcus aureus* case with active infection

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to another health care provider or health care institution or to a correctional facility shall, either personally or through a representative, ensure that the receiving health care provider, health care institution, or correctional facility is informed that the patient is a known methicillin-resistant *Staphylococcus aureus* case.

2. If a known methicillin-resistant *Staphylococcus aureus* case with active infection is being transferred from a correctional facility to another correctional facility or to a health care institution, an administrator of the correctional facility, either personally or through a representative, shall ensure that the receiving correctional facility or health care institution is informed that the individual is a known methicillin-resistant *Staphylococcus aureus* case.

**B. Outbreak control measures:**

1. A local health agency, in consultation with the Department, shall:
  - a. Conduct an epidemiologic investigation of each reported outbreak of methicillin-resistant *Staphylococcus aureus* in a health care institution or correctional facility; and
  - b. For each outbreak of methicillin-resistant *Staphylococcus aureus* in a health care institution or correctional facility, submit to the Department the information required under R9-6-206(E).
2. When an outbreak of methicillin-resistant *Staphylococcus aureus* occurs in a health care institution or correctional facility, the administrator of the health care institution or correctional facility, either personally or through a representative, shall comply with the control measures recommended by a local health agency or the Department.

**Historical Note**

Former Section R9-6-115, Paragraph (39), renumbered and amended as R9-6-751 effective January 28, 1987 (Supp. 87-1). Renumbered from R9-6-751 and amended effective October 19, 1993 (Supp. 93-4). Former Section R9-6-358 renumbered to R9-6-362; new Section R9-6-358 renumbered from R9-6-355 and amended effective April 4, 1997 (Supp. 97-2). Former R9-6-358 renumbered to R9-6-367; new R9-6-358 renumbered from R9-6-350 and amended by final rulemaking at 10 A.A.R. 3559, effective October 2, 2004 (Supp. 04-3). Former R9-6-358 renumbered to R9-6-363; new R9-6-358 renumbered from R9-6-353 and amended by final rulemaking at 14 A.A.R. 1502, effective April 1, 2008 (Supp. 08-2). Section R9-6-358 renumbered to R9-6-365; new Section R9-6-358 made by final rulemaking at 23 A.A.R. 2605, effective January 1, 2018 (Supp. 17-3).

**R9-6-359. Mumps**

**A. Case control measures:**

1. An administrator of a school or child care establishment, either personally or through a representative, shall:
  - a. Exclude a mumps case from the school or child care establishment for five calendar days after the onset of glandular swelling; and
  - b. Exclude a mumps suspect case from the school or child care establishment and from school- or child-care-establishment-sponsored events until evaluated and determined to be noninfectious by a physician, physician assistant, registered nurse practitioner, or local health agency.
2. A diagnosing health care provider or an administrator of a health care institution, either personally or through a representative, shall isolate and institute droplet precautions

with a mumps case for five calendar days after the onset of glandular swelling.

3. An administrator of a health care institution, either personally or through a representative, shall exclude a mumps:
  - a. Case from working at the health care institution for five calendar days after the onset of glandular swelling; and
  - b. Suspect case from working at the health care institution until evaluated and determined to be noninfectious by a physician, physician assistant, registered nurse practitioner, or local health agency.
4. A local health agency shall:
  - a. Upon receiving a report under R9-6-202 or R9-6-203 of a mumps case or suspect case, notify the Department within one working day after receiving the report and provide to the Department the information contained in the report;
  - b. Conduct an epidemiologic investigation of each reported mumps case or suspect case;
  - c. For each mumps case, submit to the Department, as specified in Table 2.4, the information required under R9-6-206(D); and
  - d. Ensure that one or more specimens from each mumps case or suspect case, as required by the Department, are submitted to the Arizona State Laboratory.
5. An administrator of a correctional facility or shelter, either personally or through a representative, shall comply with the mumps control measures recommended by a local health agency or the Department.

**B. Contact control measures:**

1. When a mumps case has been at a school or child care establishment, the administrator of the school or child care establishment, either personally or through a representative, shall:
  - a. Consult with the local health agency to determine who shall be excluded and how long each individual shall be excluded from the school or child care establishment, and
  - b. Comply with the local health agency's recommendations for exclusion.
2. An administrator of a health care institution shall ensure that a paid or volunteer full-time or part-time worker at a health care institution does not participate in the direct care of a mumps case or suspect case unless the worker is able to provide evidence of immunity to mumps through one of the following:
  - a. A record of immunization against mumps with two doses of live virus vaccine given on or after the first birthday and at least one month apart; or
  - b. A statement signed by a physician, physician assistant, registered nurse practitioner, state health officer, or local health officer affirming serologic evidence of immunity to mumps.
3. A local health agency shall determine which mumps contacts will be:
  - a. Quarantined or excluded, according to R9-6-303, to prevent transmission; and
  - b. Advised to obtain an immunization against mumps.

**Historical Note**

Adopted effective January 28, 1987 (Supp. 87-1). Renumbered from R9-6-752 and amended effective October 19, 1993 (Supp. 93-4). Former Section R9-6-359 renumbered to R9-6-363; new Section R9-6-359 adopted effective April 4, 1997 (Supp. 97-2). Former R9-6-359



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repealed; new R9-6-359 renumbered from R9-6-351 and amended by final rulemaking at 10 A.A.R. 3559, effective October 2, 2004 (Supp. 04-3). Former R9-6-359 renumbered to R9-6-364; new R9-6-359 renumbered from R9-6-354 and amended by final rulemaking at 14 A.A.R. 1502, effective April 1, 2008 (Supp. 08-2). Section R9-6-359 renumbered to R9-6-366; new Section R9-6-359 renumbered from R9-6-353 and amended by final rulemaking at 23 A.A.R. 2605, effective January 1, 2018 (Supp. 17-3).

**R9-6-360. Norovirus**

- A.** Outbreak control measures: A local health agency shall:
1. Conduct an epidemiologic investigation of each reported norovirus outbreak;
  2. Submit to the Department the information required under R9-6-206(E); and
  3. Exclude each case that is part of a norovirus outbreak from working as a food handler, caring for patients or residents in a health care institution, or caring for children in or attending a child care establishment until:
    - a. Diarrhea has resolved, or
    - b. The local health agency has determined that the case or suspect case is unlikely to infect other individuals.
- B.** Environmental control measures: A local health agency shall conduct a sanitary inspection or ensure that a sanitary inspection is conducted of each facility or location regulated under 9 A.A.C. 8 that is associated with a norovirus outbreak.

**Historical Note**

Former Section R9-6-115, Paragraph (40), renumbered and amended as R9-6-753 effective January 28, 1987 (Supp. 87-1). Renumbered from R9-6-753 and amended effective October 19, 1993 (Supp. 93-4). Former Section R9-6-360 renumbered to R9-6-364; new Section R9-6-360 renumbered from R9-6-356 and amended effective April 4, 1997 (Supp. 97-2). Amended by final rulemaking at 8 A.A.R. 1953, effective April 3, 2002 (Supp. 02-2). Former R9-6-360 renumbered to R9-6-368; new R9-6-360 renumbered from R9-6-352 and amended by final rulemaking at 10 A.A.R. 3559, effective October 2, 2004 (Supp. 04-3). Former R9-6-360 renumbered to R9-6-365; new R9-6-360 renumbered from R9-6-355 and amended by final rulemaking at 14 A.A.R. 1502, effective April 1, 2008 (Supp. 08-2). Section R9-6-360 renumbered to R9-6-367; new Section R9-6-360 renumbered from R9-6-354 and amended by final rulemaking at 23 A.A.R. 2605, effective January 1, 2018 (Supp. 17-3).

**R9-6-361. Novel Coronavirus (e.g., SARS or MERS)**

- A.** Case control measures:
1. A diagnosing health care provider or an administrator of a health care institution, either personally or through a representative, shall isolate and institute both airborne precautions and contact precautions for a novel coronavirus case or suspect case, including a case or suspect case of severe acute respiratory syndrome or Middle East respiratory syndrome, until evaluated and determined to be non-infectious by a physician, physician assistant, or registered nurse practitioner.
  2. A local health agency shall:
    - a. Upon receiving a report under R9-6-202 of a novel coronavirus case or suspect case, notify the Department within 24 hours after receiving the report and provide to the Department the information contained in the report;

- b. In consultation with the Department, ensure that isolation and both airborne precautions and contact precautions have been instituted for a novel coronavirus case or suspect case to prevent transmission;
- c. Conduct an epidemiologic investigation of each reported novel coronavirus case or suspect case; and
- d. For each novel coronavirus case, submit to the Department, as specified in Table 2.4, the information required under R9-6-206(D).

- B.** Contact control measures: A local health agency, in consultation with the Department, shall determine which novel coronavirus contacts will be quarantined or excluded, according to R9-6-303, to prevent transmission.

**Historical Note**

Former Section R9-6-115, Paragraph (41), renumbered and amended as R9-6-754 effective January 28, 1987 (Supp. 87-1). Renumbered from R9-6-754 and amended effective October 19, 1993 (Supp. 93-4). Former Section R9-6-361 renumbered to R9-6-365; new Section R9-6-361 renumbered from R9-6-357 effective April 4, 1997 (Supp. 97-2). Former R9-6-361 renumbered to R9-6-369; new R9-6-361 renumbered from R9-6-353 and amended by final rulemaking at 10 A.A.R. 3559, effective October 2, 2004 (Supp. 04-3). Former R9-6-361 renumbered to R9-6-366; new R9-6-361 renumbered from R9-6-356 and amended by final rulemaking at 14 A.A.R. 1502, effective April 1, 2008 (Supp. 08-2). Section R9-6-361 renumbered to R9-6-368; new Section R9-6-361 made by final rulemaking at 23 A.A.R. 2605, effective January 1, 2018 (Supp. 17-3).

**R9-6-362. Pediculosis (Lice Infestation)**

- A.** Case control measures:
1. An administrator of a school or child care establishment, either personally or through a representative, shall exclude a pediculosis case from the school or child care establishment until the case is treated with a pediculocide.
  2. An administrator of a shelter shall ensure that a pediculosis case is treated with a pediculocide and that the case's clothing and personal articles are disinfested.
- B.** Contact control measures: An administrator of a school or child care establishment that excludes a pediculosis case from the school or child care establishment, either personally or through a representative, shall ensure that a parent or guardian of a child who is a contact is notified that a pediculosis case was identified at the school or child care establishment.

**Historical Note**

Former Section R9-6-115, Paragraph (42), renumbered and amended as R9-6-755 effective January 28, 1987 (Supp. 87-1). Renumbered from R9-6-755 and amended effective October 19, 1993 (Supp. 93-4). Former Section R9-6-362 renumbered to R9-6-366; new Section R9-6-362 renumbered from R9-6-358 effective April 4, 1997 (Supp. 97-2). Former R9-6-362 renumbered to R9-6-370; new R9-6-362 renumbered from R9-6-354 and amended by final rulemaking at 10 A.A.R. 3559, effective October 2, 2004 (Supp. 04-3). Former R9-6-362 renumbered to R9-6-367; new R9-6-362 renumbered from R9-6-357 and amended by final rulemaking at 14 A.A.R. 1502, effective April 1, 2008 (Supp. 08-2). Section R9-6-362 renumbered to R9-6-369; new Section R9-6-362 renumbered from R9-6-355 and amended by final rulemaking at 23 A.A.R. 2605, effective January 1, 2018 (Supp. 17-3).

**R9-6-363. Pertussis (Whooping Cough)**

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**A. Case control measures:**

1. An administrator of a school or child care establishment, either personally or through a representative, shall:
  - a. Exclude a pertussis case from the school or child care establishment for 21 calendar days after the date of onset of cough or for five calendar days after the date of initiation of antibiotic treatment for pertussis; and
  - b. Exclude a pertussis suspect case from the school or child care establishment until evaluated and determined to be noninfectious by a physician, physician assistant, registered nurse practitioner, or local health agency.
2. An administrator of a health care institution, either personally or through a representative, shall:
  - a. Exclude a pertussis case from working at the health care institution for 21 calendar days after the date of onset of cough or for five calendar days after the date of initiation of antibiotic treatment for pertussis; and
  - b. Exclude a pertussis suspect case from working at the health care institution until evaluated and determined to be noninfectious by a physician, physician assistant, registered nurse practitioner, or local health agency.
3. A diagnosing health care provider or an administrator of a health care institution, either personally or through a representative, shall isolate and initiate droplet precautions for a pertussis case for five calendar days after the date of initiation of antibiotic treatment for pertussis.
4. A local health agency shall:
  - a. Upon receiving a report under R9-6-202 or R9-6-203 of a pertussis case or suspect case, notify the Department within one working day after receiving the report and provide to the Department the information contained in the report;
  - b. Conduct an epidemiologic investigation of each reported pertussis case or suspect case; and
  - c. For each pertussis case, submit to the Department, as specified in Table 2.4, the information required under R9-6-206(D).
5. An administrator of a correctional facility or shelter, either personally or through a representative, shall comply with the pertussis control measures recommended by a local health agency or the Department.

**B. Contact control measures:**

1. When a pertussis case has been at a school or child care establishment, the administrator of the school or child care establishment, either personally or through a representative, shall:
  - a. Consult with the local health agency to determine who shall be excluded and how long each individual shall be excluded from the school or child care establishment, and
  - b. Comply with the local health agency's recommendations for exclusion.
2. A local health agency shall identify contacts of a pertussis case and shall:
  - a. Determine which pertussis contacts will be quarantined or excluded, according to R9-6-303, to prevent transmission; and
  - b. If indicated, provide or arrange for a pertussis contact to receive antibiotic prophylaxis.

**Historical Note**

Former Section R9-6-115, Paragraph (43), renumbered and amended as R9-6-756 effective January 28, 1987

(Supp. 87-1). Renumbered from R9-6-756 and amended effective October 19, 1993 (Supp. 93-4). Section R9-6-363 renumbered to R9-6-367; new Section R9-6-363 renumbered from R9-6-359 effective April 4, 1997 (Supp. 97-2). Former R9-6-363 renumbered to R9-6-371; new R9-6-363 renumbered from R9-6-355 and amended by final rulemaking at 10 A.A.R. 3559, effective October 2, 2004 (Supp. 04-3). Former R9-6-363 renumbered to R9-6-368; new R9-6-363 renumbered from R9-6-358 and amended by final rulemaking at 14 A.A.R. 1502, effective April 1, 2008 (Supp. 08-2). Section expired under A.R.S. § 41-1056(J) at 19 A.A.R. 1928, effective April 30, 2013 (Supp. 13-3). New Section R9-6-363 renumbered from R9-6-356 and amended by final rulemaking at 23 A.A.R. 2605, effective January 1, 2018 (Supp. 17-3).

**R9-6-364. Plague****A. Case control measures:**

1. A diagnosing health care provider or an administrator of a health care institution, either personally or through a representative, shall isolate and institute droplet precautions for a pneumonic plague case or suspect case until 72 hours of antibiotic therapy have been completed with favorable clinical response.
2. An individual handling the body of a deceased plague case shall use droplet precautions.
3. A local health agency shall:
  - a. Upon receiving a report under R9-6-202 of a plague case or suspect case, notify the Department within 24 hours after receiving the report and provide to the Department the information contained in the report;
  - b. Conduct an epidemiologic investigation of each reported plague case or suspect case;
  - c. For each plague case, submit to the Department, as specified in Table 2.4, the information required under R9-6-206(D); and
  - d. Ensure that an isolate or a specimen, as available, from each plague case or suspect case is submitted to the Arizona State Laboratory.

- B. Contact control measures:** A local health agency shall provide follow-up to pneumonic plague contacts for seven calendar days after last exposure to a pneumonic plague case.

**Historical Note**

Former Section R9-6-115, Paragraph (44), renumbered and amended as R9-6-757 effective January 28, 1987 (Supp. 87-1). Renumbered from R9-6-757 and amended effective October 19, 1993 (Supp. 93-4). Former Section R9-6-364 renumbered to R9-6-368; new Section R9-6-364 renumbered from R9-6-360 effective April 4, 1997 (Supp. 97-2). Former R9-6-364 renumbered to R9-6-372; new R9-6-364 made by final rulemaking at 10 A.A.R. 3559, effective October 2, 2004 (Supp. 04-3). Former R9-6-364 renumbered to R9-6-369; new R9-6-364 renumbered from R9-6-359 and amended by final rulemaking at 14 A.A.R. 1502, effective April 1, 2008 (Supp. 08-2). Section R9-6-364 repealed; new Section R9-6-364 renumbered from R9-6-357 and amended by final rulemaking at 23 A.A.R. 2605, effective January 1, 2018 (Supp. 17-3).

**R9-6-365. Poliomyelitis (Paralytic or Non-paralytic)**

Case control measures: A local health agency shall:

1. Upon receiving a report under R9-6-202 of a poliomyelitis case or suspect case, notify the Department within 24 hours after receiving the report and provide to the Department the information contained in the report;

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2. Conduct an epidemiologic investigation of each reported poliomyelitis case or suspect case;
3. For each poliomyelitis case, submit to the Department, as specified in Table 2.4, the information required under R9-6-206(D); and
4. Ensure that one or more specimens from each poliomyelitis case or suspect case, as required by the Department, are submitted to the Arizona State Laboratory.

**Historical Note**

Former Section R9-6-115, Paragraph (4), renumbered and amended as R9-6-758 effective January 28, 1987 (Supp. 87-1). Renumbered from R9-6-758 and amended effective October 19, 1993 (Supp. 93-4). Former Section R9-6-365 renumbered to R9-6-372; new Section R9-6-365 renumbered from R9-6-361 effective April 4, 1997 (Supp. 97-2). Former R9-6-365 renumbered to R9-6-373; new R9-6-365 renumbered from R9-6-356 and amended by final rulemaking at 10 A.A.R. 3559, effective October 2, 2004 (Supp. 04-3). Former R9-6-365 renumbered to R9-6-370; new R9-6-365 renumbered from R9-6-360 and amended by final rulemaking at 14 A.A.R. 1502, effective April 1, 2008 (Supp. 08-2). Section R9-6-365 renumbered to R9-6-371; new Section R9-6-365 renumbered from R9-6-358 and amended by final rulemaking at 23 A.A.R. 2605, effective January 1, 2018 (Supp. 17-3).

**R9-6-366. Psittacosis (Ornithosis)**

- A.** Case control measures: A local health agency shall:
1. Conduct an epidemiologic investigation of each reported psittacosis case or suspect case; and
  2. For each psittacosis case, submit to the Department, as specified in Table 2.4, the information required under R9-6-206(D).
- B.** Environmental control measures: A local health agency shall:
1. If a bird infected with *Chlamydia psittaci* or *Chlamydophila psittaci* is located in a private residence:
    - a. Provide health education for the bird's owner about psittacosis and the risks of becoming infected with psittacosis, and
    - b. Advise the bird's owner to obtain treatment for the bird; and
  2. If a bird infected with *Chlamydia psittaci* or *Chlamydophila psittaci* is located in a setting other than a private residence:
    - a. Provide health education for the bird's owner about psittacosis and the risks of becoming infected with psittacosis,
    - b. Ensure that the bird is treated or destroyed and any contaminated structures are disinfected, and
    - c. Require the bird's owner to isolate the bird from contact with members of the public and from other birds until treatment of the bird is completed or the bird is destroyed.

**Historical Note**

Former Section R9-6-115, Paragraph (46), renumbered and amended as R9-6-759 effective January 28, 1987 (Supp. 87-1). Renumbered from R9-6-759 and amended effective October 19, 1993 (Supp. 93-4). Former Section R9-6-366 renumbered to R9-6-374; new Section R9-6-366 renumbered from R9-6-362 effective April 4, 1997 (Supp. 97-2). Former R9-6-366 renumbered to R9-6-374; new R9-6-366 made by final rulemaking at 10 A.A.R. 3559, effective October 2, 2004 (Supp. 04-3). Former R9-6-366 renumbered to R9-6-371; new R9-6-366 renumbered from R9-6-361 and amended by final rulemaking at 14 A.A.R. 1502, effective April 1, 2008 (Supp. 08-2).

Section R9-6-366 renumbered to R9-6-372; new Section R9-6-366 renumbered from R9-6-359 and amended by final rulemaking at 23 A.A.R. 2605, effective January 1, 2018 (Supp. 17-3).

**R9-6-367. Q Fever**

Case control measures: A local health agency shall:

1. Upon receiving a report under R9-6-202 of a Q fever case or suspect case, notify the Department within one working day after receiving the report and provide to the Department the information contained in the report;
2. Conduct an epidemiologic investigation of each reported Q fever case or suspect case; and
3. For each Q fever case, submit to the Department, as specified in Table 2.4, the information required under R9-6-206(D).

**Historical Note**

Section R9-6-367 renumbered from R9-6-363 effective April 4, 1997 (Supp. 97-2). Former R9-6-367 renumbered to R9-6-375; new R9-6-367 renumbered from R9-6-358 and amended by final rulemaking at 10 A.A.R. 3559, effective October 2, 2004 (Supp. 04-3). Former R9-6-367 renumbered to R9-6-372; new R9-6-367 renumbered from R9-6-362 and amended by final rulemaking at 14 A.A.R. 1502, effective April 1, 2008 (Supp. 08-2). Section R9-6-367 renumbered to R9-6-373; new Section R9-6-367 renumbered from R9-6-360 and amended by final rulemaking at 23 A.A.R. 2605, effective January 1, 2018 (Supp. 17-3).

**R9-6-368. Rabies in a Human**

**A.** Case control measures: A local health agency shall:

1. Upon receiving a report under R9-6-202 of a human rabies case or suspect case, notify the Department within 24 hours after receiving the report and provide to the Department the information contained in the report;
2. Conduct an epidemiologic investigation of each reported human rabies case or suspect case;
3. For each human rabies case, submit to the Department, as specified in Table 2.4, the information required under R9-6-206(D); and
4. Ensure that a specimen from each human rabies case or suspect case, as required by the Department, is submitted to the Arizona State Laboratory.

**B.** Contact control measures: A local health agency shall evaluate the level of risk of transmission from each contact's exposure to a human rabies case and, if indicated, provide or arrange for each contact to receive prophylaxis.

**Historical Note**

Section R9-6-368 renumbered from R9-6-364 effective April 4, 1997 (Supp. 97-2). Former R9-6-368 renumbered to R9-6-376; new R9-6-368 renumbered from R9-6-360 and amended by final rulemaking at 10 A.A.R. 3559, effective October 2, 2004 (Supp. 04-3). Former R9-6-368 renumbered to R9-6-375; new R9-6-368 renumbered from R9-6-363 and amended by final rulemaking at 14 A.A.R. 1502, effective April 1, 2008 (Supp. 08-2). Section R9-6-368 renumbered to R9-6-374; new Section R9-6-368 renumbered from R9-6-361 and amended by final rulemaking at 23 A.A.R. 2605, effective January 1, 2018 (Supp. 17-3).

**R9-6-369. Relapsing Fever (Borreliosis)**

Case control measures: A local health agency shall:

1. Upon receiving a report under R9-6-202 of a borreliosis case or suspect case, notify the Department within one

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- working day after receiving the report and provide to the Department the information contained in the report;
2. Conduct an epidemiologic investigation of each reported borreliosis case or suspect case; and
  3. For each borreliosis case, submit to the Department, as specified in Table 2.4, the information required under R9-6-206(D).

**Historical Note**

Adopted effective April 4, 1997 (Supp. 97-2). Former R9-6-369 renumbered to R9-6-379; new R9-6-369 renumbered from R9-6-361 and amended by final rulemaking at 10 A.A.R. 3559, effective October 2, 2004 (Supp. 04-3). Former R9-6-369 renumbered to R9-6-376; new R9-6-369 renumbered from R9-6-364 and amended by final rulemaking at 14 A.A.R. 1502, effective April 1, 2008 (Supp. 08-2). Section R9-6-369 repealed; new Section R9-6-369 renumbered from R9-6-362 and amended by final rulemaking at 23 A.A.R. 2605, effective January 1, 2018 (Supp. 17-3).

**R9-6-370. Respiratory Disease in a Health Care Institution or Correctional Facility****Outbreak control measures:**

1. A local health agency shall:
  - a. Conduct an epidemiologic investigation of each reported outbreak of respiratory disease in a health care institution or correctional facility; and
  - b. For each outbreak of respiratory disease in a health care institution or correctional facility, submit to the Department the information required under R9-6-206(E).
2. When an outbreak of respiratory disease occurs in a health care institution or correctional facility, the administrator of the health care institution or correctional facility, either personally or through a representative, shall comply with the control measures recommended by a local health agency.

**Historical Note**

Adopted effective April 4, 1997 (Supp. 97-2). Former R9-6-370 renumbered to R9-6-380; new R9-6-370 renumbered from R9-6-362 and amended by final rulemaking at 10 A.A.R. 3559, effective October 2, 2004 (Supp. 04-3). Former R9-6-370 renumbered to R9-6-377; new R9-6-370 renumbered from R9-6-365 and amended by final rulemaking at 14 A.A.R. 1502, effective April 1, 2008 (Supp. 08-2). Section R9-6-370 renumbered to R9-6-375; new Section R9-6-370 made by final rulemaking at 23 A.A.R. 2605, effective January 1, 2018 (Supp. 17-3).

**R9-6-371. Rubella (German Measles)****A. Case control measures:**

1. An administrator of a school or child care establishment, either personally or through a representative, shall:
  - a. Exclude a rubella case from the school or child care establishment and from school- or child-care-establishment-sponsored events from the onset of illness through the seventh calendar day after the rash appears; and
  - b. Exclude a rubella suspect case from the school or child care establishment and from school- or child-care-establishment-sponsored events until evaluated and determined to be noninfectious by a physician, physician assistant, registered nurse practitioner, or local health agency.

2. A diagnosing health care provider or an administrator of a health care institution, either personally or through a representative and in consultation with the local health agency, shall isolate and institute droplet precautions for a rubella case through the seventh calendar day after the rash appears.
3. An administrator of a health care institution, either personally or through a representative, shall exclude a rubella:
  - a. Case from working at the health care institution from the onset of illness through the seventh calendar day after the rash appears; and
  - b. Suspect case from working at the health care institution until evaluated and determined to be noninfectious by a physician, physician assistant, registered nurse practitioner, or local health agency.
4. A local health agency shall:
  - a. Upon receiving a report under R9-6-202 or R9-6-203 of a rubella case or suspect case, notify the Department within one working day after receiving the report and provide to the Department the information contained in the report;
  - b. Conduct an epidemiologic investigation of each reported rubella case or suspect case;
  - c. For each rubella case, submit to the Department, as specified in Table 2.4, the information required under R9-6-206(D); and
  - d. Ensure that one or more specimens from each rubella case or suspect case, as required by the Department, are submitted to the Arizona State Laboratory.
5. An administrator of a correctional facility or shelter, either personally or through a representative, shall comply with the rubella control measures recommended by a local health agency or the Department.

**B. Contact control measures:**

1. An administrator of a health care institution shall ensure that a paid or volunteer full-time or part-time worker at a health care institution does not participate in the direct care of a rubella case or suspect case or of a patient who is or may be pregnant unless the worker first provides evidence of immunity to rubella consisting of:
  - a. A record of immunization against rubella given on or after the first birthday; or
  - b. A statement signed by a physician, physician assistant, registered nurse practitioner, state health officer, or local health officer affirming serologic evidence of immunity to rubella.
2. When a rubella case has been at a school or child care establishment, the administrator of the school or child care establishment, either personally or through a representative, shall:
  - a. Consult with the local health agency to determine who shall be excluded and how long each individual shall be excluded from the school or child care establishment, and
  - b. Comply with the local health agency's recommendations for exclusion.
3. A local health agency shall:
  - a. Determine which rubella contacts will be quarantined or excluded, according to R9-6-303, to prevent transmission; and
  - b. Provide or arrange for immunization of each non-immune rubella contact within 72 hours after last exposure, if possible.

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**Historical Note**

Adopted effective April 4, 1997 (Supp. 97-2). Former R9-6-371 renumbered to R9-6-381; new R9-6-371 renumbered from R9-6-363 and amended by final rulemaking at 10 A.A.R. 3559, effective October 2, 2004 (Supp. 04-3). Former R9-6-371 renumbered to R9-6-378; new R9-6-371 renumbered from R9-6-366 and amended by final rulemaking at 14 A.A.R. 1502, effective April 1, 2008 (Supp. 08-2). Section R9-6-371 renumbered to R9-6-376; new Section R9-6-371 renumbered from R9-6-365 and amended by final rulemaking at 23 A.A.R. 2605, effective January 1, 2018 (Supp. 17-3).

**R9-6-372. Rubella Syndrome, Congenital****A. Case control measures:**

1. A diagnosing health care provider or an administrator of a health care institution, either personally or through a representative, shall isolate and implement contact precautions for an infant congenital rubella syndrome case until:
  - a. The infant congenital rubella syndrome case reaches one year of age; or
  - b. Two successive negative virus cultures, from specimens collected at least one month apart, are obtained from the infant congenital rubella syndrome case after the infant congenital rubella syndrome case reaches three months of age.
2. A local health agency shall:
  - a. Upon receiving a report under R9-6-202 of a congenital rubella syndrome case or suspect case, notify the Department within 24 hours after receiving the report and provide to the Department the information contained in the report;
  - b. Conduct an epidemiologic investigation of each reported congenital rubella syndrome case or suspect case;
  - c. For each congenital rubella syndrome case, as specified in Table 2.4, the information required under R9-6-206(D); and
  - d. Ensure that one or more specimens from each congenital rubella syndrome case or suspect case, as required by the Department, are submitted to the Arizona State Laboratory.

- B. Contact control measures:** An administrator of a health care institution shall ensure that a paid or volunteer full-time or part-time worker at a health care institution who is known to be pregnant does not participate in the direct care of a congenital rubella syndrome case or suspect case unless the worker first provides evidence of immunity to rubella that complies with R9-6-371(B)(1).

**Historical Note**

Section R9-6-372 renumbered from R9-6-365 and amended effective April 4, 1997 (Supp. 97-2). Former R9-6-372 renumbered to R9-6-382; new R9-6-372 renumbered from R9-6-364 and amended by final rulemaking at 10 A.A.R. 3559, effective October 2, 2004 (Supp. 04-3). Former R9-6-372 renumbered to R9-6-379; new R9-6-372 renumbered from R9-6-367 and amended by final rulemaking at 14 A.A.R. 1502, effective April 1, 2008 (Supp. 08-2). Section R9-6-372 renumbered to R9-6-378; new Section R9-6-372 renumbered from R9-6-366 and amended by final rulemaking at 23 A.A.R. 2605, effective January 1, 2018 (Supp. 17-3).

**R9-6-373. Salmonellosis****A. Case control measures:** A local health agency shall:

1. Upon receiving a report under R9-6-202 or R9-6-203 of a salmonellosis case or suspect case, notify the Department

within one working day after receiving the report and provide to the Department the information contained in the report;

2. Exclude a salmonellosis case or suspect case with diarrhea from:
    - a. Working as a food handler, caring for children in or attending a child care establishment, or caring for patients or residents in a health care institution until:
      - i. Diarrhea has resolved,
      - ii. A stool specimen negative for *Salmonella* spp. is obtained from the salmonellosis case or suspect case, or
      - iii. The local health agency has determined that the case or suspect case is unlikely to infect other individuals; and
    - b. Using an aquatic venue until diarrhea has resolved;
  3. Conduct an epidemiologic investigation of each reported salmonellosis case or suspect case; and
  4. For each salmonellosis case, submit to the Department, as specified in Table 2.4, the information required under R9-6-206(D).
- B. Environmental control measures:** A local health agency shall:
    1. If an animal infected with *Salmonella* spp. is located in a private residence, provide health education for the animal's owner about salmonellosis and the risks of becoming infected with *Salmonella* spp.; and
    2. If an animal infected with *Salmonella* spp. is located in a setting other than a private residence:
      - a. Provide health education for the animal's owner about salmonellosis and the risks of becoming infected with *Salmonella* spp., and
      - b. Require the animal's owner to provide information to individuals with whom the animal may come into contact about salmonellosis and methods to reduce the risk of transmission.

**Historical Note**

Adopted effective April 4, 1997 (Supp. 97-2). Former R9-6-373 renumbered to R9-6-383; new R9-6-373 renumbered from R9-6-365 and amended by final rulemaking at 10 A.A.R. 3559, effective October 2, 2004 (Supp. 04-3). Former R9-6-373 renumbered to R9-6-380; new R9-6-373 made by final rulemaking at 14 A.A.R. 1502, effective April 1, 2008 (Supp. 08-2). Section R9-6-373 renumbered to R9-6-379; new Section R9-6-373 renumbered from R9-6-367 and amended by final rulemaking at 23 A.A.R. 2605, effective January 1, 2018 (Supp. 17-3).

**R9-6-374. Scabies****A. Case control measures:**

1. An administrator of a school or child care establishment, either personally or through a representative, shall exclude a scabies case from the school or child care establishment until treatment for scabies is completed.
2. An administrator of a health care institution or shelter, either personally or through a representative, shall exclude a scabies case from participating in the direct care of a patient or resident until treatment for scabies is completed.
3. An administrator of a shelter, either personally or through a representative, shall ensure that a scabies case receives treatment for scabies and that the case's clothing and personal articles are disinfested.
4. An administrator of a correctional facility, either personally or through a representative, shall ensure that a sca-

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bies case receives treatment for scabies and that the case's clothing and personal articles are disinfested.

- B. Contact control measures: An administrator of a school, child care establishment, health care institution, or shelter, either personally or through a representative, shall advise a scabies contact with symptoms of scabies to obtain examination and, if necessary, treatment.
- C. Outbreak control measures: A local health agency shall:
  1. Provide health education regarding prevention, control, and treatment of scabies to individuals affected by a scabies outbreak;
  2. When a scabies outbreak occurs in a health care institution, notify the licensing agency of the outbreak; and
  3. For each scabies outbreak, submit to the Department the information required under R9-6-202(D).

**Historical Note**

Section R9-6-374 renumbered from R9-6-366 effective April 4, 1997 (Supp. 97-2). Former R9-6-374 renumbered to R9-6-386; new R9-6-374 renumbered from R9-6-366 and amended by final rulemaking at 10 A.A.R. 3559, effective October 2, 2004 (Supp. 04-3). Former R9-6-374 renumbered to R9-6-381; new R9-6-374 made by final rulemaking at 14 A.A.R. 1502, effective April 1, 2008 (Supp. 08-2). Section R9-6-374 renumbered to R9-6-380; new Section R9-6-374 renumbered from R9-6-368 and amended by final rulemaking at 23 A.A.R. 2605, effective January 1, 2018 (Supp. 17-3).

**R9-6-375. Shigellosis**

Case control measures: A local health agency shall:

1. Upon receiving a report under R9-6-202 or R9-6-203 of a shigellosis case or suspect case, notify the Department within one working day after receiving the report and provide to the Department the information contained in the report;
2. Exclude a shigellosis case or suspect case with diarrhea from:
  - a. Working as a food handler, caring for children in or attending a child care establishment, or caring for patients or residents in a health care institution until:
    - i. Diarrhea has resolved,
    - ii. A stool specimen negative for *Shigella* spp. is obtained from the shigellosis case or suspect case, or
    - iii. The local health agency has determined that the case or suspect case is unlikely to infect other individuals; and
  - b. Using an aquatic venue for one week after diarrhea has resolved;
3. Conduct an epidemiologic investigation of each reported shigellosis case or suspect case; and
4. For each shigellosis case, submit to the Department, as specified in Table 2.4, the information required under R9-6-206(D).

**Historical Note**

Adopted effective April 4, 1997 (Supp. 97-2). Former R9-6-375 renumbered to R9-6-387; new R9-6-375 renumbered from R9-6-367 and amended by final rulemaking at 10 A.A.R. 3559, effective October 2, 2004 (Supp. 04-3). Former R9-6-375 renumbered to R9-6-382; new R9-6-375 renumbered from R9-6-368 and amended by final rulemaking at 14 A.A.R. 1502, effective April 1, 2008 (Supp. 08-2). Section R9-6-375 renumbered to R9-6-381; new Section R9-6-375 renumbered from R9-6-370

and amended by final rulemaking at 23 A.A.R. 2605, effective January 1, 2018 (Supp. 17-3).

**R9-6-376. Smallpox**

A. Case control measures:

1. A diagnosing health care provider or an administrator of a health care institution, either personally or through a representative, shall isolate and institute both airborne precautions and contact precautions for a smallpox case or suspect case, until evaluated and determined to be noninfectious by a physician, physician assistant, or registered nurse practitioner.
2. A local health agency shall:
  - a. Upon receiving a report under R9-6-202 of a smallpox case or suspect case, notify the Department within 24 hours after receiving the report and provide to the Department the information contained in the report;
  - b. In consultation with the Department:
    - i. Ensure that isolation and both airborne precautions and contact precautions have been instituted for a smallpox case or suspect case to prevent transmission, and
    - ii. Conduct an epidemiologic investigation of each reported smallpox case or suspect case;
  - c. For each smallpox case, submit to the Department, as specified in Table 2.4, the information required under R9-6-206(D); and
  - d. Ensure that a specimen from each smallpox case or suspect case, as required by the Department, is submitted to the Arizona State Laboratory.

B. Contact control measures: A local health agency, in consultation with the Department, shall:

1. Quarantine or exclude a smallpox contact as necessary, according to R9-6-303, to prevent transmission; and
2. Monitor the contact for smallpox symptoms, including fever, each day for 21 calendar days after last exposure.

**Historical Note**

Section renumbered from R9-6-368 and amended by final rulemaking at 10 A.A.R. 3559, effective October 2, 2004 (Supp. 04-3). Former R9-6-376 renumbered to R9-6-383; new R9-6-376 renumbered from R9-6-369 and amended by final rulemaking at 14 A.A.R. 1502, effective April 1, 2008 (Supp. 08-2). Section R9-6-376 renumbered to R9-6-382; new Section R9-6-376 renumbered from R9-6-371 and amended by final rulemaking at 23 A.A.R. 2605, effective January 1, 2018 (Supp. 17-3).

**R9-6-377. Spotted Fever Rickettsiosis (e.g., Rocky Mountain Spotted Fever)**

A. Case control measures: A local health agency shall:

1. Upon receiving a report under R9-6-202 of a spotted fever rickettsiosis case or suspect case, notify the Department within one working day after receiving the report and provide to the Department the information contained in the report;
2. Ensure that a spotted fever rickettsiosis case or, if the case is a child or incapacitated adult, the parent or guardian of the case receives health education about reducing the risks of becoming reinfected with or of having others become infected with spotted fever rickettsiosis;
3. Conduct an epidemiologic investigation of each reported spotted fever rickettsiosis case or suspect case; and
4. For each spotted fever rickettsiosis case, submit to the Department, as specified in Table 2.4, the information required under R9-6-206(D).

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- B.** Environmental control measures: In cooperation with the Department, a local health agency or another local agency responsible for vector control within a jurisdiction shall conduct an assessment of the environment surrounding each spotted fever rickettsiosis case or suspect case and implement vector control measures as necessary.

**Historical Note**

New Section made by final rulemaking at 10 A.A.R. 3559, effective October 2, 2004 (Supp. 04-3). Former R9-6-377 renumbered to R9-6-384; new R9-6-377 renumbered from R9-6-370 and amended by final rulemaking at 14 A.A.R. 1502, effective April 1, 2008 (Supp. 08-2). Section R9-6-377 renumbered to R9-6-383; new Section R9-6-377 made by final rulemaking at 23 A.A.R. 2605, effective January 1, 2018 (Supp. 17-3).

**R9-6-378. Streptococcal Group A Infection**

- A.** Streptococcal group A infection, invasive or non-invasive: Case control measures: An administrator of a school, child care establishment, or health care institution or a person in charge of a food establishment, either personally or through a representative, shall exclude a streptococcal group A infection case with streptococcal lesions or streptococcal sore throat from working as a food handler, attending or working in a school, caring for children in or attending a child care establishment, or caring for patients or residents in a health care institution for 24 hours after the initiation of treatment for streptococcal group A infection.
- B.** Invasive streptococcal group A infection: Outbreak control measures: A local health agency shall:
1. Conduct an epidemiologic investigation of each reported outbreak of streptococcal group A invasive infection;
  2. For each streptococcal group A invasive infection case involved in an outbreak, submit to the Department, as specified in Table 2.4, the information required under R9-6-206(D); and
  3. For each outbreak of streptococcal group A invasive infection, submit to the Department the information required under R9-6-206(E).

**Historical Note**

New Section made by final rulemaking at 10 A.A.R. 3559, effective October 2, 2004 (Supp. 04-3). Former R9-6-378 renumbered to R9-6-385; new R9-6-378 renumbered from R9-6-371 and amended by final rulemaking at 14 A.A.R. 1502, effective April 1, 2008 (Supp. 08-2). Section R9-6-378 renumbered to R9-6-384; new Section R9-6-378 renumbered from R9-6-372 and amended by final rulemaking at 23 A.A.R. 2605, effective January 1, 2018 (Supp. 17-3).

**R9-6-379. Streptococcal Group B Invasive Infection in an Infant Younger Than 90 Days of Age**

Case control measures: A local health agency shall:

1. Confirm the diagnosis of streptococcal group B invasive infection for each reported case or suspect case of streptococcal group B invasive infection in an infant younger than 90 days of age; and
2. For each case of streptococcal group B infection in an infant younger than 90 days of age, submit to the Department the information required under R9-6-202(C).

**Historical Note**

Section renumbered from R9-6-369 and amended by final rulemaking at 10 A.A.R. 3559, effective October 2, 2004 (Supp. 04-3). Section repealed; new Section renumbered from R9-6-372 and amended by final rulemaking at 14 A.A.R. 1502, effective April 1, 2008 (Supp. 08-2). Sec-

tion R9-6-379 renumbered to R9-6-385; new Section R9-6-379 renumbered from R9-6-373 and amended by final rulemaking at 23 A.A.R. 2605, effective January 1, 2018 (Supp. 17-3).

**R9-6-380. Streptococcus pneumoniae Invasive Infection**

Outbreak control measures: A local health agency shall:

1. Conduct an epidemiologic investigation of each reported outbreak of *Streptococcus pneumoniae* invasive infection; and
2. For each outbreak of *Streptococcus pneumoniae* invasive infection, submit to the Department the information required under R9-6-206(E).

**Historical Note**

Section renumbered from R9-6-370 and amended by final rulemaking at 10 A.A.R. 3559, effective October 2, 2004 (Supp. 04-3). Former R9-6-380 renumbered to R9-6-386; new R9-6-380 renumbered from R9-6-373 and amended by final rulemaking at 14 A.A.R. 1502, effective April 1, 2008 (Supp. 08-2). Section R9-6-380 renumbered to R9-6-386; new Section R9-6-380 renumbered from R9-6-374 and amended by final rulemaking at 23 A.A.R. 2605, effective January 1, 2018 (Supp. 17-3).

**R9-6-381. Syphilis**

**A.** Case control measures:

1. A syphilis case shall obtain serologic testing for syphilis three months, six months, and one year after initiating treatment, unless more frequent or longer testing is recommended by a local health agency.
2. A health care provider for a pregnant syphilis case shall order serologic testing for syphilis at 28 to 32 weeks gestation and at delivery.
3. A local health agency shall:
  - a. Conduct an epidemiologic investigation, including a review of medical records, of each reported syphilis case or suspect case, confirming the stage of the disease;
  - b. For each syphilis case, submit to the Department, as specified in Table 2.4, the information required under R9-6-206(D);
  - c. If the syphilis case is pregnant, ensure that the syphilis case obtains the serologic testing for syphilis required in subsection (A)(1) and (A)(2); and
  - d. Comply with the requirements specified in R9-6-1103 concerning treatment and health education for a syphilis case.
4. The operator of a blood bank, blood center, or plasma center shall notify a donor of a test result with significant evidence suggestive of syphilis, as required under A.R.S. § 32-1483 and 21 CFR 630.6.

**B.** Contact control measures: When a syphilis case has named a contact, a local health agency shall comply with the requirements specified in R9-6-1103 concerning notification, testing, treatment, and health education for the contact.

**C.** Outbreak control measures: A local health agency shall:

1. Conduct an epidemiologic investigation of each reported syphilis outbreak; and
2. For each syphilis outbreak, submit to the Department the information required under R9-6-206(E).

**Historical Note**

Section renumbered from R9-6-371 and amended by final rulemaking at 10 A.A.R. 3559, effective October 2, 2004 (Supp. 04-3). Former R9-6-381 renumbered to R9-6-387; new R9-6-381 renumbered from R9-6-374 and amended by final rulemaking at 14 A.A.R. 1502, effective April 1,

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2008 (Supp. 08-2). Section R9-6-381 renumbered to R9-6-387; new Section R9-6-381 renumbered from R9-6-375 and amended by final rulemaking at 23 A.A.R. 2605, effective January 1, 2018 (Supp. 17-3).

**R9-6-382. Taeniasis**

Case control measures: A local health agency shall:

1. Exclude a taeniasis case with *Taenia* spp. from working as a food handler, caring for children in or attending a child care establishment, or caring for patients or residents in a health care institution until free of infestation;
2. Conduct an epidemiologic investigation of each reported taeniasis case; and
3. For each taeniasis case, submit to the Department, as specified in Table 2.4, the information required under R9-6-206(D).

**Historical Note**

Section renumbered from R9-6-372 and amended by final rulemaking at 10 A.A.R. 3559, effective October 2, 2004 (Supp. 04-3). Former R9-6-382 renumbered to R9-6-388; new R9-6-382 renumbered from R9-6-375 and amended by final rulemaking at 14 A.A.R. 1502, effective April 1, 2008 (Supp. 08-2). Section R9-6-382 renumbered to R9-6-388; new Section R9-6-382 renumbered from R9-6-376 and amended by final rulemaking at 23 A.A.R. 2605, effective January 1, 2018 (Supp. 17-3).

**R9-6-383. Tetanus**

Case control measures: A local health agency shall:

1. Conduct an epidemiologic investigation of each reported tetanus case or suspect case; and
2. For each tetanus case, submit to the Department, as specified in Table 2.4, the information required under R9-6-206(D).

**Historical Note**

Section renumbered from R9-6-373 and amended by final rulemaking at 10 A.A.R. 3559, effective October 2, 2004 (Supp. 04-3). Former R9-6-383 renumbered to R9-6-389; new R9-6-383 renumbered from R9-6-376 and amended by final rulemaking at 14 A.A.R. 1502, effective April 1, 2008 (Supp. 08-2). Section R9-6-383 renumbered to R9-6-389; new Section R9-6-383 renumbered from R9-6-377 and amended by final rulemaking at 23 A.A.R. 2605, effective January 1, 2018 (Supp. 17-3).

**R9-6-384. Toxic Shock Syndrome**

Case control measures: A local health agency shall:

1. Conduct an epidemiologic investigation of each reported toxic shock syndrome case or suspect case; and
2. For each toxic shock syndrome case, submit to the Department, as specified in Table 2.4, the information required under R9-6-206(D).

**Historical Note**

New Section made by final rulemaking at 10 A.A.R. 3559, effective October 2, 2004 (Supp. 04-3). Former R9-6-384 renumbered to R9-6-390; new R9-6-384 renumbered from R9-6-377 and amended by final rulemaking at 14 A.A.R. 1502, effective April 1, 2008 (Supp. 08-2). Section expired under A.R.S. § 41-1056(J) at 19 A.A.R. 1928, effective April 30, 2013 (Supp. 13-3). New Section R9-6-384 renumbered from R9-6-378 and amended by final rulemaking at 23 A.A.R. 2605, effective January 1, 2018 (Supp. 17-3).

**R9-6-385. Trichinosis**

Case control measures: A local health agency shall:

1. Upon receiving a report under R9-6-202 of a trichinosis case or suspect case, notify the Department within one working day after receiving the report and provide to the Department the information contained in the report;
2. Conduct an epidemiologic investigation of each reported trichinosis case or suspect case; and
3. For each trichinosis case, submit to the Department, as specified in Table 2.4, the information required under R9-6-206(D).

**Historical Note**

New Section made by final rulemaking at 10 A.A.R. 3559, effective October 2, 2004 (Supp. 04-3). Former R9-6-385 renumbered to R9-6-391; new R9-6-385 renumbered from R9-6-378 and amended by final rulemaking at 14 A.A.R. 1502, effective April 1, 2008 (Supp. 08-2). Section R9-6-385 renumbered to R9-6-390; new Section R9-6-385 renumbered from R9-6-379 and amended by final rulemaking at 23 A.A.R. 2605, effective January 1, 2018 (Supp. 17-3).

**R9-6-386. Tuberculosis**

A. Case control measures:

1. A diagnosing health care provider or an administrator of a health care institution, either personally or through a representative, shall isolate and institute airborne precautions for:
  - a. An individual with infectious active tuberculosis until:
    - i. At least three successive sputum smears collected at least eight hours apart, at least one of which is taken first thing in the morning as soon as possible after the individual awakens from sleep, are negative for acid-fast bacilli;
    - ii. Anti-tuberculosis treatment is initiated with multiple antibiotics; and
    - iii. Clinical signs and symptoms of active tuberculosis are improved;
  - b. A suspect case of infectious active tuberculosis until:
    - i. At least two successive tests for tuberculosis, using a product and methodology approved by the U.S. Food and Drug Administration for use when making decisions whether to discontinue isolation and airborne precautions, for the suspect case are negative; or
    - ii. At least three successive sputum smears collected from the suspect case as specified in subsection (A)(1)(a)(i) are negative for acid-fast bacilli, anti-tuberculosis treatment of the suspect case is initiated with multiple antibiotics, and clinical signs and symptoms of active tuberculosis are improved; and
  - c. A case or suspect case of multi-drug resistant active tuberculosis until a tuberculosis control officer has approved the release of the case or suspect case.
2. An administrator of a health care institution, either personally or through a representative, shall notify a local health agency at least one working day before discharging a tuberculosis case or suspect case.
3. A local health agency shall:
  - a. Upon receiving a report under R9-6-202 of a tuberculosis case or suspect case, notify the Department within one working day after receiving the report and provide to the Department the information contained in the report;



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- b. Exclude an individual with infectious active tuberculosis or a suspect case from working, unless the individual's work setting has been approved by a tuberculosis control officer, until the individual with infectious active tuberculosis or suspect case is released from airborne precautions according to the applicable criteria in subsection (A)(1);
- c. Conduct an epidemiologic investigation of each reported tuberculosis case, suspect case, or latent infection in a child five years of age or younger;
- d. For each tuberculosis case or suspect case, submit to the Department, as specified in Table 2.4, the information required under R9-6-206(D);
- e. Ensure that an isolate or a specimen, as available, from each tuberculosis case is submitted to the Arizona State Laboratory; and
- f. Comply with the requirements specified in R9-6-1202.

**B. Contact control measures:**

- 1. A contact of an individual with infectious active tuberculosis shall allow a local health agency to evaluate the contact's tuberculosis status.
- 2. A local health agency shall comply with the tuberculosis contact control measures specified in R9-6-1202.

**C. An individual is not a tuberculosis case if the individual has a positive result from an approved test for tuberculosis but does not have clinical signs or symptoms of disease.****Historical Note**

Section renumbered from R9-6-374 and amended by final rulemaking at 10 A.A.R. 3559, effective October 2, 2004 (Supp. 04-3). Former R9-6-386 renumbered to R9-6-392; new R9-6-386 renumbered from R9-6-380 and amended by final rulemaking at 14 A.A.R. 1502, effective April 1, 2008 (Supp. 08-2). Section R9-6-386 renumbered to R9-6-391; new Section R9-6-386 renumbered from R9-6-380 and amended by final rulemaking at 23 A.A.R. 2605, effective January 1, 2018 (Supp. 17-3).

**R9-6-387. Tularemia****Case control measures:**

- 1. A diagnosing health care provider or an administrator of a health care institution, either personally or through a representative, shall isolate a pneumonic tularemia case until 72 hours of antibiotic therapy have been completed with favorable clinical response.
- 2. A local health agency shall:
  - a. Upon receiving a report under R9-6-202 of a tularemia case or suspect case, notify the Department within 24 hours after receiving the report and provide to the Department the information contained in the report;
  - b. Conduct an epidemiologic investigation of each reported tularemia case or suspect case;
  - c. For each tularemia case, submit to the Department, as specified in Table 2.4, the information required under R9-6-206(D); and
  - d. Ensure that an isolate or a specimen, as available, from each tularemia case or suspect case is submitted to the Arizona State Laboratory.

**Historical Note**

Section renumbered from R9-6-375 and amended by final rulemaking at 10 A.A.R. 3559, effective October 2, 2004 (Supp. 04-3). Former R9-6-387 renumbered to R9-6-393; new R9-6-387 renumbered from R9-6-381 and amended by final rulemaking at 14 A.A.R. 1502, effective April 1, 2008 (Supp. 08-2). Section R9-6-387 repealed; new Sec-

tion R9-6-387 renumbered from R9-6-381 and amended by final rulemaking at 23 A.A.R. 2605, effective January 1, 2018 (Supp. 17-3).

**R9-6-388. Typhoid Fever****A. Case control measures: A local health agency shall:**

- 1. Upon receiving a report under R9-6-202 of a typhoid fever case or suspect case, notify the Department within one working day after receiving the report and provide to the Department the information contained in the report;
- 2. Conduct an epidemiologic investigation of each reported typhoid fever case or suspect case;
- 3. For each typhoid fever case, submit to the Department, as specified in Table 2.4, the information required under R9-6-206(D);
- 4. Exclude a typhoid fever case or suspect case from working as a food handler, caring for children in or attending a child care establishment, or caring for patients or residents in a health care institution until:
  - a. At least one month after the date of onset of illness; and
  - b. After two successive stool specimens, collected from the typhoid fever case at least 24 hours apart and at least 48 hours after cessation of antibiotic therapy, are negative for *Salmonella typhi*;
- 5. If a stool specimen from a typhoid fever case who has received antibiotic therapy is positive for *Salmonella typhi*, enforce the exclusions specified in subsection (A)(4) until two successive stool specimens, collected from the typhoid fever case at least one month apart and 12 or fewer months after the date of onset of illness, are negative for *Salmonella typhi*;
- 6. If a positive stool specimen, collected at least 12 months after onset of illness, is obtained from a typhoid fever case who has received antibiotic therapy, redesignate the case as a carrier; and
- 7. Exclude a typhoid fever carrier from working as a food handler, caring for children in or attending a child care establishment, or caring for patients or residents in a health care institution until three successive stool specimens, collected from the typhoid fever carrier at least one month apart, are negative for *Salmonella typhi*.

**B. Contact control measures: A local health agency shall exclude a typhoid fever contact from working as a food handler, caring for children in or attending a child care establishment, or caring for patients or residents in a health care institution until two successive stool specimens, collected from the typhoid fever contact at least 24 hours apart, are negative for *Salmonella typhi*.****Historical Note**

New Section made by final rulemaking at 10 A.A.R. 3559, effective October 2, 2004 (Supp. 04-3). Former R9-6-388 renumbered to R9-6-303; new R9-6-388 renumbered from R9-6-382 and amended by final rulemaking at 14 A.A.R. 1502, effective April 1, 2008 (Supp. 08-2). Section R9-6-388 renumbered to R9-6-392; new Section R9-6-388 renumbered from R9-6-382 and amended by final rulemaking at 23 A.A.R. 2605, effective January 1, 2018 (Supp. 17-3).

**R9-6-389. Typhus Fever****Case control measures: A local health agency shall:**

- 1. Upon receiving a report under R9-6-202 of a typhus fever case or suspect case, notify the Department within one working day after receiving the report and provide to the Department the information contained in the report;

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2. Conduct an epidemiologic investigation of each reported typhus fever case or suspect case; and
3. For each typhus fever case, submit to the Department, as specified in Table 2.4, the information required under R9-6-206(D).

**Historical Note**

New Section recodified from R9-19-313 at 11 A.A.R. 3578, effective September 2, 2005 (Supp. 05-4). Former R9-6-389 renumbered to R9-6-394; new R9-6-389 renumbered from R9-6-383 and amended by final rulemaking at 14 A.A.R. 1502, effective April 1, 2008 (Supp. 08-2). Section R9-6-389 renumbered to R9-6-393; new Section R9-6-389 renumbered from R9-6-383 and amended by final rulemaking at 23 A.A.R. 2605, effective January 1, 2018 (Supp. 17-3).

**R9-6-390. Vaccinia-related Adverse Event**

Case control measures: A local health agency shall:

1. Upon receiving a report under R9-6-202 of a case or suspect case of a vaccinia-related adverse event, notify the Department within one working day after receiving the report and provide to the Department the information contained in the report;
2. Conduct an epidemiologic investigation of each reported case or suspect case of a vaccinia-related adverse event; and
3. For each case of a vaccinia-related adverse event, submit to the Department, as specified in Table 2.4, the information required under R9-6-206(D).

**Historical Note**

Section R9-6-390 renumbered from R9-6-384 and amended by final rulemaking at 14 A.A.R. 1502, effective April 1, 2008 (Supp. 08-2). Section R9-6-390 renumbered to R9-6-394; new Section R9-6-390 renumbered from R9-6-385 and amended by final rulemaking at 23 A.A.R. 2605, effective January 1, 2018 (Supp. 17-3).

**R9-6-391. Vancomycin-Resistant or Vancomycin-Intermediate *Staphylococcus aureus***

Case control measures:

1. A diagnosing health care provider or an administrator of a health care institution, either personally or through a representative, shall isolate and implement contact precautions for a case or suspect case of vancomycin-resistant or vancomycin-intermediate *Staphylococcus aureus*.
2. A diagnosing health care provider or an administrator of a health care institution transferring a known case with active infection or a known carrier of vancomycin-resistant or vancomycin-intermediate *Staphylococcus aureus* to another health care provider or health care institution shall, either personally or through a representative, comply with R9-6-305.
3. A local health agency, in consultation with the Department, shall:
  - a. Upon receiving a report under R9-6-202 of a case or suspect case of vancomycin-resistant or vancomycin-intermediate *Staphylococcus aureus*, notify the Department within one working day after receiving the report and provide to the Department the information contained in the report;
  - b. Ensure that a case or suspect case of vancomycin-resistant or vancomycin-intermediate *Staphylococcus aureus* is isolated as necessary to prevent transmission;
  - c. Conduct an epidemiologic investigation of each reported case or suspect case of vancomycin-resistant or vancomycin-intermediate *Staphylococcus aureus*;

tant or vancomycin-intermediate *Staphylococcus aureus*;

- d. For each case of vancomycin-resistant or vancomycin-intermediate *Staphylococcus aureus*, submit to the Department, as specified in Table 2.4, the information required under R9-6-206(D); and
- e. Ensure that an isolate or a specimen, as available, from each case of vancomycin-resistant or vancomycin-intermediate *Staphylococcus aureus* is submitted to the Arizona State Laboratory.

**Historical Note**

Section R9-6-391 renumbered from R9-6-385 and amended by final rulemaking at 14 A.A.R. 1502, effective April 1, 2008 (Supp. 08-2). Section R9-6-391 renumbered to R9-6-395; new Section R9-6-391 renumbered from R9-6-386 and amended by final rulemaking at 23 A.A.R. 2605, effective January 1, 2018 (Supp. 17-3).

**R9-6-392. Varicella (Chickenpox)**

A. Case control measures:

1. An administrator of a school or child care establishment, either personally or through a representative, shall exclude a varicella case from the school or child care establishment and from school- or child-care-establishment-sponsored events until lesions are dry and crusted.
2. An administrator of a health care institution, either personally or through a representative, shall isolate and implement airborne precautions for a varicella case until the case is no longer infectious.
3. A local health agency shall:
  - a. Conduct an epidemiologic investigation of each reported case of death due to primary varicella infection; and
  - b. For each reported case of death due to varicella infection, submit to the Department, as specified in Table 2.4, the information required under R9-6-206(D).

B. Contact control measures:

1. When a varicella case has been at a school or child care establishment, the administrator of the school or child care establishment, either personally or through a representative, shall:
  - a. Consult with the local health agency to determine who shall be excluded and how long each individual shall be excluded from the school or child care establishment, and
  - b. Comply with the local health agency's recommendations for exclusion.
2. A local health agency shall determine which contacts of a varicella case will be:
  - a. Excluded from a school or child care establishment, and
  - b. Advised to obtain an immunization against varicella.

**Historical Note**

Section R9-6-392 renumbered from R9-6-386 and amended by final rulemaking at 14 A.A.R. 1502, effective April 1, 2008 (Supp. 08-2). Section R9-6-392 renumbered to R9-6-396; new Section R9-6-392 renumbered from R9-6-388 and amended by final rulemaking at 23 A.A.R. 2605, effective January 1, 2018 (Supp. 17-3).

**R9-6-393. Vibrio Infection**

Case control measures: A local health agency shall:

1. Upon receiving a report under R9-6-202 of a *Vibrio* infection case or suspect case, notify the Department within

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- one working day after receiving the report and provide to the Department the information contained in the report;
2. Exclude a *Vibrio* infection case or suspect case with diarrhea from:
    - a. Working as a food handler, caring for patients or residents in a health care institution, or caring for children in or attending a child care establishment until:
      - i. Diarrhea has resolved, or
      - ii. The local health agency has determined that the case or suspect case is unlikely to infect other individuals; and
    - b. Using an aquatic venue until diarrhea has resolved;
  3. Conduct an epidemiologic investigation of each reported *Vibrio* infection case or suspect case; and
  4. For each *Vibrio* infection case, submit to the Department, as specified in Table 2.4, the information required under R9-6-206(D).

**Historical Note**

Section R9-6-393 renumbered from R9-6-387 and amended by final rulemaking at 14 A.A.R. 1502, effective April 1, 2008 (Supp. 08-2). Section R9-6-393 renumbered to R9-6-397; new Section R9-6-393 renumbered from R9-6-389 and amended by final rulemaking at 23 A.A.R. 2605, effective January 1, 2018 (Supp. 17-3).

**R9-6-394. Viral Hemorrhagic Fever**

- A. Case control measures:
  1. A diagnosing health care provider or an administrator of a health care institution, either personally or through a representative, shall isolate and implement both droplet precautions and contact precautions for a viral hemorrhagic fever case or suspect case for the duration of the illness.
  2. A local health agency shall:
    - a. Upon receiving a report under R9-6-202 of a viral hemorrhagic fever case or suspect case, notify the Department within 24 hours after receiving the report and provide to the Department the information contained in the report;
    - b. Conduct an epidemiologic investigation of each reported viral hemorrhagic fever case or suspect case;
    - c. For each viral hemorrhagic fever case, submit to the Department, as specified in Table 2.4, the information required under R9-6-206(D); and
    - d. Ensure that one or more specimens from each viral hemorrhagic fever case or suspect case are submitted to the Arizona State Laboratory.
- B. Contact control measures: A local health agency, in consultation with the Department, shall quarantine a viral hemorrhagic fever contact as necessary to prevent transmission.

**Historical Note**

Section R9-6-394 renumbered from R9-6-389 by final rulemaking at 14 A.A.R. 1502, effective April 1, 2008 (Supp. 08-2). Section expired under A.R.S. § 41-1056(J) at 19 A.A.R. 1928, effective April 30, 2013 (Supp. 13-3). New Section R9-6-394 renumbered from R9-6-390 and amended by final rulemaking at 23 A.A.R. 2605, effective January 1, 2018 (Supp. 17-3).

**R9-6-395. West Nile Virus Infection**

- A. Case control measures: A local health agency shall:
  1. Conduct an epidemiologic investigation of each reported West Nile virus infection case or suspect case;
  2. For each case of West Nile virus infection, submit to the Department, as specified in Table 2.4, the information required under R9-6-206(D); and

3. Ensure that each West Nile virus infection case is provided with health education that includes measures to:
  - a. Avoid mosquito bites, and
  - b. Reduce mosquito breeding sites.
- B. Environmental control measures: In cooperation with the Department, a local health agency or another local agency responsible for vector control within a jurisdiction shall conduct an assessment of the environment surrounding each West Nile virus infection case or suspect case and implement vector control measures as necessary.

**Historical Note**

New Section R9-6-395 renumbered from R9-6-391 and amended by final rulemaking at 23 A.A.R. 2605, effective January 1, 2018 (Supp. 17-3).

**R9-6-396. Yellow Fever**

- A. Case control measures: A local health agency shall:
  1. Upon receiving a report under R9-6-202 of a yellow fever case or suspect case, notify the Department within 24 hours after receiving the report and provide to the Department the information contained in the report;
  2. Conduct an epidemiologic investigation of each reported yellow fever case or suspect case;
  3. For each yellow fever case, submit to the Department, as specified in Table 2.4, the information required under R9-6-206(D);
  4. Ensure that each yellow fever case is provided with health education that includes measures to:
    - a. Avoid mosquito bites, and
    - b. Reduce mosquito breeding sites; and
  5. Ensure that an isolate or a specimen, as available, from each yellow fever case or suspect case is submitted to the Arizona State Laboratory.
- B. Environmental control measures: In cooperation with the Department, a local health agency or another local agency responsible for vector control within a jurisdiction shall conduct an assessment of the environment surrounding each yellow fever case or suspect case and implement vector control measures as necessary.

**Historical Note**

New Section R9-6-396 renumbered from R9-6-392 and amended by final rulemaking at 23 A.A.R. 2605, effective January 1, 2018 (Supp. 17-3).

**R9-6-397. Yersiniosis (Enteropathogenic *Yersinia*)**

- Case control measures: A local health agency shall:
1. Upon receiving a report under R9-6-202 of a yersiniosis case or suspect case, notify the Department within one working day after receiving the report and provide to the Department the information contained in the report;
  2. Exclude a yersiniosis case or suspect case with diarrhea from:
    - a. Working as a food handler, caring for patients or residents in a health care institution, or caring for children in or attending a child care establishment until:
      - i. Diarrhea has resolved,
      - ii. A stool specimen negative for enteropathogenic *Yersinia* is obtained from the case or suspect case, or
      - iii. The local health agency has determined that the case or suspect case is unlikely to infect other individuals; and
    - b. Using an aquatic venue for two weeks after diarrhea has resolved;
  3. Conduct an epidemiologic investigation of each reported yersiniosis case or suspect case;

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4. For each yersiniosis case, submit to the Department, as specified in Table 2.4, the information required under R9-6-206(D); and
5. Ensure that an isolate or a specimen, as available, from each yersiniosis case is submitted to the Arizona State Laboratory.

**Historical Note**

New Section R9-6-397 renumbered from R9-6-393 and amended by final rulemaking at 23 A.A.R. 2605, effective January 1, 2018 (Supp. 17-3).

**R9-6-398. Zika Virus Infection**

- A.** Case control measures: A local health agency shall:
1. Upon receiving a report under R9-6-202 of a Zika virus infection case or suspect case, notify the Department within one working day after receiving the report and provide to the Department the information contained in the report;
  2. Conduct an epidemiologic investigation of each reported Zika virus infection case or suspect case;
  3. For each Zika virus infection case, submit to the Department, as specified in Table 2.4, the information required under R9-6-206(D);
  4. Ensure that one or more specimens from each Zika virus infection case or suspect case, as required by the Department, are submitted to the Arizona State Laboratory; and
  5. Provide to the Zika virus infection case or ensure that another person provides to the Zika virus infection case health education that includes measures to:
    - a. Avoid mosquito bites,
    - b. Reduce mosquito breeding sites, and
    - c. Reduce the risk of sexual or congenital transmission of Zika virus.
- B.** Environmental control measures: In cooperation with the Department, a local health agency or another local agency responsible for vector control within a jurisdiction shall conduct an assessment of the environment surrounding each Zika virus infection case or suspect case and implement vector control measures as necessary.

**Historical Note**

New Section R9-6-398 made by final rulemaking at 23 A.A.R. 2605, effective January 1, 2018 (Supp. 17-3).

**Exhibit III-A. Repealed****Historical Note**

Exhibit III-A made by final rulemaking at 10 A.A.R. 3559, effective October 2, 2004 (Supp. 04-3). Exhibit III-A repealed by final rulemaking at 14 A.A.R. 1502, effective April 1, 2008 (Supp. 08-2).

**Exhibit III-B. Repealed****Historical Note**

Exhibit III-B made by final rulemaking at 10 A.A.R. 3559, effective October 2, 2004 (Supp. 04-3). Exhibit III-B repealed by final rulemaking at 14 A.A.R. 1502, effective April 1, 2008 (Supp. 08-2).

**Exhibit III-C. Repealed****Historical Note**

Exhibit III-C made by final rulemaking at 10 A.A.R. 3559, effective October 2, 2004 (Supp. 04-3). Exhibit III-C repealed by final rulemaking at 14 A.A.R. 1502, effective April 1, 2008 (Supp. 08-2).

**Exhibit III-D. Repealed****Historical Note**

Exhibit III-D made by final rulemaking at 10 A.A.R. 3559, effective October 2, 2004 (Supp. 04-3). Exhibit III-D repealed by final rulemaking at 14 A.A.R. 1502, effective April 1, 2008 (Supp. 08-2).

**Exhibit III-E. Repealed****Historical Note**

Exhibit III-E made by final rulemaking at 10 A.A.R. 3559, effective October 2, 2004 (Supp. 04-3). Exhibit III-E repealed by final rulemaking at 14 A.A.R. 1502, effective April 1, 2008 (Supp. 08-2).

**Exhibit III-F. Repealed****Historical Note**

Exhibit III-F made by final rulemaking at 10 A.A.R. 3559, effective October 2, 2004 (Supp. 04-3). Exhibit III-F repealed by final rulemaking at 14 A.A.R. 1502, effective April 1, 2008 (Supp. 08-2).

**Exhibit III-G. Repealed****Historical Note**

Exhibit III-G made by final rulemaking at 10 A.A.R. 3559, effective October 2, 2004 (Supp. 04-3). Exhibit III-G repealed by final rulemaking at 14 A.A.R. 1502, effective April 1, 2008 (Supp. 08-2).

**Exhibit III-H. Repealed****Historical Note**

Exhibit III-H made by final rulemaking at 10 A.A.R. 3559, effective October 2, 2004 (Supp. 04-3). Exhibit III-H repealed by final rulemaking at 14 A.A.R. 1502, effective April 1, 2008 (Supp. 08-2).

**Exhibit III-I. Repealed****Historical Note**

Exhibit III-I made by final rulemaking at 10 A.A.R. 3559, effective October 2, 2004 (Supp. 04-3). Exhibit III-I repealed by final rulemaking at 14 A.A.R. 1502, effective April 1, 2008 (Supp. 08-2).

**Exhibit III-J. Repealed****Historical Note**

Exhibit III-J made by final rulemaking at 10 A.A.R. 3559, effective October 2, 2004 (Supp. 04-3). Exhibit III-J repealed by final rulemaking at 14 A.A.R. 1502, effective April 1, 2008 (Supp. 08-2).

**Exhibit III-K. Repealed****Historical Note**

Exhibit III-K made by final rulemaking at 10 A.A.R. 3559, effective October 2, 2004 (Supp. 04-3). Exhibit III-K repealed by final rulemaking at 14 A.A.R. 1502, effective April 1, 2008 (Supp. 08-2).

**Exhibit III-L. Repealed****Historical Note**

Exhibit III-L made by final rulemaking at 10 A.A.R. 3559, effective October 2, 2004 (Supp. 04-3). Exhibit III-L repealed by final rulemaking at 14 A.A.R. 1502, effective April 1, 2008 (Supp. 08-2).

**Exhibit III-M. Repealed**

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**Historical Note**

Exhibit III-M made by final rulemaking at 10 A.A.R. 3559, effective October 2, 2004 (Supp. 04-3). Exhibit III-M repealed by final rulemaking at 14 A.A.R. 1502, effective April 1, 2008 (Supp. 08-2).

**Exhibit III-N. Repealed****Historical Note**

Exhibit III-N made by final rulemaking at 10 A.A.R. 3559, effective October 2, 2004 (Supp. 04-3). Exhibit III-N repealed by final rulemaking at 14 A.A.R. 1502, effective April 1, 2008 (Supp. 08-2).

**ARTICLE 4. AIDS DRUG ASSISTANCE PROGRAM (ADAP)****R9-6-401. Definitions**

In this Article, unless otherwise specified:

1. "ADAP" means the AIDS Drug Assistance Program.
2. "Adult" means an individual who is:
  - a. Eighteen or more years old;
  - b. Married; or
  - c. Emancipated, as specified in A.R.S. Title 12, Chapter 15.
3. "AHCCCS" means the Arizona Health Care Cost Containment System.
4. "Annual household income" means the adjusted gross income of all adult individuals within a household, as would be reported on the federal income tax return for an individual in the household, modified to include:
  - a. Federal taxable wages,
  - b. Tips,
  - c. Unemployment compensation,
  - d. Social security income,
  - e. Self-employment income,
  - f. Social security disability income,
  - g. Retirement or pension income,
  - h. Capital gains,
  - i. Investment income,
  - j. Rental and royalty income,
  - k. Excluded (untaxed) foreign income, and
  - l. Alimony.
5. "Applicant" means an individual for whom a request for initial enrollment in ADAP is submitted to the Department, as specified in R9-6-404.
6. "Applying for a low-income subsidy" means submitting forms and supporting documentation to the Social Security Administration for determining eligibility for receiving a low-income subsidy.
7. "Calendar day" means any day of the week, including a Saturday, Sunday, or legal holiday.
8. "Case manager" means an individual who:
  - a. Assesses the needs of a person living with HIV for:
    - i. Medical services, nursing services, or health-related services, as defined in A.R.S. § 36-401;
    - ii. Services not related to the treatment of HIV infection, intended to maintain or improve the physical, mental, or psychosocial capabilities of a person living with HIV or an individual in the person living with HIV's household;
    - iii. Housing; or
    - iv. Financial assistance;
  - b. If applicable, assists the person living with HIV with obtaining housing, financial assistance, or the services specified in subsection (8)(a)(i) and (ii);
- c. Coordinates the interaction of the person living with HIV with individuals providing the services specified in subsection (8)(a)(i) and (ii); and
- d. Monitors the interaction of the person living with HIV with individuals providing the services specified in subsection (8)(a)(i) and (ii) to:
  - i. Determine the effects of the activities of individuals providing the services specified in subsection (8)(a)(i) and (ii) on the needs of the person living with HIV, and
  - ii. Develop strategies to reduce unmet needs.
9. "CD4-T-lymphocyte count" means the number of a specific type of white blood cell in a cubic millimeter of blood.
10. "Contract pharmacy" means an entity that has a legally binding agreement with the Department to dispense drugs through ADAP to enrolled individuals.
11. "Current" means within the six months before the date on which an:
  - a. Individual submits the documents specified in R9-6-404 to the Department as an application for initial enrollment in ADAP, or
  - b. Enrolled individual submits to the Department the documents required in R9-6-407 for continuing enrollment.
12. "Date of application" means the month, day, and year that the Department receives the documents specified in R9-6-404 for enrollment in ADAP.
13. "Drug" means a chemical substance or a compound made by or derived from a plant or animal source that:
  - a. Has been determined by the U.S. Food and Drug Administration to be useful in the treatment of individuals with HIV infection, and
  - b. Is available through a prescription order.
14. "Formulary" means a list of drugs that are available to an individual through the individual's health insurance or ADAP.
15. "Health insurance enrollment period" means an interval of time during which an individual may apply for health insurance coverage, including:
  - a. An annual interval of time, and
  - b. Any additional intervals of time due to a change in the individual's situation or circumstances.
16. "HIV infection" means the same as in A.R.S. § 36-661.
17. "HIV-care provider" means the physician, registered nurse practitioner, or physician assistant who is treating an applicant or enrolled individual for HIV infection.
18. "Household" means an applicant or enrolled individual and any of the following individuals, as applicable, residing with the applicant or enrolled individual:
  - a. The applicant's or enrolled individual's spouse;
  - b. A dependent parent;
  - c. A parent of a child who is:
    - i. The applicant or enrolled individual, and
    - ii. Claimed as a dependent by the parent;
  - d. A dependent sibling or other relative;
  - e. A dependent child of the applicant or enrolled individual, regardless of age and including an adopted child or a foster child;
  - f. A non-dependent child or other relative if claimed or could be claimed as a dependent on the applicant's or enrolled individual's taxes; and
  - g. A child who is a part of a shared custody agreement of the applicant or enrolled individual, in years for which the child is claimed or could be claimed as a

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- dependent on the applicant's or enrolled individual's taxes.
19. "Job" means a position in which an individual is employed.
  20. "Low-income subsidy" means Medicare-provided assistance that may partially or fully cover the costs of drugs and is based on the annual household income for an individual.
  21. "Medicare" means a federal health insurance program established under Title XVIII of the Social Security Act.
  22. "Medicare drug plan" means insurance approved by Medicare to cover some of the costs of drugs for individuals enrolled in Medicare.
  23. "Non-permanent housing" means a situation in which an individual is:
    - a. Living in a place that is not designed to be a sleeping place for human beings or ordinarily used as a primary nighttime sleeping place for human beings, or
    - b. Living in a shelter or other temporary living arrangement.
  24. "Person living with HIV" means an individual who is HIV-infected.
  25. "Physician" means an individual licensed as a:
    - a. Doctor of allopathic medicine under A.R.S. Title 32, Chapter 13, or through a similar licensing board in another state; or
    - b. Doctor of osteopathic medicine under A.R.S. Title 32, Chapter 17, or through a similar licensing board in another state.
  26. "Physician assistant" means an individual licensed under A.R.S. Title 32, Chapter 25, or through a similar licensing board in another state.
  27. "Poverty level" means the annual household income for a household of a particular size, as specified in the poverty guidelines updated annually in the Federal Register by the U.S. Department of Health and Human Services.
  28. "Pre-approved enrollment status" means that an applicant may receive drugs or other services through ADAP on a temporary basis.
  29. "Prescription order" means the same as in A.R.S. § 32-1901.
  30. "Registered nurse practitioner" means an individual who meets the definition of registered nurse practitioner in A.R.S. § 32-1601 and is licensed under A.R.S. Title 32, Chapter 15, or through a similar licensing board in another state.
  31. "Regular" means recurring at fixed intervals.
  32. "Representative" means the:
    - a. Guardian of an individual;
    - b. Parent of an individual who is not an adult; or
    - c. Person designated as an agent for an individual through a power of attorney, as specified in A.R.S. Title 14, Chapter 5, Article 5.
  33. "Resident" means an individual who has a place of habitation in Arizona and is living in Arizona.
  34. "Self-employed" means receiving money as a direct result of the work performed by an individual rather than from wages or a salary paid to the individual.
  35. "Valid" means still in effect or having legal force.
  36. "Viral load" means the amount of HIV circulating in the body of an individual.

**Historical Note**

Adopted as an emergency effective January 12, 1988, pursuant to A.R.S. § 41-1026, valid for only 90 days (Supp. 88-1). Emergency expired. Readopted without change as an emergency effective May 9, 1988, pursuant

to A.R.S. § 41-1026, valid for only 90 days (Supp. 88-2).

Amended and readopted as an emergency effective August 8, 1988, pursuant to A.R.S. § 41-1026, valid for only 90 days (Supp. 88-3). Emergency expired.

Readopted without change as an emergency effective November 16, 1988, pursuant to A.R.S. § 41-1026, valid for only 90 days (Supp. 88-4). Emergency expired.

Adopted without change as a permanent rule effective May 22, 1989. Amended as an emergency effective June 26, 1989, pursuant to A.R.S. § 41-1026, valid for only 90 days (Supp. 89-2). Emergency expired. Emergency amendment readopted without change effective October 17, 1989 (Supp. 89-4). Amended effective September 19, 1990 (Supp. 90-3). Renumbered from R9-6-801 effective October 19, 1993 (Supp. 93-4). Former Section R9-6-401 renumbered to R9-6-402; new Section R9-6-401 made by final rulemaking at 8 A.A.R. 1953, effective April 3, 2002 (Supp. 02-2). Amended by final rulemaking at 13 A.A.R. 3329, effective November 10, 2007 (Supp. 07-3). Amended by final rulemaking at 25 A.A.R. 3614, effective December 3, 2019 (Supp. 19-4).

**R9-6-402. Limitations and Termination of Program**

ADAP ceases to provide drugs when available funding is exhausted or terminated. ADAP is not an entitlement program and does not create a right to assistance absent available funding.

**Historical Note**

Adopted as an emergency effective January 12, 1988, pursuant to A.R.S. § 41-1026, valid for only 90 days (Supp. 88-1). Emergency expired. Readopted without change as an emergency effective May 9, 1988, pursuant to A.R.S. § 41-1026, valid for only 90 days (Supp. 88-2).

Amended and readopted as an emergency effective August 8, 1988, pursuant to A.R.S. § 41-1026, valid for only 90 days (Supp. 88-3). Emergency expired.

Readopted without change as an emergency effective November 16, 1988, pursuant to A.R.S. § 41-1026, valid for only 90 days (Supp. 88-4). Emergency expired.

Adopted without change as a permanent rule effective May 22, 1989 (Supp. 89-2). Amended effective September 19, 1990 (Supp. 90-3). Amended as an emergency effective August 8, 1990, pursuant to A.R.S. § 41-1026, valid for only 90 days (Supp. 90-3). Emergency expired.

Emergency amendments re-adopted without change effective November 19, 1990, pursuant to A.R.S. § 41-1026, valid for only 90 days (Supp. 90-4). Emergency expired. Emergency amendments re-adopted without change effective February 28, 1991, pursuant to A.R.S. § 41-1026, valid for only 90 days (Supp. 91-1). Emergency expired. Renumbered from R9-6-802 and amended effective October 19, 1993 (Supp. 93-4). Former Section R9-6-402 renumbered to R9-6-403; new Section R9-6-402 renumbered from R9-6-401 and amended by final rulemaking at 8 A.A.R. 1953, effective April 3, 2002 (Supp. 02-2).

**R9-6-403. Eligibility Requirements**

An individual is eligible to enroll in ADAP if the individual:

1. Has a diagnosis of HIV infection from a physician, registered nurse practitioner, or physician assistant;
2. Is a resident of Arizona, as established by documentation that complies with R9-6-404(A)(8);
3. Has an annual household income that is less than or equal to 400% of the poverty level; and
4. Satisfies one of the following:
  - a. Has no health insurance coverage;

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- b. Has inadequate health insurance coverage, which may include Medicare or an AHCCCS health plan, limiting the ability of the individual to obtain drugs, such as health insurance coverage that:
  - i. Does not cover drugs,
  - ii. Does not include on its formulary at least one of the drugs prescribed for the individual, or
  - iii. Requires the use of specific pharmacies or higher co-payments for obtaining a drug;
- c. Has health insurance that is unaffordable because premiums exceed 9.5% of the applicant's annual household income;
- d. Is an American Indian or Alaska Native who:
  - i. Is eligible for, but chooses not to use, the Indian Health Service or a clinic operated by a sovereign tribal nation to receive drugs; and
  - ii. Either has no other health insurance coverage or has other health insurance coverage that is inadequate or unaffordable, as described in subsections (4)(b) and (c); or
- e. Is an individual who has served in the United States Armed Forces and who:
  - i. Is eligible for, but chooses not to use, Veterans Health Administration benefits to receive drugs; and
  - ii. Either has no other health insurance coverage or has other health insurance coverage that is inadequate or unaffordable, as described in subsections (4)(b) and (c).

**Historical Note**

Adopted as an emergency effective January 12, 1988, pursuant to A.R.S. § 41-1026, valid for only 90 days (Supp. 88-1). Emergency expired. Readopted without change as an emergency effective May 9, 1988, pursuant to A.R.S. § 41-1026, valid for only 90 days (Supp. 88-2).

Amended and readopted as an emergency effective August 8, 1988, pursuant to A.R.S. § 41-1026, valid for only 90 days (Supp. 88-3). Emergency expired.

Readopted without change as an emergency effective November 16, 1988, pursuant to A.R.S. § 41-1026, valid for only 90 days (Supp. 88-4). Emergency expired.

Amended subsection (B) and adopted as a permanent rule effective May 22, 1989 (Supp. 89-2). Amended as an emergency effective August 8, 1990, pursuant to A.R.S. § 41-1026, valid for only 90 days (Supp. 90-3). Emergency expired. Emergency amendments re-adopted without change effective November 19, 1990, pursuant to A.R.S. § 41-1026, valid for only 90 days (Supp. 90-4). Emergency expired. Emergency amendments re-adopted without change effective February 28, 1991, pursuant to A.R.S. § 41-1026, valid for only 90 days (Supp. 91-1). Emergency expired. Renumbered from R9-6-803 and amended effective October 19, 1993 (Supp. 93-4). Former Section R9-6-403 renumbered to R9-6-404; new Section R9-6-403 renumbered from R9-6-402 and amended by final rulemaking at 8 A.A.R. 1953, effective April 3, 2002 (Supp. 02-2). Amended by final rulemaking at 13 A.A.R. 3329, effective November 10, 2007 (Supp. 07-3). Amended by final rulemaking at 25 A.A.R. 3614, effective December 3, 2019 (Supp. 19-4).

**R9-6-404. Initial Application Process**

- A. An applicant for initial enrollment in ADAP or the applicant's representative shall submit to the Department the following application packet:

- 1. An application in a Department-provided format, completed by the applicant or the applicant's representative, containing:
  - a. The applicant's name, date of birth, and gender;
  - b. Except as provided in subsection (A)(1)(c), the applicant's residential address and mailing address;
  - c. If the applicant is in non-permanent housing, the address of a person that has agreed to receive written communications for the applicant;
  - d. If applicable, the address in Arizona to which the applicant would want drugs to be shipped;
  - e. If applicable, the name of the applicant's representative and the mailing address of the applicant's representative, if different from the applicant's mailing address;
  - f. Either:
    - i. The telephone number of the applicant or a person that has agreed to receive telephone communications for the applicant, or
    - ii. An email address for the applicant;
  - g. The number of individuals in the applicant's household that can be claimed on the applicant's income taxes and the names and ages of the individuals;
  - h. The names of individuals, other than the persons specified in subsection (A)(1)(s)(v), with whom the applicant authorizes the Department to speak about the applicant's enrollment in ADAP;
  - i. The applicant's annual household income;
  - j. The applicant's race and ethnicity;
  - k. Whether the applicant or an adult in the applicant's household:
    - i. Is employed;
    - ii. Is self-employed;
    - iii. Is receiving regular monetary payments from a source not specified in subsection (A)(1)(k)(i) or (ii) and, if so, an identification of the source of the monetary payments; or
    - iv. Is using a source not specified in subsections (A)(1)(k)(i) through (iii) or savings to assist the applicant in obtaining food, water, housing, or clothing for the applicant and if so, an identification of the source;
  - l. Whether the applicant is receiving health insurance coverage from AHCCCS and:
    - i. If so, the name of the AHCCCS health plan and the date enrolled; and
    - ii. If the applicant's eligibility determination for AHCCCS is pending, the date the application for AHCCCS was submitted;
  - m. Whether the applicant is eligible for Medicare health insurance coverage and, if not, the date on which the applicant will be eligible for Medicare health insurance coverage;
  - n. If the applicant is eligible for Medicare health insurance coverage, whether:
    - i. The applicant, or the applicant's representative has applied for a low-income subsidy for the applicant and, if so, the date of the application for the low-income subsidy; and
    - ii. Either:
      - (1) The applicant or the applicant's representative has applied for a Medicare drug plan for the applicant and, if so, the date of the application for the Medicare drug plan; or
      - (2) The applicant is enrolled in a Medicare drug plan;

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- o. Whether the applicant or the applicant's spouse has or is eligible to enroll in health insurance coverage other than AHCCCS or Medicare that would pay for drugs on the ADAP formulary;
- p. If the applicant or the applicant's spouse is eligible to enroll in health insurance coverage other than Medicare that would pay for drugs on the ADAP formulary but enrollment is closed, the date the next health insurance enrollment period begins;
- q. Whether the applicant is eligible to receive benefits from:
  - i. The Indian Health Service or a clinic operated by a sovereign tribal nation, or
  - ii. The Veterans Health Administration;
- r. Whether the applicant is living in non-permanent housing or is in another situation in which the applicant's financial records to verify annual household income, as specified in subsection (A)(6), are not available to the applicant;
- s. A statement by the applicant or the applicant's representative confirming that the applicant or the applicant's representative:
  - i. Understands that, if the annual household income of the applicant is at an amount that may make the applicant eligible for enrollment in AHCCCS, the applicant or the applicant's representative is required to submit to the Department documentation stating the applicant's status for enrollment in AHCCCS before the end of the month after the month in which the applicant applied for ADAP, if not provided to the Department with the application;
  - ii. Except as provided in R9-6-405(E), if the applicant is eligible for Medicare, understands that the applicant or the applicant's representative is required to submit to the Department proof of enrollment in a Medicare drug plan before the end of the month after the month in which the applicant applied for ADAP, if not provided to the Department with the application;
  - iii. Except as provided in R9-6-405(E), if the applicant is eligible for Medicare and the annual household income of the applicant is less than 175% of the poverty level, understands that the applicant or the applicant's representative is required to submit to Department documentation of the applicant's status for a low-income subsidy before the end of the month after the month in which the applicant applied for ADAP, if not provided to the Department with the application;
  - iv. Except as provided in R9-6-405(E), if the applicant or the applicant's spouse has or is eligible for health insurance coverage other than AHCCCS or Medicare, understands that the applicant or the applicant's representative is required to submit to the Department information about the health insurance coverage to enable the Department to determine if the health insurance coverage is inadequate, according to R9-6-403(4)(b), or unaffordable, according to R9-6-403(4)(c), before the end of the month after the month in which the applicant applied for ADAP, if not provided to the Department with the application;
  - v. Grants permission to the Department to discuss the information provided to the Department under subsection (A) with:
    - (1) AHCCCS, for the purpose of determining AHCCCS eligibility;
    - (2) Medicare and the Social Security Administration, for the purpose of determining eligibility for a low-income subsidy and enrollment in a Medicare drug plan;
    - (3) The applicant's HIV-care provider or designee;
    - (4) The contract pharmacy or a pharmacy at which the applicant or the applicant's representative may request a drug through ADAP, to assist with drug distribution;
    - (5) Other providers of services for persons living with HIV that are funded through Ryan White;
    - (6) Other providers of HIV-related services, as applicable to the applicant; and
    - (7) Any other entity as necessary to establish eligibility for enrollment in ADAP or assist with drug distribution to the applicant or payment of prescription co-payment costs;
  - vi. Understands that the applicant or the applicant's representative is required to submit to the Department proof of the applicant's annual household income as part of the application; and
  - vii. Understands that the applicant or the applicant's representative is required to notify the Department of changes specified in R9-6-406(A);
- t. A statement by the applicant or the applicant's representative attesting that:
  - i. To the best of the knowledge and belief of the applicant or the applicant's representative, the information and documents provided to the Department in the application packet is accurate and complete;
  - ii. The applicant meets the eligibility criteria specified in R9-6-403; and
  - iii. The applicant or applicant's representative understands that eligibility does not guarantee that the Department will be able to provide drugs and understands that an individual's enrollment in ADAP may be terminated as specified in R9-6-408; and
  - u. The dated signature of the applicant or the applicant's representative;
- 2. The information specified in subsection (B), completed by the applicant's HIV-care provider in a Department-provided format;
- 3. If the annual household income of the applicant is an amount that may make the applicant eligible for enrollment in AHCCCS, a copy of documentation from AHCCCS, dated within 60 calendar days before the date of application, stating the status of the applicant's eligibility for enrollment in AHCCCS;
- 4. If the applicant is eligible for Medicare, a copy of valid documentation stating:
  - a. The applicant's enrollment in a Medicare drug plan; and



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- b. If the applicant's annual household income is at or below 175% of the poverty level, the status of the applicant's eligibility for a low-income subsidy;
  5. If the applicant or the applicant's spouse has or is eligible for health insurance coverage other than AHCCCS or Medicare:
    - a. Information about the health insurance coverage to enable the Department to determine whether the health insurance coverage is inadequate, according to R9-6-403(4)(b), or unaffordable, according to R9-6-403(4)(c); and
    - b. If the applicant has other health insurance coverage, documentation confirming the health insurance coverage;
  6. Except as provided in subsection (C), proof of the applicant's annual household income, including the following items as applicable to the applicant's household:
    - a. An income tax return submitted by the applicant for the previous tax year to the U.S. Internal Revenue Service or the Arizona Department of Revenue;
    - b. If an income tax return in subsection (A)(6)(a) is not available, for each job held by an adult in the household:
      - i. Paycheck stubs from within 60 calendar days before the date of application, or
      - ii. A statement from the employer listing gross wages for the 30 calendar days before the date of application;
    - c. If an income tax return in subsection (A)(6)(a) is not available, from each self-employed adult in the household, documentation of the net income from self-employment, such as:
      - i. The Internal Revenue Service Forms 1099 prepared for the previous tax year for the self-employed adult in the household;
      - ii. A profit and loss statement for the self-employed adult's business, covering a period ending no earlier than three months before the date of application; or
      - iii. Bank statements from the self-employed adult's checking and savings accounts, covering a period ending no earlier than three months before the date of application; and
    - d. Documentation showing the amount and source of any regular monetary payments received by an adult in the household from sources other than those specified in subsection (A)(6)(a) through subsection (A)(6)(c);
  7. If the applicant or the applicant's representative has stated according to subsection (A)(1)(k)(v) that the applicant has no source of regular monetary payments and is unable to provide any of the documentation specified in subsection (A)(6), the following, in a Department-provided format, completed and signed within 30 calendar days before the date of application, containing:
    - a. Information completed by the applicant or the applicant's representative stating whether:
      - i. An adult in the applicant's household receives money from intermittent work performed by the adult in the household for which no paycheck stub is received and, if so, the average monthly earnings, and the adult's occupation;
      - ii. The applicant is living in non-permanent housing;
      - iii. The applicant is receiving assistance from another individual; and
      - iv. The applicant has another source of assistance for obtaining food, water, housing, and clothing, and, if so, an identification of the source;
    - b. A statement by the applicant or the applicant's representative attesting that, to the best of the knowledge and belief of the applicant or the applicant's representative, the information submitted under subsection (A)(7)(a) is accurate and complete; and
    - c. The dated signature of the applicant or the applicant's representative;
  8. Proof that the applicant is a resident of Arizona that includes:
    - a. One of the following that shows the Arizona residential address specified according to subsection (A)(1)(b) and the name of the applicant or an adult in the applicant's household:
      - i. Documentation issued by a governmental entity related to the applicant's eligibility for benefits, dated within 60 calendar days before the date of application;
      - ii. Valid documentation from the Social Security Administration or the Department of Veterans Affairs related to the applicant's eligibility for benefits;
      - iii. A property tax statement for the most recent tax year issued by a governmental entity;
      - iv. A homeowners' association assessment or fee statement, dated within 60 calendar days before the date of application;
      - v. A valid lease agreement;
      - vi. A mortgage statement for the most recent tax year;
      - vii. A letter issued by an entity providing non-permanent housing to the applicant, dated within 30 calendar days before the date of application;
      - viii. Any document or mail dated within 60 calendar days before the date of application and received by the applicant, including a utility bill, check stub, or statement of direct deposit issued by an employer, a bank or credit union statement, a credit card statement, a mobile telephone company billing statement, a billing statement or receipt from an HIV-care provider's office, or a document from an insurance company;
      - ix. A non-expired Arizona driver license issued by the Arizona Department of Transportation's Motor Vehicle Division within the previous 12 months;
      - x. A non-expired Arizona vehicle registration issued by the Arizona Department of Transportation's Motor Vehicle Division within the previous 12 months;
      - xi. A non-expired Arizona identification card issued by the Arizona Department of Transportation's Motor Vehicle Division within the previous 12 months; or
      - xii. A tribal enrollment card or other type of tribal identification; or
    - b. If the applicant is unable to produce documentation that satisfies subsection (A)(8)(a), one of the following that includes the name of the applicant or an adult in the applicant's household and is dated within 30 calendar days before the date of application:
      - i. A written statement issued by the applicant's case manager verifying that the applicant is liv-

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- ing in non-permanent housing and a resident of Arizona;
  - ii. A written statement issued by the applicant's case manager indicating that the case manager has conducted a home visit with the applicant at the Arizona residential address specified according to subsection (A)(1)(b); or
  - iii. A written statement issued by the applicant's HIV-care provider, verifying that the applicant is a resident of Arizona; and
9. If the applicant or the applicant's representative has stated according to subsection (A)(7) that the applicant receives assistance from another individual, a letter from the individual to support the statement of the applicant or the applicant's representative.
- B.** The HIV-care provider of an applicant for initial enrollment in ADAP shall provide:
1. The following information for the applicant in a Department-provided format:
    - a. The applicant's name;
    - b. The HIV-care provider's name, business address, telephone number, email address, fax number, and professional license number;
    - c. A statement that the applicant has been diagnosed with HIV infection;
    - d. A list of each drug prescribed for the applicant by the HIV-care provider;
    - e. A statement by the HIV-care provider attesting that, to the best of the HIV-care provider's knowledge and belief, the information provided to the Department as specified in subsection (B) is accurate and complete; and
    - f. The dated signature of the HIV-care provider;
  2. Documentation confirming HIV-infection of the applicant; and
  3. A copy of the most recent laboratory report of a test for viral load and, if available, CD4-T-lymphocyte count conducted for the applicant.
- C.** If an applicant or the applicant's representative stated in subsection (A)(1)(r) that the applicant is in a situation in which the applicant's financial records to verify annual household income, as required in subsection (A)(6), are not available to the applicant, the applicant or the applicant's representative may submit to the Department a statement describing the applicant's situation and provide whatever documentation the applicant has available to demonstrate the applicant's annual household income.

**Historical Note**

Adopted as an emergency effective January 12, 1988, pursuant to A.R.S. § 41-1026, valid for only 90 days (Supp. 88-1). Emergency expired. Readopted without change as an emergency effective May 9, 1988, pursuant to A.R.S. § 41-1026, valid for only 90 days (Supp. 88-2).

Amended and readopted as an emergency effective August 8, 1988, pursuant to A.R.S. § 41-1026, valid for only 90 days (Supp. 88-3). Emergency expired. Readopted as an emergency and subsection (A) corrected effective November 16, 1988, pursuant to A.R.S. § 41-1026, valid for only 90 days (Supp. 88-4). Emergency expired. Amended subsection (B) and adopted as a permanent rule effective May 22, 1989 (Supp. 89-2).

Renumbered from R9-6-804 and amended effective October 19, 1993 (Supp. 93-4). Former Section R9-6-404 renumbered to R9-6-405; new Section R9-6-404 renumbered from R9-6-403 and amended by final rulemaking at 8 A.A.R. 1953, effective April 3, 2002 (Supp. 02-2).

Amended by final rulemaking at 13 A.A.R. 3329, effective November 10, 2007 (Supp. 07-3). Amended by final rulemaking at 25 A.A.R. 3614, effective December 3, 2019 (Supp. 19-4).

**R9-6-405. Enrollment Process; Pre-approved Enrollment Status**

- A.** The Department shall:
1. Review the documents submitted by an applicant as required in R9-6-404(A);
  2. Determine whether the applicant is eligible under R9-6-403;
  3. Grant or deny enrollment based on applicant eligibility, the date of application, and the availability of funds; and
  4. Notify the applicant or the applicant's representative of the Department's decision within five working days after receiving the documents specified in R9-6-404(A).
- B.** An applicant or the applicant's representative shall execute any consent forms or releases of information necessary for the Department to verify eligibility.
- C.** The Department shall send an applicant or the applicant's representative a written notice of denial, setting forth the information required under A.R.S. § 41-1092.03, if:
1. The applicant does not qualify for enrollment in ADAP, based on the documentation provided to establish eligibility;
  2. The documentation submitted to the Department under R9-6-404 is found to contain false information; or
  3. The Department does not have funds available to enroll the applicant in ADAP.
- D.** The Department shall grant pre-approved enrollment status in ADAP to an applicant, lasting until the end of the month after the month in which an applicant applied for ADAP, if:
1. The Department determines that the applicant meets the requirement in R9-6-403(1);
  2. The applicant, whose annual household income is an amount that may make the applicant eligible for enrollment in AHCCCS, or the applicant's representative attests in writing that the applicant has applied for AHCCCS enrollment but is unable to provide documentation that states the status of the applicant's enrollment in AHCCCS;
  3. Except as provided in subsection (E), the applicant, who is eligible for Medicare or other health insurance coverage, or the applicant's representative attests in writing that the applicant has applied for, but is unable to provide documentation of, enrollment in Medicare and a Medicare drug plan or in other health insurance coverage, as applicable; and
  4. The applicant or the applicant's representative attests in writing that the applicant or the applicant's representative will provide, before the end of the period during which the applicant has pre-approved enrollment status, a missing component of:
    - a. Proof of the applicant's annual household income, according to R9-6-404(A)(6) or (7); or
    - b. Proof of residency, according to R9-6-404(A)(8).
- E.** The Department shall grant pre-approved enrollment status in ADAP, lasting until the end of the month after the month in which an applicant may apply for Medicare or other health insurance, if the applicant or the applicant's representative provides documentation that the applicant would be eligible for Medicare or other health insurance coverage during the next health insurance enrollment period, but that enrollment was closed on the date of application for ADAP.
- F.** The Department shall provide an applicant to whom the Department has granted pre-approved enrollment status in

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ADAP with the drugs on the ADAP formulary during the period during which the applicant has pre-approved enrollment status.

- G. Except as specified in subsection (I), to continue ADAP enrollment beyond the period in subsection (D) or (E) during which the applicant has pre-approved enrollment status, an applicant or the applicant's representative shall provide to the Department, before the end of the period, documentation that establishes eligibility according to R9-6-403.
- H. Except as specified in subsection (I), if an applicant with pre-approved enrollment status or the applicant's representative fails to provide documentation as required in subsection (G) to the Department before the end of the period during which the applicant has pre-approved enrollment status, the Department shall send the applicant or the applicant's representative a written notice of denial, setting forth the information required under A.R.S. § 41-1092.03.
- I. The Department may grant an extension of pre-approved enrollment status to an applicant beyond the period in subsection (D) or (E) if the applicant or the applicant's representative provides a justification for needing more time to obtain the required documentation to verify eligibility because of missing:
  1. Documentation of health insurance coverage;
  2. Financial records to verify annual household income, specified in R9-6-404(A)(6);
  3. Proof of residency, specified in R9-6-404(A)(8); or
  4. Viral load test results on the laboratory report required in R9-6-404(B)(2).
- J. Based on the information provided by an applicant about the applicant's health insurance coverage and except as provided in R9-6-409(F), the Department shall:
  1. For an applicant with no health insurance coverage, provide a drug on the ADAP formulary through the contract pharmacy;
  2. For an applicant with health insurance coverage that is inadequate, according to R9-6-403(4)(b), provide a drug on the ADAP formulary that is not covered by the applicant's health insurance, as documented according to R9-6-409(E), through the contract pharmacy; or
  3. For an applicant with health insurance coverage that is unaffordable, according to R9-6-403(4)(c), provide a drug on the ADAP formulary with no copayment cost to the applicant when requesting the filling of a prescription for the drug or obtaining a refill of the drug through ADAP.

**Historical Note**

Adopted as an emergency effective January 12, 1988, pursuant to A.R.S. § 41-1026, valid for only 90 days (Supp. 88-1). Emergency expired. Readopted without change as an emergency effective May 9, 1988, pursuant to A.R.S. § 41-1026, valid for only 90 days (Supp. 88-2).

Amended and readopted as an emergency effective August 8, 1988, pursuant to A.R.S. § 41-1026, valid for only 90 days (Supp. 88-3). Emergency expired.

Readopted as an emergency and subsection (B), Paragraph (2) corrected effective November 16, 1988, pursuant to A.R.S. § 41-1026, valid for only 90 days (Supp. 88-4). Emergency expired. Adopted without change as a permanent rule effective May 22, 1989 (Supp. 89-2).

Renumbered from R9-6-805 and amended effective October 19, 1993 (Supp. 93-4). Former Section R9-6-405 renumbered to R9-6-406; new Section R9-6-405 renumbered from R9-6-404 and amended by final rulemaking at 8 A.A.R. 1953, effective April 3, 2002 (Supp. 02-2).

Amended by final rulemaking at 13 A.A.R. 3329, effective

November 10, 2007 (Supp. 07-3). Amended by final rulemaking at 25 A.A.R. 3614, effective December 3, 2019 (Supp. 19-4).

**R9-6-406. Notification Requirements**

- A. An enrolled individual or the enrolled individual's representative shall notify the Department in writing or by telephone and comply with the applicable requirements specified in R9-6-407 within 30 calendar days after any of the following occurs:
  1. The residential or mailing address or the telephone number of the enrolled individual changes from that provided to the Department under R9-6-404(A)(1) or R9-6-407;
  2. The enrolled individual adds or removes an individual with whom the Department may speak about the enrolled individual's ADAP enrollment from the list specified in R9-6-404(A)(1)(h);
  3. The enrolled individual has:
    - a. Lost health insurance coverage;
    - b. Been determined eligible for and enrolled to receive drug coverage through AHCCCS;
    - c. Been determined eligible for or obtained health insurance coverage, other than through AHCCCS, the Indian Health Service, the Veterans Health Administration, or the health insurance coverage previously used by the enrolled individual; or
    - d. Been determined eligible for a low-income subsidy;
  4. The enrolled individual's annual household income has changed; or
  5. The enrolled individual establishes residency outside Arizona.
- B. Within 30 calendar days after an enrolled individual loses health insurance coverage, the enrolled individual shall provide to the Department documentation stating the loss of health insurance coverage.
- C. An enrolled individual's case manager shall notify the Department in writing or by telephone within 30 calendar days after the case manager learns that:
  1. The residential or mailing address or the telephone number of the enrolled individual has changed from that provided to the Department under R9-6-404(A)(1) or R9-6-407;
  2. The enrolled individual:
    - a. Has been determined eligible for and enrolled to receive drug coverage through AHCCCS;
    - b. Obtained health insurance coverage other than AHCCCS, the Indian Health Service, or the Veterans Health Administration; or
    - c. Has been determined eligible for a low-income subsidy;
  3. The enrolled individual's annual household income has changed;
  4. The enrolled individual has established residency outside Arizona; or
  5. The enrolled individual has died.

**Historical Note**

Adopted as an emergency effective January 12, 1988, pursuant to A.R.S. § 41-1026, valid for only 90 days (Supp. 88-1). Emergency expired. Readopted without change as an emergency effective May 9, 1988, pursuant to A.R.S. § 41-1026, valid for only 90 days (Supp. 88-2).

Amended and readopted as an emergency effective August 8, 1988, pursuant to A.R.S. § 41-1026, valid for only 90 days (Supp. 88-3). Emergency expired.

Readopted without change as an emergency effective November 16, 1988, pursuant to A.R.S. § 41-1026, valid for only 90 days (Supp. 88-4). Emergency expired.

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Adopted without change as a permanent rule effective May 22, 1989 (Supp. 89-2). Amended effective September 19, 1990 (Supp. 90-3). Renumbered from R9-6-806 effective October 19, 1993 (Supp. 93-4). Former Section R9-6-406 renumbered to R9-6-407; new Section R9-6-406 renumbered from R9-6-405 and amended by final rulemaking at 8 A.A.R. 1953, effective April 3, 2002 (Supp. 02-2). Former R9-6-406 renumbered to R9-6-407; new R9-6-406 made by final rulemaking at 13 A.A.R. 3329, effective November 10, 2007 (Supp. 07-3). Amended by final rulemaking at 25 A.A.R. 3614, effective December 3, 2019 (Supp. 19-4).

**R9-6-407. Continuing Enrollment**

- A.** To continue enrollment in ADAP, an enrolled individual or the enrolled individual's representative shall:
1. When the enrolled individual's residential address changes, comply with subsection (B);
  2. When the enrolled individual's annual household income changes, comply with subsection (C);
  3. When the enrolled individual becomes eligible for Medicare or other health insurance coverage, comply with subsection (D);
  4. Before the end of the month that is six months after the enrolled individual's month of birth, comply with subsection (E); and
  5. Before the end of the enrolled individual's month of birth each year after an individual's initial enrollment, comply with subsection (F).
- B.** When an enrolled individual's residential address changes, the enrolled individual or the enrolled individual's representative shall submit to the Department:
1. The following information for the enrolled individual in a Department-provided format:
    - a. The enrolled individual's name and date of birth;
    - b. The new residential address and mailing address for the enrolled individual;
    - c. If the enrolled individual is in non-permanent housing, the address of a person that has agreed to receive written communications for the enrolled individual; and
    - d. If applicable, the address in Arizona to which the enrolled individual would want drugs to be shipped; and
  2. Proof of Arizona residency, as specified in R9-6-404(A)(8), showing the new Arizona residential address specified in subsection (B)(1)(b).
- C.** When an enrolled individual's annual household income changes, the enrolled individual or the enrolled individual's representative shall:
1. Submit to the Department, within 30 calendar days after the change, documentation of the enrolled individual's annual household income, as specified in R9-6-404(A)(6) or (7); and
  2. If the enrolled individual's annual household income has decreased to an amount that may make the individual eligible for enrollment in AHCCCS:
    - a. Apply for enrollment in AHCCCS within 30 calendar days after the change in annual household income; and
    - b. Submit to the Department, within 30 calendar days after the change, documentation that states the status of the enrolled individual's enrollment in AHCCCS.
- D.** When an enrolled individual becomes eligible for Medicare or other health insurance coverage, the enrolled individual or the enrolled individual's representative shall, within 30 calendar days after the enrolled individual becomes eligible for Medicare or other health insurance coverage:
1. If eligible for Medicare:
    - a. Enroll in a Medicare drug plan; and
    - b. If the enrolled individual's annual household income is at or below 175% of the poverty level, apply for a low-income subsidy; and
    - c. Submit to the Department a copy of valid documentation stating:
      - i. The enrolled individual's enrollment in a Medicare drug plan; and
      - ii. If the enrolled individual's annual household income is at or below 175% of the poverty level, the status of the enrolled individual's eligibility for a low-income subsidy; and
  2. If eligible for other health insurance coverage, submit to the Department information about the health insurance coverage to enable the Department to determine if the health insurance coverage is inadequate, according to R9-6-403(4)(b), or unaffordable, according to R9-6-403(4)(c).
- E.** Before the end of the month that is six months after the enrolled individual's month of birth, the enrolled individual or the enrolled individual's representative shall:
1. Either:
    - a. Submit to the Department an attestation, in a Department-provided format, that there have been no changes specified in subsection (A)(1), (2), or (3); or
    - b. Comply with subsections (B), (C), and (D), as applicable; and
  2. Obtain from the enrolled individual's HIV-care provider and submit to the Department a copy of the most recent laboratory report of a test for viral load, and, if available, CD4-T-lymphocyte count conducted for the applicant.
- F.** Before the end of an enrolled individual's month of birth each year, an enrolled individual or the enrolled individual's representative shall submit to the Department the application packet required in R9-6-404(A).
- G.** The Department shall:
1. Review information about an enrolled individual and determine eligibility for continuing enrollment for the enrolled individual:
    - a. At the end of the enrolled individual's month of birth each year,
    - b. At the end of the month that is six months after the enrolled individual's month of birth each year,
    - c. When the Department receives information from the enrolled individual or the enrolled individual's representative under subsection (A), or
    - d. When the Department no longer has sufficient funds to provide continuing enrollment to all enrolled individuals;
  2. Grant continuing enrollment to an enrolled individual, subject to the availability of funds, when:
    - a. The enrolled individual or the enrolled individual's representative complies with subsection (A); and
    - b. The Department determines that:
      - i. The information in the documents submitted to the Department is accurate and complete, and
      - ii. The enrolled individual is eligible under R9-6-403; and
  3. Notify the enrolled individual or the enrolled individual's representative of the Department's decision within five working days after receipt of the documents required in subsection (A).

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- H. The Department may grant pre-approved enrollment status in ADAP, according to R9-6-405(D) or (E) and ending according to R9-6-405(G), to an enrolled individual who is missing documentation to establish eligibility under R9-6-403.
- I. If the Department denies continuing enrollment to an enrolled individual, the Department shall send to the enrolled individual or the enrolled individual's representative a written notice of denial setting forth the information required under A.R.S. § 41-1092.03.

**Historical Note**

Adopted as an emergency effective January 12, 1988, pursuant to A.R.S. § 41-1026, valid for only 90 days (Supp. 88-1). Emergency expired. Readopted without change as an emergency effective May 9, 1988, pursuant to A.R.S. § 41-1026, valid for only 90 days (Supp. 88-2). Emergency not renewed. Former Section R9-6-808 renumbered as Section R9-6-807, amended, and readopted as an emergency effective August 8, 1988, pursuant to A.R.S. § 41-1026, valid for only 90 days (Supp. 88-3). Emergency expired. Readopted as an emergency and subsection (C) corrected effective November 16, 1988, pursuant to A.R.S. § 41-1026, valid for only 90 days (Supp. 88-4). Emergency expired. Adopted without change as a permanent rule effective May 22, 1989 (Supp. 89-2). Renumbered from R9-6-807 effective October 19, 1993 (Supp. 93-4). Former Section R9-6-407 repealed; new Section R9-6-407 renumbered from R9-6-406 and amended by final rulemaking at 8 A.A.R. 1953, effective April 3, 2002 (Supp. 02-2). Former R9-6-407 renumbered to R9-6-409; new R9-6-407 renumbered from R9-6-406 and amended by final rulemaking at 13 A.A.R. 3329, effective November 10, 2007 (Supp. 07-3). Amended by final rulemaking at 25 A.A.R. 3614, effective December 3, 2019 (Supp. 19-4).

**R9-6-408. Termination from ADAP Services**

- A. The Department may terminate an enrolled individual's enrollment in ADAP if:
  - 1. The Department learns that information submitted to the Department by the enrolled individual or the enrolled individual's representative under R9-6-404(A) or (C), R9-6-407(A), or R9-6-409(E) or (F) is inaccurate or incomplete;
  - 2. The enrolled individual or the enrolled individual's representative does not request a refill of any drug through ADAP for a period of 90 calendar days; or
  - 3. The enrolled individual or the enrolled individual's representative exhibits violent or threatening behavior to an employee of the Department, the contract pharmacy, or a pharmacy in which the enrolled individual or the enrolled individual's representative is filling a prescription for a drug or requesting a refill of a drug through ADAP, as established by documentation such as a police report or a written document from the individual.
- B. The Department may terminate approval of a drug approved under R9-6-409(E) or (F) for an enrolled individual if funding is no longer available to pay for the drug approved under R9-6-409(E) or (F).
- C. The Department shall send to an enrolled individual or the enrolled individual's representative a written notice of termination setting forth the information required under A.R.S. § 41-1092.03 if the Department terminates:
  - 1. The enrolled individual's enrollment in ADAP, or
  - 2. Approval of a drug approved under R9-6-409(E) or (F) for the enrolled individual.

**Historical Note**

Adopted as an emergency effective January 12, 1988, pursuant to A.R.S. § 41-1026, valid for only 90 days (Supp. 88-1). Emergency expired. Readopted without change as an emergency effective May 9, 1988, pursuant to A.R.S. § 41-1026, valid for only 90 days (Supp. 88-2). Former Section R9-6-809 renumbered as Section R9-6-808, amended and readopted as an emergency effective August 8, 1988, pursuant to A.R.S. § 41-1026, valid for only 90 days (Supp. 88-3). Emergency expired. Readopted without change as an emergency effective November 16, 1988, pursuant to A.R.S. § 41-1026, valid for only 90 days (Supp. 88-4). Emergency expired. Adopted without change as a permanent rule effective May 22, 1989 (Supp. 89-2). Renumbered from R9-6-808 effective October 19, 1993 (Supp. 93-4). Former Section R9-6-408 renumbered to R9-6-409; new Section R9-6-408 made by final rulemaking at 8 A.A.R. 1953, effective April 3, 2002 (Supp. 02-2). Section repealed; new Section made by final rulemaking at 13 A.A.R. 3329, effective November 10, 2007 (Supp. 07-3). Amended by final rulemaking at 25 A.A.R. 3614, effective December 3, 2019 (Supp. 19-4).

**R9-6-409. Drug Prescription and Distribution Requirements**

- A. A HIV-care provider shall:
  - 1. Issue a prescription order:
    - a. For each drug on the ADAP formulary prescribed for an applicant or enrolled individual by the HIV-care provider; and
    - b. For dispensing up to a 30-day supply of the drug; and
  - 2. Provide a written prescription order to the applicant or enrolled individual or an electronic prescription order to the contract pharmacy or a pharmacy at which the applicant or enrolled individual may request a drug through ADAP.
- B. The Department shall:
  - 1. Except as specified in subsection (D), provide up to a 30-day supply of a drug to an enrolled individual; and
  - 2. Ensure that a drug to be shipped to an enrolled individual is sent to the address in Arizona provided by the enrolled individual according to R9-6-404(A)(1)(d) or R9-6-407(B)(1)(d).
- C. The Department may authorize replacement of a drug when:
  - 1. The drug has been dispensed by the contract pharmacy or a pharmacy in which the enrolled individual or the enrolled individual's representative requested a refill of the drug through ADAP; and
  - 2. The enrolled individual or the enrolled individual's representative claims the dispensed drug was lost, stolen, or damaged.
- D. The Department may authorize an enrolled individual to receive more than a 30-day supply of a drug if the enrolled individual:
  - 1. Submits to the Department:
    - a. The enrolled individual's name and date of birth;
    - b. The number of days for which the enrolled individual is requesting a supply of the drug; and
    - c. A justification for receiving more than a 30-day supply of a drug, such as that:
      - i. The enrolled individual will be out of Arizona for more than 30 days without changing residency, or

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- ii. The enrolled individual's health insurance coverage will allow for more than a 30-day supply of a drug; and
  - 2. Is expected to continue to be enrolled in ADAP:
    - a. Past the number of days for which the enrolled individual is requesting a supply of the drug; and
    - b. Without needing to submit information or documentation for continuing enrollment, according to R9-6-407(E) or (F), during the time period.
- E. For an enrolled individual who has health insurance coverage, the HIV-care provider of the enrolled individual, independently or through the contract pharmacy, may request approval of a drug on the ADAP formulary that is not covered by the enrolled individual's health insurance by submitting to the Department documentation that:
  - 1. The drug is not covered by the enrolled individual's health insurance;
  - 2. A request for health insurance coverage of the drug as a medical exception has been denied by the enrolled individual's health insurance; and
  - 3. An appeal of the denial of the request in subsection (E)(2) has been denied by the enrolled individual's health insurance.
- F. The HIV-care provider of an enrolled individual, independently or through the contract pharmacy, may request approval of a drug that is not covered by health insurance and not on the ADAP formulary for the enrolled individual by:
  - 1. Providing to the Department the following information, in a Department-provided format, for each requested drug:
    - a. The name, business address, email address, and telephone number of the HIV-care provider;
    - b. The date of the request;
    - c. The enrolled individual's name and date of birth;
    - d. The name and any other identifier of the drug;
    - e. The cost of the drug, if available;
    - f. The expected duration of the enrolled individual's use of the drug, including whether:
      - i. Use of the drug is expected to be a one-time occurrence; or
      - ii. The enrolled individual is expected to need multiple refills of the drug and the expected number of refills;
    - g. A justification for use of the drug that is not on the ADAP formulary by the enrolled individual;
    - h. Whether the Department should consider adding the drug to the ADAP formulary and the reasons for the recommendation; and
    - i. The dated signature of the HIV-care provider;
  - 2. Issuing a valid prescription order for the drug that is not on the ADAP formulary to the contract pharmacy; and
  - 3. Unless the enrolled individual has no health insurance coverage, submitting to the Department the documentation required in subsections (E)(1) through (3).
- G. When the Department receives a request under subsection (E) or (F) for an enrolled individual, the Department shall:
  - 1. Review the documents submitted according to subsection (E) or (F), as applicable;
  - 2. Determine whether the information submitted to the Department:
    - a. Is complete; and
    - b. Substantiates that the enrolled individual's use of the drug is indicated; and
  - 3. Notify, through the contract pharmacy, the following of the Department's decision within five working days after receiving the request:
    - a. The enrolled individual or the enrolled individual's representative; and
    - b. The enrolled individual's HIV-care provider.
- H. If the Department denies a request under subsection (E) or (F) for an enrolled individual, the Department shall send to the enrolled individual or the enrolled individual's representative a written notice of denial setting forth the information required under A.R.S. § 41-1092.03.
- I. The Department shall only authorize the distribution of drugs that are included on the ADAP formulary or approved for an enrolled individual according to subsection (F).

**Historical Note**

Adopted effective October 19, 1993 (Supp. 93-4). Amended effective April 4, 1997 (Supp. 97-2). Former Section R9-6-409 renumbered to R9-6-902; new Section R9-6-409 renumbered from R9-6-408 and amended by final rulemaking at 8 A.A.R. 1953, effective April 3, 2002 (Supp. 02-2). Former R9-6-409 renumbered to R9-6-410; new R9-6-409 renumbered from R9-6-407 and amended by final rulemaking at 13 A.A.R. 3329, effective November 10, 2007 (Supp. 07-3). Amended by final rulemaking at 25 A.A.R. 3614, effective December 3, 2019 (Supp. 19-4).

**Exhibit A. Renumbered****Historical Note**

Exhibit A "Consent for HIV Testing" (English) form adopted effective April 4, 1997 (Supp. 97-2). Exhibit A renumbered to Article 9 by final rulemaking at 8 A.A.R. 1953, effective April 3, 2002 (Supp. 02-2).

**Exhibit B. Renumbered****Historical Note**

Exhibit B "Consentimiento Para la Prueba de VIH" (Consent for HIV Testing-Spanish) form adopted effective April 4, 1997 (Supp. 97-2). Exhibit B renumbered to Article 9 by final rulemaking at 8 A.A.R. 1953, effective April 3, 2002 (Supp. 02-2).

**R9-6-410. Confidentiality**

In administering ADAP, the Department shall comply with all applicable federal and state laws relating to confidentiality of information.

**Historical Note**

Adopted effective October 19, 1993 (Supp. 93-4). Section renumbered to R9-6-903 by final rulemaking at 8 A.A.R. 1953, effective April 3, 2002 (Supp. 02-2). Section R9-6-410 renumbered from R9-6-409 and amended by final rulemaking at 13 A.A.R. 3329, effective November 10, 2007 (Supp. 07-3).

**R9-6-411. Repealed****Historical Note**

Amended effective February 25, 1976 (Supp. 76-1). Repealed effective October 19, 1993 (Supp. 93-4).

**R9-6-412. Repealed****Historical Note**

Correction, adding Historical Note: Amended effective February 25, 1976 (Supp. 87-1). Repealed effective October 19, 1993 (Supp. 93-4).

**R9-6-413. Repealed**

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**Historical Note**

Amended effective February 25, 1976 (Supp. 76-1).  
Amended effective June 4, 1980 (Supp. 80-3). Amended  
effective January 28, 1987 (Supp. 87-1). Repealed effec-  
tive October 19, 1993 (Supp. 93-4).

**R9-6-414. Repealed****Historical Note**

Amended effective February 25, 1976 (Supp. 76-1).  
Repealed effective October 19, 1993 (Supp. 93-4).

**R9-6-415. Repealed****Historical Note**

Amended effective February 25, 1976 (Supp. 76-1).  
Repealed effective October 19, 1993 (Supp. 93-4).

**R9-6-416. Repealed****Historical Note**

Amended effective February 25, 1976 (Supp. 76-1).  
Repealed effective October 19, 1993 (Supp. 93-4).

**R9-6-417. Repealed****Historical Note**

Repealed effective October 19, 1993 (Supp. 93-4).

**R9-6-418. Repealed****Historical Note**

Amended effective February 25, 1976 (Supp. 76-1).  
Repealed effective October 19, 1993 (Supp. 93-4).

**R9-6-419. Repealed****Historical Note**

Repealed effective October 19, 1993 (Supp. 93-4).

**R9-6-420. Reserved****R9-6-421. Reserved****R9-6-422. Reserved****R9-6-423. Reserved****R9-6-424. Reserved****R9-6-425. Reserved****R9-6-426. Reserved****R9-6-427. Reserved****R9-6-428. Reserved****R9-6-429. Reserved****R9-6-430. Reserved****R9-6-431. Repealed****Historical Note**

Repealed effective October 19, 1993 (Supp. 93-4).

**R9-6-432. Repealed****Historical Note**

Amended effective February 25, 1976 (Supp. 76-1).  
Repealed effective October 19, 1993 (Supp. 93-4).

**R9-6-433. Repealed****Historical Note**

Repealed effective October 19, 1993 (Supp. 93-4).

**ARTICLE 5. RABIES CONTROL****R9-6-501. Definitions**

In this Article, unless otherwise specified:

1. "Animal control agency" means a board, commission, department, office, or other administrative unit of federal or state government or of a political subdivision of the state that has the responsibility for controlling rabies in animals in a particular geographic area.
2. "Approved rabies vaccine" means a rabies vaccine authorized for use in this state by the state veterinarian under A.A.C. R3-2-409.
3. "Cat" means an animal of the genus species *Felis domesticus*.
4. "Currently vaccinated" means that an animal was last immunized against rabies with an approved rabies vaccine:
  - a. At least 28 days and no longer than one year before being exposed, if the animal has only received an initial dose of approved rabies vaccine;
  - b. No longer than one year before being exposed, if the approved rabies vaccine is approved for annual use under A.A.C. R3-2-409; or
  - c. No longer than three years before being exposed, if the approved rabies vaccine is approved for triennial use under A.A.C. R3-2-409.
5. "Dog" means an animal of the genus species *Canis familiaris*.
6. "Euthanize" means to kill an animal painlessly.
7. "Exposed" means bitten by or having touched a rabid animal or an animal suspected of being rabid.
8. "Ferret" means an animal of the genus species *Mustela putorius*.
9. "Not currently vaccinated" means that an animal does not meet the definition of "currently vaccinated."
10. "Rabid" means infected with rabies virus, a rhabdovirus of the genus *Lyssavirus*.
11. "Suspect case" means an animal whose signs or symptoms indicate that the animal may be rabid.

**Historical Note**

Amended effective December 22, 1976 (Supp. 76-5).  
Correction, this Section shown as amended effective December 22, 1976 should read amended effective May 12, 1977 (Supp. 77-3). Corrections, subsections (A), (B) and (C) (Supp. 77-5). Amended effective April 10, 1980 (Supp. 80-2). Former Section R9-6-116 renumbered without change as R9-6-501 effective January 28, 1987 (Supp. 87-1). Section R9-6-501 repealed, new Section adopted effective January 20, 1992 (Supp. 92-1). Former Section R9-6-501 renumbered to R9-6-701, new Section R9-6-501 renumbered from R9-6-201 and amended effective October 19, 1993 (Supp. 93-4). Amended effective April 4, 1997 (Supp. 97-2). Former R9-6-501 renumbered to R9-6-502; new R9-6-501 renumbered from R9-6-105 and amended by final rulemaking at 10 A.A.R. 3559, effective October 2, 2004 (Supp. 04-3).

**R9-6-502. Management of Exposed Animals**

A. An animal control agency shall manage an exposed dog, cat, or ferret as follows:

1. If the exposed dog, cat, or ferret is currently vaccinated, the animal control agency shall:
  - a. Revaccinate the animal with an approved rabies vaccine within seven days after the date that the animal is exposed; and
  - b. Confine and observe the animal in the owner's home or, at the owner's expense, in a veterinary hospital or the animal control agency's facility, as determined

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by the animal control agency, for 45 days after the animal is exposed; or

2. If the exposed dog, cat, or ferret is not currently vaccinated, the animal control agency shall:
  - a. Euthanize the animal; or
  - b. At the owner's request, confine the animal for 180 days, at the owner's expense, in a veterinary hospital or the animal control agency's facility, as determined by the animal control agency, and vaccinate the animal with an approved rabies vaccine 28 days before it is released from confinement.

- B. An animal control agency that is aware of an exposed animal, other than a cat, dog, ferret, or livestock, shall:
  1. Make every effort to capture the exposed animal as soon as it is identified, and
  2. Euthanize the animal as soon as it is captured.
- C. An animal control agency shall release from confinement a dog, cat, or ferret exposed to a suspect case when the animal control agency receives a negative rabies report on the suspect case from the Department.
- D. Livestock shall be handled according to A.A.C. R3-2-408.

**Historical Note**

Amended effective December 22, 1976 (Supp. 76-5).  
Correction, this Section shown as amended effective December 22, 1976 should read amended effective May 12, 1977 (Supp. 77-3). Amended effective April 10, 1980 (Supp. 80-2). Amended as an emergency effective August 31, 1982 pursuant to A.R.S. § 41-1003, valid for only 90 days (Supp. 82-4). Emergency expired. Former R9-6-117 amended as a permanent rule by adding a new subsection (C) and repealing the former subsections (C), (D) and (E) effective January 21, 1983 (Supp. 83-1). Former Section R9-6-117 renumbered without change as R9-6-502 effective January 28, 1987 (Supp. 87-1). Section R9-6-502 repealed, new Section adopted effective January 20, 1992 (Supp. 92-1). Former Section R9-6-502 renumbered to R9-6-702, new Section R9-6-502 renumbered from R9-6-202 and amended effective October 19, 1993 (Supp. 93-4). Former R9-6-502 renumbered to R9-6-503; new R9-6-502 renumbered from R9-6-501 and amended by final rulemaking at 10 A.A.R. 3559, effective October 2, 2004 (Supp. 04-3).

**R9-6-503. Suspect Cases**

- A. An animal control agency shall ensure confinement of a dog, cat, or ferret that is a suspect case until:
  1. The animal dies,
  2. The animal is euthanized, or
  3. A veterinarian determines that the animal is not rabid.
- B. When an animal control agency euthanizes a suspect case, the animal control agency shall avoid damaging the brain, so that rabies testing can be performed.

**Historical Note**

Amended effective December 22, 1976 (Supp. 76-5).  
Correction, this Section shown as amended effective December 22, 1976 should read amended effective May 12, 1977 (Supp. 77-3). Amended effective April 10, 1980 (Supp. 80-2). Amended as an emergency effective August 31, 1982 pursuant to A.R.S. § 41-1003, valid for only 90 days (Supp. 82-4). Emergency expired. Former R9-6-118 amended as a permanent rule by repealing subsection (C) and renumbering subsections (D) through (I) effective January 21, 1983 (Supp. 83-1). Former Section R9-6-118 renumbered without change as R9-6-503 effective January 28, 1987 (Supp. 87-1). Section R9-6-503 repealed, new Section adopted effective January 20, 1992

(Supp. 92-1). Former Section R9-6-503 renumbered to R9-6-703, new Section R9-6-503 renumbered from R9-6-203 and amended effective October 19, 1993 (Supp. 93-4). Former R9-6-503 renumbered to R9-6-504; new R9-6-503 renumbered from R9-6-502 and amended by final rulemaking at 10 A.A.R. 3559, effective October 2, 2004 (Supp. 04-3).

**R9-6-504. Animal Control Agency Reporting Requirements**

By April 30 of each year, an animal control agency shall submit a report to the Department that contains the number of animal bites to humans reported as occurring in the animal control agency's jurisdiction during the preceding calendar year and a breakdown of the bites by:

1. Species of animal,
2. Age of victim, and
3. Month of occurrence.

**Historical Note**

Amended effective December 22, 1976 (Supp. 76-5).  
Correction, this Section shown as amended effective December 22, 1976 should read amended effective May 12, 1977 (Supp. 77-3). Amended effective April 10, 1980 (Supp. 80-2). Amended as an emergency effective August 31, 1982 pursuant to A.R.S. § 41-1003, valid for only 90 days (Supp. 82-4). Emergency expired. Former R9-6-119 amended as a permanent rule by repealing subsections (A) and (B), renumbering and amending subsections (C) through (I) effective January 21, 1983 (Supp. 83-1). Former Section R9-6-119 renumbered without change as R9-6-504 effective January 28, 1987 (Supp. 87-1). Section R9-6-504 repealed, new Section adopted effective January 20, 1992 (Supp. 92-1). Former Section R9-6-504 renumbered to R9-6-704 effective October 19, 1993 (Supp. 93-4). Section renumbered from R9-6-503 and amended by final rulemaking at 10 A.A.R. 3559, effective October 2, 2004 (Supp. 04-3).

**R9-6-505. Renumbered****Historical Note**

Adopted effective January 20, 1992 (Supp. 92-1). Former Section R9-6-505 renumbered to R9-6-705 effective October 19, 1993 (Supp. 93-4).

**R9-6-506. Renumbered****Historical Note**

Adopted effective January 20, 1992 (Supp. 92-1). Former Section R9-6-506 renumbered to R9-6-706 effective October 19, 1993 (Supp. 93-4).

**Table 1. Renumbered****Historical Note**

Adopted effective January 20, 1992 (Supp. 92-1). Former Section R9-6-506, Table 1 renumbered to R9-6-706 Table 1 effective October 19, 1993 (Supp. 93-4).

**Table 2. Renumbered****Historical Note**

Adopted effective January 20, 1992 (Supp. 92-1). Former Section R9-6-506, Table 2 renumbered to R9-6-706, Table 2 effective October 19, 1993 (Supp. 93-4).

**ARTICLE 6. REPORTING POST-EXPOSURE RABIES PROPHYLAXIS****R9-6-601. Reporting Requirements**



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A physician or an authorized designee shall submit a written or electronic report to the Department for each individual exposed who receive post-exposure rabies prophylaxis that includes:

1. Name, age, address, and telephone number of the individual exposed;
2. Date of report;
3. Reporting institution or physician;
4. Date of exposure;
5. Body part exposed;
6. Type of exposure: Bite or saliva contact (non-bite);
7. Species of animal;
8. Animal disposition: quarantined, euthanized, died, unable to locate;
9. Animal rabies test results, if any: positive or negative;
10. Treatment regimen; and
11. Date treatment was initiated.

**Historical Note**

Adopted effective January 28, 1987 (Supp. 87-1). Former Section R9-6-601 renumbered to R9-6-201, new Section R9-6-601 adopted effective October 19, 1993 (Supp. 93-4). Section renumbered from R9-6-106 and amended by final rulemaking at 10 A.A.R. 3559, effective October 2, 2004 (Supp. 04-3). Former Section R9-6-601 renumbered to R9-6-1201; new Section R9-6-601 made by final rulemaking at 13 A.A.R. 4106, effective January 5, 2008 (Supp. 07-4). Section amended by final expedited rulemaking at 24 A.A.R. 261, effective January 9, 2018 (Supp. 18-1).

**R9-6-602. Renumbered****Historical Note**

Adopted effective January 28, 1987 (Supp. 87-1). Former Section R9-6-602 renumbered to R9-6-202, new Section R9-6-601 adopted effective October 19, 1993 (Supp. 93-4). Section repealed; new Section made by final rulemaking at 10 A.A.R. 3559, effective October 2, 2004 (Supp. 04-3). Former Section R9-6-602 renumbered to R9-6-1202 by final rulemaking at 13 A.A.R. 4106, effective January 5, 2008 (Supp. 07-4).

**R9-6-603. Renumbered****Historical Note**

Adopted effective January 28, 1987 (Supp. 87-1). Amended effective September 14, 1990 (Supp. 90-3). Repealed effective October 19, 1993 (Supp. 93-4), new Section R9-6-603 adopted effective October 19, 1993 (Supp. 93-4). Section repealed; new Section made by final rulemaking at 10 A.A.R. 3559, effective October 2, 2004 (Supp. 04-3). Former Section R9-6-603 renumbered to R9-6-1203 by final rulemaking at 13 A.A.R. 4106, effective January 5, 2008 (Supp. 07-4).

**R9-6-604. Renumbered****Historical Note**

Adopted effective January 28, 1987 (Supp. 87-1). Amended effective September 14, 1990 (Supp. 90-3). Repealed effective October 19, 1993 (Supp. 93-4). New Section made by final rulemaking at 10 A.A.R. 3559, effective October 2, 2004 (Supp. 04-3). Former Section R9-6-604 renumbered to R9-6-1204 by final rulemaking at 13 A.A.R. 4106, effective January 5, 2008 (Supp. 07-4).

**R9-6-605. Repealed****Historical Note**

Adopted effective January 28, 1987 (Supp. 87-1). Amended effective September 14, 1990 (Supp. 90-3). Repealed effective October 19, 1993 (Supp. 93-4).

**R9-6-606. Emergency Expired****Historical Note**

Adopted as an emergency effective October 12, 1990, pursuant to A.R.S. § 41-1026, valid for only 90 days (Supp. 90-4). Emergency expired. Emergency rule readopted without change effective February 22, 1991, pursuant to A.R.S. § 41-1026, valid for only 90 days (Supp. 91-1). Emergency expired. Emergency rule readopted with changes effective July 3, 1991, pursuant to A.R.S. § 41-1026, valid for only 90 days (Supp. 91-3). Emergency expired.

**ARTICLE 7. REQUIRED IMMUNIZATIONS FOR CHILD CARE OR SCHOOL ENTRY****R9-6-701. Definitions**

In addition to the definitions in A.R.S. § 36-671 and R9-6-101, the following definitions apply in this Article, unless otherwise specified:

1. "Child" means:
  - a. An individual 18 years of age or less, or
  - b. An individual more than 18 years of age attending school.
2. "Child care" means:
  - a. A child care facility as defined in A.R.S. § 36-881; or
  - b. A child care group home as defined in A.R.S. § 36-897.
3. "Child care administrator" means an individual, or the individual's designee, having daily control and supervision of a child care.
4. "Day" means a calendar day, and excludes the:
  - a. Day of the act or event from which a designated period of time begins to run, and
  - b. Last day of the period if a Saturday, Sunday, or official state holiday.
5. "Document" means information in written, photographic, electronic, or other permanent form.
6. "Enroll" means to accept for attendance at a school or child care.
7. "Entry" means the first day of attendance at a child care or at a specific grade level in a school.
8. "Immunization registry" means an electronic database maintained by a governmental health agency for the storage of immunization data for vaccines.
9. "In writing" means on paper or in a printable electronic format.
10. "Medical exemption" means the written certification described in A.R.S. § 15-873(A)(2).
11. "Nurse" means a:
  - a. Registered nurse, as defined in A.R.S. § 32-1601; or
  - b. Practical nurse, as defined in A.R.S. § 32-1601.
12. "Parent" means:
  - a. A natural or adoptive mother or father,
  - b. A legal guardian appointed by a court of competent jurisdiction, or
  - c. A "custodian" as defined in A.R.S. § 8-201.
13. "Physician" has the same meaning as in A.R.S. § 15-871.
14. "Registered nurse practitioner" has the same meaning as in A.R.S. § 32-1601.
15. "School-based or child care-based vaccination information system" means an electronic database used and

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maintained by a school, child care, or group of schools or child cares for the storage of immunization data for vaccines.

16. "Signature" means:
- A handwritten or stamped representation of an individual's name or a symbol intended to represent an individual's name, or
  - An electronic signature as defined in A.R.S. § 44-7002.

**Historical Note**

Former Section R9-6-115, Paragraph (47), renumbered and amended as R9-6-701 effective January 28, 1987 (Supp. 87-1). Amended effective September 14, 1990 (Supp. 90-3). Former Section R9-6-701 renumbered to Section R9-6-328, new Section R9-6-701 renumbered from R9-6-501 and amended effective October 19, 1993 (Supp. 93-4). Amended effective April 4, 1997 (Supp. 97-2). Amended by final rulemaking at 5 A.A.R. 496, effective January 19, 1999 (Supp. 99-1). Amended by final rulemaking at 6 A.A.R. 1310, effective March 17, 2000 (Supp. 00-1). Former Section R9-6-701 renumbered to R9-6-702; new Section R9-6-701 made by final rulemaking at 8 A.A.R. 4274, effective September 16, 2002 (Supp. 02-3). Amended by final rulemaking at 11 A.A.R. 2283, effective June 7, 2005 (Supp. 05-2). Amended by final rulemaking at 13 A.A.R. 4106, effective January 5, 2008 (Supp. 07-4). Amended by final expedited rulemaking at 24 A.A.R. 2682, effective September 4, 2018 (Supp. 18-3).

**R9-6-702. Required Immunizations for Child Care or School Entry**

Except as provided in R9-6-706, documentary proof of immunization, according to Table 7.1 or Table 7.2, for each of the following diseases is required for child care or school entry:

1. Diphtheria;
2. Tetanus;
3. Pertussis;
4. Hepatitis A, for a child 1 through 5 years of age in child care in Maricopa County;
5. Hepatitis B;
6. Poliomyelitis;
7. Measles (rubeola);
8. Mumps;
9. Rubella (German Measles);
10. *Haemophilus influenzae* type b, for a child two months through 59 months of age;
11. Varicella; and
12. Meningococcal disease.

**Historical Note**

Former Section R9-6-115, Paragraph (1), renumbered and amended as R9-6-702 effective January 28, 1987 (Supp. 87-1). Former Section R9-6-702 renumbered to Section R9-6-302, new Section R9-6-702 renumbered from R9-6-502 and amended effective October 19, 1993 (Supp. 93-4). Former Section R9-6-702 renumbered to R9-6-703; new Section R9-6-702 renumbered from R9-6-701 and amended by final rulemaking at 8 A.A.R. 4274, effective September 16, 2002 (Supp. 02-3). Amended by final rulemaking at 11 A.A.R. 2283, effective June 7, 2005 (Supp. 05-2). Amended by final rulemaking at 13 A.A.R. 4106, effective January 5, 2008 (Supp. 07-4). Amended by final expedited rulemaking at 24 A.A.R. 2682, effective September 4, 2018 (Supp. 18-3).

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**Table 7.1. Immunization Requirements for Child Care or School Entry**

Key:

DTaP = Diphtheria, tetanus, and acellular pertussis vaccine

DTP = Diphtheria, tetanus, and pertussis vaccine

Hep A = Hepatitis A vaccine

Hep B = Hepatitis B vaccine

Hib = *Haemophilus influenzae* type b vaccine

MMR = Measles, mumps, and rubella vaccine

MCV4 = Quadrivalent meningococcal vaccine

Polio = Inactivated poliomyelitis vaccine (IPV) or trivalent oral poliomyelitis vaccine (tOPV)

Td = Tetanus and diphtheria vaccine

Tdap = Tetanus, diphtheria, and acellular pertussis vaccine

VAR = Varicella vaccine

Kindergarten = The grade level in a school that precedes first grade

**A. Vaccine Doses Required for Child Care Attendance**

Vaccine Against ↓	Age →	2 months	4 months	6 months	12 months	15 months	18 months	19-59 months
Diphtheria, Tetanus, Pertussis		DTaP 1	DTaP 2	DTaP 3	---	DTaP 4	---	Documented 4 DTaP
Hepatitis B		Hep B 1	Hep B 2	---	Hep B 3	---	---	Documented 3 Hep B
<i>Haemophilus influenzae</i> type b		Hib 1	Hib 2	Hib 3 <sup>1</sup>	---	Hib 3 or 4 <sup>1</sup>	---	Documented 3-4 Hib, as specified in Note 3
Poliomyelitis		Polio 1 <sup>2</sup>	Polio 2 <sup>2</sup>	---	Polio 3 <sup>2</sup>	---	---	Documented 3 Polio
Measles, Mumps, Rubella		---	---	---	MMR 1	---	---	Documented 1 MMR
Varicella		---	---	---	VAR 1	---	---	Documented 1 VAR
Hepatitis A (Maricopa County only)		---	---	---	Hep A 1	---	Hep A 2	Documented 2 Hep A

<sup>1</sup> The recommended schedule for a four-dose Hib vaccine is two, four, and six months of age with a booster dose at 12-15 months of age. The recommended schedule for a three-dose Hib vaccine is two and four months of age with a booster dose at 12-15 months of age.

<sup>2</sup> Bivalent and monovalent oral poliomyelitis vaccines do not meet these immunization requirements. An oral poliomyelitis vaccine received before April 2016 is assumed to be trivalent oral poliomyelitis vaccine, unless otherwise specified, and to satisfy immunization requirements.

**B. Vaccine Doses Required for School Attendance. A child at any age within the range designated by the black bar is required to have documentation of the indicated number of doses of the specified vaccine.**

Vaccine Against ↓	Age →	4 - 6 years and attendance in Kindergarten or 1st grade	7 - 10 years	11 years or older
Diphtheria, Tetanus, Pertussis		4 to 6 DTP/DTaP <sup>1</sup>	3 or 4 tetanus-diphtheria containing vaccines <sup>2</sup>	3 to 5 tetanus-diphtheria-containing vaccines, including 1 Tdap <sup>2,3</sup>
Meningococcal invasive disease		---	---	1 MCV4
Hepatitis B		3 to 4 Hep B <sup>4</sup>		2 to 4 Hep B <sup>4,5</sup>
Poliomyelitis		3 or 4 Polio <sup>6</sup>		
Measles, Mumps, Rubella		2 MMR		
Varicella zoster		1-2 VAR <sup>7</sup>		

<sup>1</sup> Only four doses of DTP/DTaP are required if the fourth dose of DTP/DTaP was received after the child's fourth birthday; otherwise an additional dose is required after the child's fourth birthday, up to a maximum of six doses.

<sup>2</sup> Only three doses of tetanus-diphtheria-containing vaccine are required if the first dose of tetanus-diphtheria-containing vaccine was received on or after the child's first birthday; otherwise four are required.

<sup>3</sup> One dose of Tdap is required if five years have passed since the date of the child's last dose of tetanus-diphtheria-containing vaccine and the child has not received Tdap. At least one dose of a tetanus-diphtheria-containing vaccine is required to have been administered within the previous 10 years.

<sup>4</sup> Only three doses are required if the third dose was received at or after the child was 24 weeks of age; otherwise four are required.

<sup>5</sup> Only two doses, at least four months apart, are required if the child received the adolescent series using the Merck Recombivax HB Adult Formulation vaccine when the child was 11-15 years of age.

<sup>6</sup> Bivalent and monovalent oral poliomyelitis vaccines do not meet these immunization requirements. An oral poliomyelitis vaccine received before April 2016 is assumed to be trivalent oral poliomyelitis vaccine, unless otherwise specified, and to satisfy immunization

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requirements. Only three doses are required if the third dose was received after the child's fourth birthday and at least six months after the second dose; otherwise four doses are required, with the last received after the child's fourth birthday. Poliomyelitis vaccine is not required for individuals 18 years of age or older.

- 7 One dose is required if received by a child between 12 months and 12 years of age. A child who received a first dose of VAR at 13 years of age or older is required to receive a second dose if at least four weeks have passed since the date of the first dose.

**Historical Note**

Table 7.1 made by final expedited rulemaking at 24 A.A.R. 2682, effective September 4, 2018 (Supp. 18-3).

**Table 7.2. Immunization Schedule for a Child Who Has Not Completed the Vaccine Series Required in Table 7.1 before Entry into a Child Care or School**

- A. If a child does not meet the applicable requirements in Table 7.1, the child is required to have the first dose of vaccine for each of the diseases indicated in R9-6-702 before school entry or no later than 15 calendar days after child care entry.
- B. If a child does not meet the applicable requirements in Table 7.1, the child is required to have the second and subsequent doses of vaccine for each of the diseases indicated in R9-6-702 either:
1. Before school entry or no later than 15 calendar days after child care entry, or
  2. At the intervals specified below.

		Intervals between Doses			
Vaccine Against ↓	Dose →	2nd Dose	3rd Dose	4th Dose	5th Dose
Diphtheria, Tetanus, Pertussis					
Child < 7 years of age  (DTP or a combination of DTP and DTaP)		No sooner than four weeks after the first dose	No sooner than four weeks after the second dose	No sooner than six months after the third dose	No sooner than six months after the fourth dose, if the fourth dose was received at < 4 years of age
Child 7 through 10 years of age  (Tetanus-diphtheria containing vaccines)		No sooner than four weeks after the first dose	No sooner than six months after the second dose	No sooner than six months after the third dose, if the first dose was received at < 12 months of age	---
Child > 10 years of age  (Tetanus-diphtheria containing vaccine, including one Tdap)		No sooner than four weeks after the first dose	No sooner than six months after the second dose	No sooner than six months after the third dose, if the first dose was received at < 12 months of age	---
Poliomyelitis					
Child < 4 years of age		No sooner than four weeks after the first dose	No sooner than four weeks after the second dose	No sooner than six months after the third dose, if the third dose was received at < 4 years of age	---
Child between 4 and 18 years of age		No sooner than four weeks after the first dose	No sooner than six months after the second dose	No sooner than six months after the third dose, if the third dose was received at < 4 years of age	---
Measles, Mumps, Rubella Child 4 years of age or older		No sooner than one month after the first dose	---	---	---
Haemophilus influenzae type b					
Child 7-11 months of age		No sooner than two months after the first dose	---	---	---
Child 12-14 months of age		No sooner than two months after the first dose	No sooner than two months after the second dose if the first or second dose was received at < 12 months of age	---	---

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Child 15-59 months of age	---	---	---	---
	(A child 15 through 59 months of age is required to have one dose of vaccine.)			
<b>Hepatitis B</b>	No sooner than four weeks after the first dose  (Only two doses, at least four months apart, are required if the child received the adolescent series using the Merck Recombivax HB Adult Formulation vaccine when the child was 11-15 years of age.)	No sooner than four months after the first dose and two months after the second dose for a child $\geq 24$ weeks of age who did not receive the adolescent series.	---	---
<b>Hepatitis A</b> (Maricopa County only)	No sooner than six months after the first dose	---	---	---
<b>Varicella</b> (A child 12 months through 12 years of age is required to have one dose of vaccine.)	No sooner than one month after the first dose for a child 13 years of age or older	---	---	---

**Historical Note**

Table 7.2 made by final expedited rulemaking at 24 A.A.R. 2682, effective September 4, 2018 (Supp. 18-3).

**R9-6-703. Responsibilities of Individuals and Local Health Agencies for Administering Vaccines**

- A. Upon request of a parent, a local health agency shall provide for the immunization of a child against any disease listed in R9-6-702.
- B. An individual administering a vaccine shall ensure that the dosage and route by which the vaccine is administered is:
  1. As recommended by the Centers for Disease Control and Prevention, or
  2. According to the manufacturer's recommendations.
- C. Before administering a vaccine to a child, the individual administering the vaccine shall:
  1. Provide the child's parent with the following information in writing:
    - a. A description of the disease,
    - b. A description of the vaccine,
    - c. A statement of the risks of the disease and the risks and benefits of immunization, and
    - d. Contraindications for administering the vaccine; and
  2. Obtain documentation from the child's parent confirming that the child's parent:
    - a. Was provided the information described in subsection (C)(1),
    - b. Was provided an opportunity to read the information described in subsection (C)(1),
    - c. Was provided an opportunity to ask questions, and
    - d. Requests that the designated vaccine be administered to the child.
- D. Following the administration of a vaccine, the individual administering the vaccine shall provide to the child's parent or, if a child is immunized at school, to the child to give to the child's parent:
  1. Information in writing about:
    - a. The vaccine administered,
    - b. The reactions to the vaccine that might be expected, and
  - c. The course of action if a reaction to the vaccine occurs that may require medical attention; and
  2. Documentary proof of immunization, according to A.R.S. § 36-674 and R9-6-704(A).

**Historical Note**

Former Section R9-6-115, Paragraph (2), renumbered and amended as R9-6-703 effective January 28, 1987 (Supp. 87-1). Former Section R9-6-703 renumbered to Section R9-6-303, new Section R9-6-703 renumbered from R9-6-503 and amended effective October 19, 1993 (Supp. 93-4). Former Section R9-6-703 renumbered to R9-6-704; new Section R9-6-703 renumbered from R9-6-702 and amended by final rulemaking at 8 A.A.R. 4274, effective September 16, 2002 (Supp. 02-3). Amended by final expedited rulemaking at 24 A.A.R. 2682, effective September 4, 2018 (Supp. 18-3).

**R9-6-704. Standards for Documentary Proof of Immunization or Immunity**

- A. An administrator of a school or a child care administrator shall accept any of the following as documentary proof of immunization for a child:
  1. A copy of a document recording the immunizations administered to the child that contains:
    - a. The child's name;
    - b. The child's date of birth;
    - c. The type of vaccine administered;
    - d. The month, day, and year of each immunization; and
    - e. The name of the individual administering the vaccine or the name of the entity that the individual administering the vaccine represents;
  2. A document from an Arizona school or child care recording the child's immunizations, including a print-out from a school-based or child care-based vaccination information system, that contains, in a Department-provided format:

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- a. The child's name;
  - b. The child's date of birth;
  - c. The type of vaccine administered;
  - d. The month, day, and year of each immunization;
  - e. The name and address of the school or child care; and
  - f. The name and signature of the individual at the school or child care providing the document to the child's parent and the date signed;
3. A document from a school in another state recording the child's immunizations; or
  4. A printout from an immunization registry containing the information in subsections (A)(1)(a) through (e).
- B.** An administrator of a school or a child care administrator shall accept a certification of medical exemption from immunization due to immunity, as specified in R9-6-706(D), as documentary proof of immunity for a child.
- Historical Note**
- Adopted effective January 28, 1987 (Supp. 87-1). Former Section R9-6-704 renumbered to Section R9-6-304, new Section R9-6-704 renumbered from R9-6-504 and amended effective October 19, 1993 (Supp. 93-4). Former Section R9-6-704 renumbered to R9-6-705; new Section R9-6-704 renumbered from R9-6-703 and amended by final rulemaking at 8 A.A.R. 4274, effective September 16, 2002 (Supp. 02-3). Amended by final rulemaking at 11 A.A.R. 2283, effective June 7, 2005 (Supp. 05-2). Amended by final expedited rulemaking at 24 A.A.R. 2682, effective September 4, 2018 (Supp. 18-3).
- R9-6-705. Responsibilities of Administrators of Schools, Child Care Administrators, and the Department**
- A.** An administrator of a school or a child care administrator shall ensure that:
1. For each child attending the school or child care, one of the following is maintained at the school or child care for each disease listed in R9-6-702:
    - a. Documentary proof of immunization, as specified in R9-6-704(A), according to Table 7.1;
    - b. Documentary proof of immunization, as specified in R9-6-704(A), demonstrating compliance with Table 7.2;
    - c. Documentary proof of immunity, as specified in R9-6-704(B) and according to R9-6-706(D); or
    - d. A statement of exemption from immunization, as specified in R9-6-706(A) through (C);
  2. Lists are maintained at the school or child care of children who:
    - a. Do not have documentary proof of:
      - i. Immunization for each disease listed in R9-6-702, according to Table 7.1; or
      - ii. Immunity for each disease listed in R9-6-702, according to R9-6-706(D);
    - b. Do not have documentary proof according to subsection (A)(1)(a) or (c) but are in compliance with Table 7.2; or
    - c. Have a statement of exemption from immunization, according to R9-6-706(A), (B), or (C), for any of the diseases listed in R9-6-702;
  3. Except as provided in subsection (D), for a child enrolled in school who does not have one of the documents in subsection (A)(1) for each disease listed in R9-6-702:
    - a. The child's parent is notified in writing at the time of school enrollment or, for an enrolled child, at the time of review of immunization documentation that the child:
      - i. Is not in compliance with Arizona immunization requirements; and
      - ii. Except as required by 42 U.S.C. 11301, will be excluded from school entry, according to A.R.S. § 15-872(B), unless the documentation required in subsection (A)(1) is provided for each disease listed in R9-6-702 before school entry; and
    - b. The child is excluded from school entry if the required documentation is not provided before school entry; and
- 4.** Except as provided in subsection (D), for a child enrolled in a child care who does not have one of the documents in subsection (A)(1) for each disease listed in R9-6-702:
- a. The child's parent is notified in writing before or at the time of child care entry or, for an enrolled child, at the time of review of immunization documentation that the child:
    - i. Is not in compliance with Arizona immunization requirements; and
    - ii. May attend the child care for not more than 15 days from the date of child care entry without providing one of the documents in subsection (A)(1) for each disease listed in R9-6-702; and
  - b. The child is excluded from child care entry if the required documentation is not provided for the child within 15 days following child care entry.
- B.** If an administrator of a school or a child care administrator questions the accuracy of a document provided for a child as documentary proof of immunization or immunity and is unable to verify the accuracy of the document, the administrator of the school or the child care administrator shall notify the child's parent in writing that:
1. For a child attending a school:
    - a. The administrator of the school cannot verify compliance with Arizona immunization requirements on the basis of the documents provided; and
    - b. Except as required by 42 U.S.C. 11301, the child will be excluded from school entry, according to A.R.S. § 15-872(B), until the child's parent provides to the school documentation that meets the requirements in R9-6-704 or R9-6-706;
  2. For a child attending a child care:
    - a. The child care administrator cannot verify compliance with Arizona immunization requirements on the basis of the documents provided; and
    - b. The child may attend the child care for not more than 15 days after the date of child care entry without the child's parent providing to the child care documentation that meets the requirements in R9-6-704 or R9-6-706; and
  3. The child's parent may bring the child to a physician, a registered nurse practitioner, a local health agency, or, as authorized under A.R.S. § 32-1974, a pharmacist as defined in A.R.S. § 32-1901 to:
    - a. Review the child's immunization history,
    - b. Provide needed immunizations, and
    - c. Provide the required documentation.
- C.** An administrator of a school or a child care administrator shall not allow a child to attend the school or child care during an outbreak of a disease listed in R9-6-702, as determined by the Department or a local health agency, for which the child lacks:
1. Documentary proof of immunization, according to R9-6-704(A); or

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2. Documentary proof of immunity, according to R9-6-704(B).
  - D. If the Department receives notification from the Centers for Disease Control and Prevention that there is a shortage of a vaccine for a disease listed in R9-6-702, or that the amount of a vaccine for a disease listed in R9-6-702 is being limited, the Department shall:
    1. Determine whether:
      - a. Compliance with exclusion requirements in subsections (A)(3) and (4) is suspended for the vaccine in limited supply, or
      - b. A different vaccine or a combination of different vaccines may substitute for the vaccine in limited supply;
    2. Provide notification in writing to each school and child care in this state:
      - a. Of the shortage or limitation of the vaccine;
      - b. Whether the Department is:
        - i. Suspending compliance with exclusion requirements in subsections (A)(3) and (4) on the basis of the vaccine in limited supply; or
        - ii. Recommending an alternative vaccine or combination of vaccines to satisfy the requirement R9-6-702 for the vaccine in limited supply and, if so, the Department's recommendation; and
      - c. If known, when the shortage or limitation of the vaccine is expected to end and the vaccine to be available; and
    3. Upon receiving notification from the Centers for Disease Control and Prevention that the vaccine is available, notify each school and child care in this state:
      - a. That the vaccine is available, and
      - b. If applicable, the date that compliance with exclusion requirements in subsections (A)(3) and (4) will be reinstated.
  - E. The Department shall notify each school and child care in this state if the Department no longer requires compliance with subsection (A) for a disease listed in R9-6-702.
- Historical Note**
- Adopted effective January 28, 1987 (Supp. 87-1). Former Section R9-6-705 renumbered to Section R9-6-305, new Section R9-6-705 renumbered from R9-6-505 and amended effective October 19, 1993 (Supp. 93-4). Former Section R9-6-705 renumbered to R9-6-706; new Section R9-6-705 renumbered from R9-6-704 and amended by final rulemaking at 8 A.A.R. 4274, effective September 16, 2002 (Supp. 02-3). Amended by final expedited rulemaking at 24 A.A.R. 2682, effective September 4, 2018 (Supp. 18-3).
- R9-6-706. Exemptions from Immunizations**
- A. For a child attending a school, the child is exempt from the applicable immunization requirements in R9-6-702 for personal beliefs, as allowed by A.R.S. § 15-873(A)(1), if the child's parent submits to the school a statement of exemption from immunization for personal beliefs, in a Department-provided format, that contains:
    1. The parent's name,
    2. The child's name,
    3. The child's date of birth,
    4. The immunizations from which the child's parent is requesting an exemption,
    5. A statement that the parent is requesting the exemption based on personal beliefs, and
    6. The signature of the child's parent and the date signed.
  - B. For a child attending a child care, the child is exempt from the applicable immunization requirements in R9-6-702 for religious beliefs, as allowed in A.R.S. § 36-883(C), if the child's parent submits to the child care a statement of exemption from immunization for religious beliefs, in a Department-provided format, that contains:
    1. The parent's name,
    2. The child's name;
    3. The child's date of birth;
    4. The immunizations from which the child's parent is requesting an exemption;
    5. A statement that the parent is requesting the exemption based on religious beliefs, and
    6. The signature of the child's parent and the date signed.
  - C. A child is exempt from the applicable immunization requirements in R9-6-702, as allowed by A.R.S. § 15-873(A)(2), if the child's parent submits to a school or child care a certification of medical exemption from immunization, in a Department-provided format, that contains:
    1. The parent's name;
    2. The child's name;
    3. The child's date of birth;
    4. The immunizations from which the child's parent is requesting an exemption;
    5. A statement that the parent is requesting a medical exemption according to A.R.S. § 15-873(A)(2);
    6. Statements from a physician or registered nurse practitioner that:
      - a. The immunizations specified according to subsection (C)(4) may be harmful to the child's health;
      - b. Indicate the specific nature of the medical condition or circumstance that precludes immunization;
      - c. Indicate whether the medical exemption is permanent or temporary; and
      - d. If the medical exemption is temporary, provide the date the medical exemption ends;
    7. The signature of the physician or registered nurse practitioner providing the medical exemption and the date signed; and
    8. The signature of the child's parent and the date signed;
  - D. A child is exempt from the applicable immunization requirements in R9-6-702 due to immunity if the child's parent submits to a school or child care:
    1. A certification of medical exemption from immunization due to immunity, in a Department-provided format, that contains:
      - a. The parent's name;
      - b. The child's name;
      - c. The child's date of birth;
      - d. The name of each disease for which the child's parent is requesting an exemption from immunization requirements;
      - e. A statement that the parent is requesting a medical exemption from immunization due to the child's immunity to a disease;
      - f. A statement from a physician or registered nurse practitioner that the physician or registered nurse practitioner has determined that the child is immune to the disease specified according to subsection (D)(1)(d), for which an exemption from immunization requirements is being requested, based on:
        - i. For measles, rubella, or varicella, a review by the physician or registered nurse practitioner of laboratory evidence of immunity for the child; or

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- ii. For a disease other than measles, rubella, or varicella, a review by the physician or registered nurse practitioner of either:
    - (1) Laboratory evidence of immunity for the child, or
    - (2) The medical records of the physician or registered nurse practitioner;
  - g. The signature of the physician or registered nurse practitioner providing the medical exemption and the date signed; and
  - h. The signature of the child's parent and the date signed; and
  - 2. If applicable, a copy of the laboratory evidence of immunity.
- E.** An administrator of a school or a child care administrator shall:
- 1. Include a child's exemption from the requirements in R9-6-702 in the documentation required in R9-6-705(A)(1); and
  - 2. If a child has a temporary medical exemption:
    - a. Allow the child to attend a school or child care until the date the temporary exemption ends; and
    - b. At least 30 calendar days before the temporary medical exemption ends, notify the child's parent in writing of the date by which the child is required to complete all immunizations.

**Historical Note**

Former Section R9-6-115, Paragraph (3), renumbered and amended as R9-6-706 effective January 28, 1987 (Supp. 87-1). Former Section R9-6-706 renumbered to Section R9-6-306, new Section R9-6-706 renumbered from R9-6-506 and amended effective October 19, 1993 (Supp. 93-4). Amended effective April 4, 1997 (Supp. 97-2). Former Section R9-6-706 renumbered to R9-6-707; new Section R9-6-706 renumbered from R9-6-705 and amended by final rulemaking at 8 A.A.R. 4274, effective September 16, 2002 (Supp. 02-3). Amended by final rulemaking at 11 A.A.R. 2283, effective June 7, 2005 (Supp. 05-2). Amended by final rulemaking at 13 A.A.R. 4106, effective January 5, 2008 (Supp. 07-4). Amended by final expedited rulemaking at 24 A.A.R. 2682, effective September 4, 2018 (Supp. 18-3).

**Table 1. Renumbered****Historical Note**

Adopted effective January 20, 1992 (Supp. 92-1). Article 7, Table 1 renumbered from Article 5, Table 1 and amended effective October 19, 1993 (Supp. 93-4). Amended effective April 4, 1997 (Supp. 97-2). Amended by final rulemaking at 5 A.A.R. 496, effective January 19, 1999 (Supp. 99-1). Amended by final rulemaking at 6 A.A.R. 1310, effective March 17, 2000 (Supp. 00-1). Table 1 renumbered to follow R9-6-707 by final rulemaking at 8 A.A.R. 4274, effective September 16, 2002 (Supp. 02-3).

**Table 2. Renumbered****Historical Note**

Adopted effective January 20, 1992 (Supp. 92-1). Article 7, Table 2 renumbered from Article 5, Table 2 and amended effective October 19, 1993 (Supp. 93-4). Amended effective April 4, 1997 (Supp. 97-2). Amended by final rulemaking at 5 A.A.R. 496, effective January 19, 1999 (Supp. 99-1). Amended by final rulemaking at 6 A.A.R. 1310, effective March 17, 2000 (Supp. 00-1). Table 2 renumbered to follow R9-6-707 by final rulemak-

ing at 8 A.A.R. 4274, effective September 16, 2002 (Supp. 02-3).

**R9-6-707. Reporting Requirements**

- A.** By November 15 of each year, an administrator of a school shall submit to the Department a report, in a Department-provided format, that contains:
- 1. The name, the physical address, and, if different, the mailing address of the school;
  - 2. The date of the report;
  - 3. Whether the school is a:
    - a. Charter school, as defined in A.R.S. § 15-101;
    - b. Private school, as defined in A.R.S. § 15-101; or
    - c. Public school, as defined in A.R.S. § 15-101;
  - 4. The name, email address, and telephone number of an individual to contact for the school;
  - 5. The name and district number of the school district, if applicable;
  - 6. The county in which the school is located;
  - 7. The number of children enrolled at the school in designated grades, as of the date of the report; and
  - 8. The number of children in each of the designated grades who:
    - a. Have received each immunization required according to Table 7.1;
    - b. Have received an immunization required according to Table 7.1 or submitted a certification of medical exemption from immunization due to immunity, according to R9-6-706(D), for each of the diseases in R9-6-702, including the number for each disease for which certification of medical exemption from immunization due to immunity was submitted;
    - c. Have an exemption from immunization for personal beliefs, according to R9-6-706(A), for one or more of the diseases in R9-6-702, including the number for each disease;
    - d. Have a medical exemption from immunization, according to R9-6-706(C) for one or more of the diseases in R9-6-702, including:
      - i. The number for each disease, and
      - ii. Whether the medical exemption is temporary or permanent; or
    - e. Are receiving immunizations required according to Table 7.2, and the number of doses of each vaccine received.
- B.** By November 15 of each year, a child care administrator shall submit to the Department a report, in a Department-provided format, that contains:
- 1. The name, the physical address, and, if different, the mailing address of the child care;
  - 2. The date of the report;
  - 3. The name, email address, and telephone number of an individual to contact for the child care;
  - 4. The Department license or certificate number of the child care, as applicable;
  - 5. The name of the child care administrator; and
  - 6. The number of children attending the child care who are at least 18 months of age and not attending a school, as of the date of submission of the report, in each of the following categories:
    - a. Children who have received each immunization required according to Table 7.1;
    - b. Children who have received an immunization required according to Table 7.1 or submitted a certification of medical exemption from immunization due to immunity, according to R9-6-706(D), for each of the diseases in R9-6-702, including the num-



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ber for each disease for which laboratory evidence of immunity was submitted;

- c. Children who have an exemption from immunization for religious beliefs, according to R9-6-706(B), for one or more of the diseases in R9-6-702, including the number for each disease;
- d. Children who have a medical exemption from immunization, according to R9-6-706(C), for one or more of the diseases in R9-6-702, including:
  - i. The number for each disease, and
  - ii. Whether the medical exemption is temporary or permanent; or
- e. Children who are receiving immunizations required according to Table 7.2, and the number of doses of each vaccine received.

**Historical Note**

Former Section R9-6-115, Paragraph (5), renumbered and amended as R9-6-707 effective January 28, 1987 (Supp. 87-1). Renumbered to Section R9-6-307 effective October 19, 1993 (Supp. 93-4). Adopted effective April 4, 1997 (Supp. 97-4). Former Section R9-6-707 renumbered to R9-6-708; new Section R9-6-707 renumbered from R9-6-706 and amended by final rulemaking at 8 A.A.R. 4274, effective September 16, 2002 (Supp. 02-3). Amended by final rulemaking at 13 A.A.R. 4106, effective January 5, 2008 (Supp. 07-4). Amended by final expedited rulemaking at 24 A.A.R. 2682, effective September 4, 2018 (Supp. 18-3).

**Table 1. Repealed****Historical Note**

Table 1 renumbered from placement after R9-6-706 and amended by final rulemaking at 8 A.A.R. 4274, effective September 16, 2002 (Supp. 02-3). Amended by final rulemaking at 11 A.A.R. 2283, effective June 7, 2005 (Supp. 05-2). Amended by final rulemaking at 13 A.A.R. 4106, effective January 5, 2008 (Supp. 07-4). Table 1 repealed by final expedited rulemaking at 24 A.A.R. 2682, effective September 4, 2018 (Supp. 18-3).

**Table 2. Repealed****Historical Note**

Table 2 renumbered from placement after R9-6-706 and amended by final rulemaking at 8 A.A.R. 4274, effective September 16, 2002 (Supp. 02-3). Amended by final rulemaking at 11 A.A.R. 2283, effective June 7, 2005 (Supp. 05-2). Amended by final rulemaking at 13 A.A.R. 4106, effective January 5, 2008 (Supp. 07-4). Table 2 repealed by final expedited rulemaking at 24 A.A.R. 2682, effective September 4, 2018 (Supp. 18-3).

**R9-6-708. Release of Immunization Information**

In addition to the persons who have access to immunization information according to A.R.S. § 36-135(D), and consistent with the limitations in A.R.S. § 36-135(E) and (H), the Department may release immunization information to:

1. An authorized representative of a local health agency for the control, investigation, analysis, or follow-up of disease;
2. A child care administrator, to determine the immunization status of a child in the child care;
3. An authorized representative of the federal Women, Infants, and Children Program administered by the Department, to determine the immunization status of children enrolled in the federal Women, Infants, and Children Program;

4. An individual or organization authorized by the Department to conduct medical research to evaluate medical services and health-related services, as defined in A.R.S. § 36-401, health quality, immunizations data quality, and efficacy; or
5. An authorized representative of an out-of-state agency, including:
  - a. A state health department,
  - b. A health agency,
  - c. A school or child care,
  - d. A health care provider, or
  - e. A state agency that has legal custody of a child.

**Historical Note**

Adopted effective January 28, 1987 (Supp. 87-1). Renumbered to Section R9-6-309 effective October 19, 1993 (Supp. 93-4). New Section R9-6-708 renumbered from R9-6-707 and amended by final rulemaking at 8 A.A.R. 4274, effective September 16, 2002 (Supp. 02-3). Amended by final expedited rulemaking at 24 A.A.R. 2682, effective September 4, 2018 (Supp. 18-3).

**R9-6-709. Renumbered****Historical Note**

Former Section R9-6-115, Paragraph (6), renumbered and amended as R9-6-709 effective January 28, 1987 (Supp. 87-1). Renumbered to Section R9-6-310 effective October 19, 1993 (Supp. 93-4).

**R9-6-710. Renumbered****Historical Note**

Former Section R9-115, Paragraph (7), renumbered and amended as R9-6-710 effective January 28, 1987 (Supp. 87-1). Renumbered to Section R9-6-311 effective October 19, 1993 (Supp. 93-4).

**R9-6-711. Renumbered****Historical Note**

Former Section R9-6-115, Paragraph (8), renumbered and amended as R9-6-711 effective January 28, 1987 (Supp. 87-1). Renumbered to Section R9-6-313 effective October 19, 1993 (Supp. 93-4).

**R9-6-712. Renumbered****Historical Note**

Adopted effective January 28, 1987 (Supp. 87-1). Renumbered to Section R9-6-315 effective October 19, 1993 (Supp. 93-4).

**R9-6-713. Renumbered****Historical Note**

Former Section R9-6-115, Paragraph (9), renumbered and amended as R9-6-713 effective January 28, 1987 (Supp. 87-1). Renumbered to Section R9-6-316 effective October 19, 1993 (Supp. 93-4).

**R9-6-714. Renumbered****Historical Note**

Former Section R9-6-115, Paragraph (10), renumbered and amended as R9-6-714 effective January 28, 1987 (Supp. 87-1). Renumbered to Section R9-6-317 effective October 19, 1993 (Supp. 93-4).

**R9-6-715. Renumbered**

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**Historical Note**

Former Section R9-6-115, Paragraph (11), renumbered and amended as R9-6-715 effective January 28, 1987 (Supp. 87-1). Renumbered to Section R9-6-319 effective October 19, 1993 (Supp. 93-4).

**R9-6-716. Renumbered****Historical Note**

Adopted effective January 28, 1987 (Supp. 87-1). Renumbered to Section R9-6-320 effective October 19, 1993 (Supp. 93-4).

**R9-6-717. Renumbered****Historical Note**

Former Section R9-6-115, Paragraph (12), renumbered and amended as R9-6-717 effective January 28, 1987 (Supp. 87-1). Renumbered to Section R9-6-321 effective October 19, 1993 (Supp. 93-4).

**R9-6-718. Renumbered****Historical Note**

Former Section R9-6-115, Paragraph (13), renumbered and amended as R9-6-718 effective January 28, 1987 (Supp. 87-1). Renumbered to Section R9-6-322 effective October 19, 1993 (Supp. 93-4).

**R9-6-719. Renumbered****Historical Note**

Adopted effective January 28, 1987 (Supp. 87-1) Renumbered to Section R9-6-323 effective October 19, 1993 (Supp. 93-4).

**R9-6-720. Renumbered****Historical Note**

Former Section R9-6-115, Paragraph (14), renumbered and amended as R9-6-720 effective January 28, 1987 (Supp. 87-1). Renumbered to Section R9-6-324 effective October 19, 1993 (Supp. 93-4).

**R9-6-721. Renumbered****Historical Note**

Former Section R9-6-115, Paragraph (15), renumbered and amended as R9-6-721 effective January 28, 1987 (Supp. 87-1). Renumbered to Section R9-6-325 effective October 19, 1993 (Supp. 93-4).

**R9-6-722. Renumbered****Historical Note**

Former Section R9-6-115, Paragraph (18), renumbered and amended as R9-6-722 effective January 28, 1987 (Supp. 87-1). Renumbered to Section R9-6-327 effective October 19, 1993 (Supp. 93-4).

**R9-6-723. Renumbered****Historical Note**

Former Section R9-6-115, Paragraph (16), renumbered and amended as R9-6-723 effective January 28, 1987 (Supp. 87-1). Renumbered to Section R9-6-330 effective October 19, 1993 (Supp. 93-4).

**R9-6-724. Renumbered****Historical Note**

Former Section R9-6-115, Paragraph (17), renumbered and amended as R9-6-724 effective January 28, 1987

(Supp. 87-1). Renumbered to Section R9-6-331 effective October 19, 1993 (Supp. 93-4).

**R9-6-725. Renumbered****Historical Note**

Adopted effective January 28, 1987 (Supp. 87-1). Renumbered to Section R9-6-332 effective October 19, 1993 (Supp. 93-4).

**R9-6-726. Renumbered****Historical Note**

Adopted effective January 28, 1987 (Supp. 87-1). Renumbered to Section R9-6-333 effective October 19, 1993 (Supp. 93-4).

**R9-6-727. Renumbered****Historical Note**

Adopted effective January 28, 1987 (Supp. 87-1). Renumbered to Section R9-6-334 effective October 19, 1993 (Supp. 93-4).

**R9-6-728. Renumbered****Historical Note**

Former Section R9-6-115, Paragraph (19), renumbered and amended as R9-6-728 effective January 28, 1987 (Supp. 87-1). Renumbered to Section R9-6-335 effective October 19, 1993 (Supp. 93-4).

**R9-6-729. Renumbered****Historical Note**

Former Section R9-6-115, Paragraph (20), renumbered and amended as R9-6-729 effective January 28, 1987 (Supp. 87-1). Renumbered to Section R9-6-336 effective October 19, 1993 (Supp. 93-4).

**R9-6-730. Renumbered****Historical Note**

Former Section R9-6-115, Paragraph (21), renumbered and amended as R9-6-730 effective January 28, 1987 (Supp. 87-1). Renumbered to Section R9-6-337 effective October 19, 1993 (Supp. 93-4).

**R9-6-731. Renumbered****Historical Note**

Former Section R9-6-115, Paragraph (22), renumbered and amended as R9-6-731 effective January 28, 1987 (Supp. 87-1). Renumbered to Section R9-6-338 effective October 19, 1993 (Supp. 93-4).

**R9-6-732. Renumbered****Historical Note**

Former Section R9-6-115, Paragraph (23), renumbered and amended as R9-6-732 effective January 28, 1987 (Supp. 87-1). Renumbered to Section R9-6-339 effective October 19, 1993 (Supp. 93-4).

**R9-6-733. Renumbered****Historical Note**

Former Section R9-6-115, Paragraph (45), renumbered and amended as R9-6-733 effective January 28, 1987 (Supp. 87-1). Renumbered to Section R9-6-340 effective October 19, 1993 (Supp. 93-4).

**R9-6-734. Renumbered**

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**Historical Note**

Former Section R9-6-115, Paragraph (24), renumbered and amended as R9-6-734 effective January 28, 1987 (Supp. 87-1). Renumbered to Section R9-6-341 effective October 19, 1993 (Supp. 93-4).

**R9-6-735. Renumbered****Historical Note**

Former Section R9-6-115, Paragraph (25), renumbered and amended as R9-6-735 effective January 28, 1987 (Supp. 87-1). Renumbered to Section R9-6-342 effective October 19, 1993 (Supp. 93-4).

**R9-6-736. Renumbered****Historical Note**

Former R9-6-115, Paragraph (26), renumbered and amended as R9-6-736 effective January 28, 1987 (Supp. 87-1). Renumbered to Section R9-6-343 effective October 19, 1993 (Supp. 93-4).

**R9-6-737. Renumbered****Historical Note**

Adopted effective January 28, 1987 (Supp. 87-1). Renumbered to Section R9-6-344 effective October 19, 1993 (Supp. 93-4).

**R9-6-738. Renumbered****Historical Note**

Former Section R9-6-115, Paragraph (27), renumbered and amended as R9-6-738 effective January 28, 1987 (Supp. 87-1). Renumbered to Section R9-6-345 effective October 19, 1993 (Supp. 93-4).

**R9-6-739. Renumbered****Historical Note**

Adopted effective January 28, 1987 (Supp. 87-1). Renumbered to Section R9-6-346 effective October 19, 1993 (Supp. 93-4).

**R9-6-740. Renumbered****Historical Note**

Former Section R9-6-115, Paragraph (28), renumbered and amended as R9-6-740 effective January 28, 1987 (Supp. 87-1). Renumbered to Section R9-6-347 effective October 19, 1993 (Supp. 93-4).

**R9-6-741. Renumbered****Historical Note**

Former Section R9-6-115, Paragraph (29), renumbered and amended as R9-6-741 effective January 28, 1987 (Supp. 87-1). Renumbered to Section R9-6-348 effective October 19, 1993 (Supp. 93-4).

**R9-6-742. Renumbered****Historical Note**

Former Section R9-6-115, Paragraph (30), renumbered and amended as R9-6-742 effective January 28, 1987 (Supp. 87-1). Renumbered to Section R9-6-349 effective October 19, 1993 (Supp. 93-4).

**R9-6-743. Renumbered****Historical Note**

Former Section R9-6-115, Paragraph (31), renumbered and amended as R9-6-743 effective January 28, 1987

(Supp. 87-1). Renumbered to Section R9-6-350 effective October 19, 1993 (Supp. 93-4).

**R9-6-744. Renumbered****Historical Note**

Former Section R9-6-115, Paragraph (32), renumbered and amended as R9-6-744 effective January 28, 1987 (Supp. 87-1). Renumbered to Section R9-6-351 effective October 19, 1993 (Supp. 93-4).

**R9-6-745. Renumbered****Historical Note**

Former Section R9-6-115, Paragraph (33), renumbered and amended as R9-6-745 effective January 28, 1987 (Supp. 87-1). Renumbered to Section R9-6-352 effective October 19, 1993 (Supp. 93-4).

**R9-6-746. Renumbered****Historical Note**

Former Section R9-6-115, Paragraph (34.) renumbered and amended as R9-6-746 effective January 28, 1987 (Supp. 87-1). Renumbered to Section R9-6-353 effective October 19, 1993 (Supp. 93-4).

**R9-6-747. Repealed****Historical Note**

Former Section R9-6-115, Paragraph (35), renumbered and amended as R9-6-747 effective January 28, 1987 (Supp. 87-1). Repealed effective October 19, 1993 (Supp. 93-4).

**R9-6-748. Renumbered****Historical Note**

Former Section R9-6-115, Paragraph (36), renumbered and amended as R9-6-748 effective January 28, 1987 (Supp. 87-1). Renumbered to Section R9-6-354 effective October 19, 1993 (Supp. 93-4).

**R9-6-749. Renumbered****Historical Note**

Former Section R9-6-115, Paragraph (37), renumbered and amended as R9-6-749 effective January 28, 1987 (Supp. 87-1). Renumbered to Section R9-6-355 effective October 19, 1993 (Supp. 93-4).

**R9-6-750. Renumbered****Historical Note**

Former Section R9-6-115, Paragraph (38), renumbered and amended as R9-6-750 effective January 28, 1987 (Supp. 87-1). Renumbered to Section R9-6-356 effective October 19, 1993 (Supp. 93-4).

**R9-6-751. Renumbered****Historical Note**

Former Section R9-6-115, Paragraph (39), renumbered and amended as R9-6-751 effective January 28, 1987 (Supp. 87-1). Renumbered to Section R9-6-358 effective October 19, 1993 (Supp. 93-4).

**R9-6-752. Renumbered****Historical Note**

Adopted effective January 28, 1987 (Supp. 87-1). Renumbered to Section R9-6-359 effective October 19, 1993 (Supp. 93-4).

**R9-6-753. Renumbered**

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**Historical Note**

Former Section R9-6-115, Paragraph (40), renumbered and amended as R9-6-753 effective January 28, 1987 (Supp. 87-1). Renumbered to Section R9-6-360 effective October 19, 1993 (Supp. 93-4).

**R9-6-754. Renumbered****Historical Note**

Former Section R9-6-115, Paragraph (41), renumbered and amended as R9-6-754 effective January 28, 1987 (Supp. 87-1). Renumbered to Section R9-6-361 effective October 19, 1993 (Supp. 93-4).

**R9-6-755. Renumbered****Historical Note**

Former Section R9-6-115, Paragraph (42), renumbered and amended as R9-6-755 effective January 28, 1987 (Supp. 87-1). Renumbered to Section R9-6-362 effective October 19, 1993 (Supp. 93-4).

**R9-6-756. Renumbered****Historical Note**

Former Section R9-6-115, Paragraph (43), renumbered and amended as R9-6-756 effective January 28, 1987 (Supp. 87-1). Renumbered to Section R9-6-363 effective October 19, 1993 (Supp. 93-4).

**R9-6-757. Renumbered****Historical Note**

Former Section R9-6-115, Paragraph (44), renumbered and amended as R9-6-757 effective January 28, 1987 (Supp. 87-1). Renumbered to Section R9-6-364 effective October 19, 1993 (Supp. 93-4).

**R9-6-758. Renumbered****Historical Note**

Former Section R9-6-115, Paragraph (4), renumbered and amended as R9-6-758 effective January 28, 1987 (Supp. 87-1). Renumbered to Section R9-6-365 effective October 19, 1993 (Supp. 93-4).

**R9-6-759. Renumbered****Historical Note**

Former Section R9-6-115, Paragraph (46), renumbered and amended as R9-6-759 effective January 28, 1987 (Supp. 87-1). Renumbered to Section R9-6-366 effective October 19, 1993 (Supp. 93-4).

**ARTICLE 8. ASSAULTS ON HOSPITAL EMPLOYEES, PUBLIC SAFETY EMPLOYEES AND VOLUNTEERS, OR STATE HOSPITAL EMPLOYEES**

*Article 8 heading corrected as amended by final expedited rulemaking at 24 A.A.R. 2758, effective September 11, 2018 (Supp. 19-4).*

*New Article 8, consisting of Sections R9-6-801 through R9-6-803, made by final rulemaking at 8 A.A.R. 5214, effective February 1, 2003 (Supp. 02-4).*

**R9-6-801. Definitions**

In addition to the definitions in A.R.S. § 13-1210 and R9-6-101, the following definitions apply in this Article unless otherwise specified:

1. “Employer” means an individual in the senior leadership position with an agency or entity for which a named employee or volunteer works or that individual’s designee.

2. “Named employee or volunteer” means one of the following who is listed as the assaulted individual in a petition, filed under A.R.S. § 13-1210 and granted by a court:
  - a. Hospital employee,
  - b. Public safety employee or volunteer, or
  - c. Arizona State Hospital employee.
3. “Occupational health provider” means a physician, physician assistant, registered nurse practitioner, or registered nurse, as defined in A.R.S. § 32-1601, who provides medical services for work-related health conditions for an agency or entity for which a named employee or volunteer works.

**Historical Note**

Adopted as an emergency effective January 12, 1988, pursuant to A.R.S. § 41-1026, valid for only 90 days (Supp. 88-1). Emergency expired. Readopted without change as an emergency effective May 9, 1988, pursuant to A.R.S. § 41-1026, valid for only 90 days (Supp. 88-2). Amended and readopted as an emergency effective August 8, 1988, pursuant to A.R.S. § 41-1026, valid for only 90 days (Supp. 88-3). Emergency expired. Readopted without change as an emergency effective November 16, 1988, pursuant to A.R.S. § 41-1026, valid for only 90 days (Supp. 88-4). Emergency expired. Adopted without change as a permanent rule effective May 22, 1989. Amended as an emergency effective June 26, 1989, pursuant to A.R.S. § 41-1026, valid for only 90 days (Supp. 89-2). Emergency expired. Emergency amendment readopted without change effective October 17, 1989 (Supp. 89-4). Amended effective September 19, 1990 (Supp. 90-3). Renumbered to R9-6-401 effective October 19, 1993 (Supp. 93-4). New Section made by final rulemaking at 8 A.A.R. 5214, effective February 1, 2003 (Supp. 02-4). Amended by final rulemaking at 14 A.A.R. 1502, effective April 1, 2008 (Supp. 08-2). Amended by final expedited rulemaking at 24 A.A.R. 2758, effective September 11, 2018 (Supp. 18-3). Amended by final expedited rulemaking at 26 A.A.R. 1065, with an immediate effective date of May 7, 2020 (Supp. 20-2).

**R9-6-802. Notice of Test Results**

- A. Within 10 working days after the date of receipt of a laboratory report for a test ordered by a health care provider as a result of a court order issued under A.R.S. § 13-1210, the ordering health care provider shall:
  1. If the test is conducted on the blood of a court-ordered subject who is incarcerated or detained:
    - a. Provide a written copy of the laboratory report to the chief medical officer of the correctional facility in which the court-ordered subject is incarcerated or detained; and
    - b. Notify the occupational health provider in writing of the results of the test; and
  2. If the test is conducted on the blood of a court-ordered subject who is not incarcerated or detained:
    - a. Unless the court-ordered subject is deceased, notify the court-ordered subject as specified in subsection (D);
    - b. If requested by the court-ordered subject, provide a written copy of the laboratory report to the court-ordered subject; and
    - c. Notify the occupational health provider in writing of the results of the test.
- B. Within five working days after the date of receipt of a laboratory report for a court-ordered subject who is incarcerated or

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detained, the chief medical officer of the correctional facility in which the court-ordered subject is incarcerated or detained shall:

1. Notify the court-ordered subject as specified in subsection (D);
  2. If requested by the court-ordered subject, provide a written copy of the laboratory report to the court-ordered subject; and
  3. Notify the officer in charge of the correctional facility as specified in subsection (E).
- C.** Within five working days after an occupational health provider receives written notice of test results as required in subsection (A), the occupational health provider shall notify:
1. The named employee or volunteer as specified in subsection (D); and
  2. The employer as specified in subsection (E).
- D.** An individual who provides notice to a court-ordered subject or named employee or volunteer as required under subsection (A), (B), or (C) shall describe the test results and provide or arrange for the court-ordered subject or named employee or volunteer to receive the following information about each agent for which the court-ordered subject was tested:
1. A description of the disease or syndrome caused by the agent, including its symptoms;
  2. A description of how the agent is transmitted to others;
  3. The average window period for the agent;
  4. An explanation that a negative test result does not rule out infection and that retesting for the agent after the average window period has passed is necessary to rule out infection;
  5. Measures to reduce the likelihood of transmitting the agent to others and that it is necessary to continue the measures until a negative test result is obtained after the average window period has passed or until an infection, if detected, is eliminated;
  6. That it is necessary to notify others that they may be or may have been exposed to the agent by the individual receiving notice;
  7. The availability of assistance from local health agencies or other resources; and
  8. The confidential nature of the court-ordered subject's test results.
- E.** An individual who provides notice to the officer in charge of a correctional facility, as required under subsection (B), or to an employer, as required under subsection (C), shall describe the test results and provide or arrange for the officer in charge of the facility or the employer to receive the following information about each agent for which a court-ordered subject's test results indicate the presence of infection:
1. A description of the disease or syndrome caused by the agent, including its symptoms;
  2. A description of how the agent is transmitted to others;
  3. Measures to reduce the likelihood of transmitting the agent to others;
  4. The availability of assistance from local health agencies or other resources; and
  5. The confidential nature of the court-ordered subject's test results.
- F.** An individual who provides notice under this Section shall not provide a copy of the laboratory report to anyone other than the court-ordered subject and, if the court-ordered subject is incarcerated or detained, the chief medical officer of the correctional facility in which the court-ordered subject is incarcerated or detained.
- G.** An individual who provides notice under this Section shall protect the confidentiality of the court-ordered subject's personal identifying information and test results.
- H.** A health care provider who orders a test on the blood of a court-ordered subject who is not incarcerated or detained may, at the time the court-ordered subject is seen by the ordering health care provider, present the court-ordered subject with a telephone number and instruct the court-ordered subject to contact the ordering health care provider after a stated period of time for notification of the test results.
- I.** A health care provider who orders a test has not satisfied the obligation of the health care provider to notify under subsection (A) if:
1. The health care provider provides a telephone number and instructions, as allowed by subsection (H), for a court-ordered subject to contact the ordering health care provider and receive the information specified in subsection (D); and
  2. The court-ordered subject does not contact the ordering health care provider.
- J.** A health care provider who orders a test on a court-ordered subject's blood shall comply with all applicable reporting requirements contained in this Chapter.

**Historical Note**

Adopted as an emergency effective January 12, 1988, pursuant to A.R.S. § 41-1026, valid for only 90 days (Supp. 88-1). Emergency expired. Readopted without change as an emergency effective May 9, 1988, pursuant to A.R.S. § 41-1026, valid for only 90 days (Supp. 88-2).

Amended and readopted as an emergency effective August 8, 1988, pursuant to A.R.S. § 41-1026, valid for only 90 days (Supp. 88-3). Emergency expired.

Readopted without change as an emergency effective November 16, 1988, pursuant to A.R.S. § 41-1026, valid for only 90 days (Supp. 88-4). Emergency expired.

Adopted without change as a permanent rule effective May 22, 1989 (Supp. 89-2). Amended effective September 19, 1990 (Supp. 90-3). Amended as an emergency effective August 8, 1990, pursuant to A.R.S. § 41-1026, valid for only 90 days (Supp. 90-3). Emergency expired.

Emergency amendments re-adopted without change effective November 19, 1990, pursuant to A.R.S. § 41-1026, valid for only 90 days (Supp. 90-4). Emergency expired. Emergency amendments re-adopted without change effective February 28, 1991, pursuant to A.R.S. § 41-1026, valid for only 90 days (Supp. 91-1). Emergency expired. Renumbered to R9-6-402 effective October 19, 1993 (Supp. 93-4). New Section made by final rulemaking at 8 A.A.R. 5214, effective February 1, 2003 (Supp. 02-4). Amended by final rulemaking at 14 A.A.R. 1502, effective April 1, 2008 (Supp. 08-2). Amended by final expedited rulemaking at 24 A.A.R. 2758, effective September 11, 2018 (Supp. 18-3).

**R9-6-803. Repealed****Historical Note**

Adopted as an emergency effective January 12, 1988, pursuant to A.R.S. § 41-1026, valid for only 90 days (Supp. 88-1). Emergency expired. Readopted without change as an emergency effective May 9, 1988, pursuant to A.R.S. § 41-1026, valid for only 90 days (Supp. 88-2).

Amended and readopted as an emergency effective August 8, 1988, pursuant to A.R.S. § 41-1026, valid for only 90 days (Supp. 88-3). Emergency expired.

Readopted without change as an emergency effective November 16, 1988, pursuant to A.R.S. § 41-1026, valid

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for only 90 days (Supp. 88-4). Emergency expired. Amended subsection (B) and adopted as a permanent rule effective May 22, 1989 (Supp. 89-2). Amended as an emergency effective August 8, 1990, pursuant to A.R.S. § 41-1026, valid for only 90 days (Supp. 90-3). Emergency expired. Emergency amendments re-adopted without change effective November 19, 1990, pursuant to A.R.S. § 41-1026, valid for only 90 days (Supp. 90-4). Emergency expired. Emergency amendments re-adopted without change effective February 28, 1991, pursuant to A.R.S. § 41-1026, valid for only 90 days (Supp. 91-1). Emergency expired. Renumbered to R9-6-403 effective October 19, 1993 (Supp. 93-4). New Section made by final rulemaking at 8 A.A.R. 5214, effective February 1, 2003 (Supp. 02-4). Section repealed by final rulemaking at 14 A.A.R. 1502, effective April 1, 2008 (Supp. 08-2).

**R9-6-804. Renumbered****Historical Note**

Adopted as an emergency effective January 12, 1988, pursuant to A.R.S. § 41-1026, valid for only 90 days (Supp. 88-1). Emergency expired. Readopted without change as an emergency effective May 9, 1988, pursuant to A.R.S. § 41-1026, valid for only 90 days (Supp. 88-2). Amended and readopted as an emergency effective August 8, 1988, pursuant to A.R.S. § 41-1026, valid for only 90 days (Supp. 88-3). Emergency expired. Readopted as an emergency and subsection (A) corrected effective November 16, 1988, pursuant to A.R.S. § 41-1026, valid for only 90 days (Supp. 88-4). Emergency expired. Amended subsection (B) and adopted as a permanent rule effective May 22, 1989 (Supp. 89-2). Renumbered to R9-6-404 effective October 19, 1993 (Supp. 93-4).

**R9-6-805. Renumbered****Historical Note**

Adopted as an emergency effective January 12, 1988, pursuant to A.R.S. § 41-1026, valid for only 90 days (Supp. 88-1). Emergency expired. Readopted without change as an emergency effective May 9, 1988, pursuant to A.R.S. § 41-1026, valid for only 90 days (Supp. 88-2). Amended and readopted as an emergency effective August 8, 1988, pursuant to A.R.S. § 41-1026, valid for only 90 days (Supp. 88-3). Emergency expired. Readopted as an emergency and subsection (B), Paragraph (2) corrected effective November 16, 1988, pursuant to A.R.S. § 41-1026, valid for only 90 days (Supp. 88-4). Emergency expired. Adopted without change as a permanent rule effective May 22, 1989 (Supp. 89-2). Renumbered to R9-6-405 effective October 19, 1993 (Supp. 93-4).

**R9-6-806. Renumbered****Historical Note**

Adopted as an emergency effective January 12, 1988, pursuant to A.R.S. § 41-1026, valid for only 90 days (Supp. 88-1). Emergency expired. Readopted without change as an emergency effective May 9, 1988, pursuant to A.R.S. § 41-1026, valid for only 90 days (Supp. 88-2). Amended and readopted as an emergency effective August 8, 1988, pursuant to A.R.S. § 41-1026, valid for only 90 days (Supp. 88-3). Emergency expired. Readopted without change as an emergency effective November 16, 1988, pursuant to A.R.S. § 41-1026, valid for only 90 days (Supp. 88-4). Emergency expired.

Adopted without change as a permanent rule effective May 22, 1989 (Supp. 89-2). Amended effective September 19, 1990 (Supp. 90-3). Renumbered to R9-6-406 effective October 19, 1993 (Supp. 93-4).

**R9-6-807. Renumbered****Historical Note**

Adopted as an emergency effective January 12, 1988, pursuant to A.R.S. § 41-1026, valid for only 90 days (Supp. 88-1). Emergency expired. Readopted without change as an emergency effective May 9, 1988, pursuant to A.R.S. § 41-1026, valid for only 90 days (Supp. 88-2). Emergency not renewed. Former Section R9-6-808 renumbered as Section R9-6-807, amended, and readopted as an emergency effective August 8, 1988, pursuant to A.R.S. § 41-1026, valid for only 90 days (Supp. 88-3). Emergency expired. Readopted as an emergency and subsection (C) corrected effective November 16, 1988, pursuant to A.R.S. § 41-1026, valid for only 90 days (Supp. 88-4). Emergency expired. Adopted without change as a permanent rule effective May 22, 1989 (Supp. 89-2). Renumbered to R9-6-407 effective October 19, 1993 (Supp. 93-4).

**R9-6-808. Renumbered****Historical Note**

Adopted as an emergency effective January 12, 1988, pursuant to A.R.S. § 41-1026, valid for only 90 days (Supp. 88-1). Emergency expired. Readopted without change as an emergency effective May 9, 1988, pursuant to A.R.S. § 41-1026, valid for only 90 days (Supp. 88-2). Former Section R9-6-809 renumbered as Section R9-6-808, amended and readopted as an emergency effective August 8, 1988, pursuant to A.R.S. § 41-1026, valid for only 90 days (Supp. 88-3). Emergency expired. Readopted without change as an emergency effective November 16, 1988, pursuant to A.R.S. § 41-1026, valid for only 90 days (Supp. 88-4). Emergency expired. Adopted without change as a permanent rule effective May 22, 1989 (Supp. 89-2). Renumbered to R9-6-408 effective October 19, 1993 (Supp. 93-4).

**ARTICLE 9. HEALTH PROFESSIONAL EXPOSURES****R9-6-901. Definitions**

In this Article, unless otherwise specified:

1. "Employer" means an individual in the senior leadership position with the agency or entity for which a health professional works or that individual's designee.
2. "Health professional" means the same as in A.R.S. § 32-3201.
3. "Occupational health provider" means a physician, physician assistant, registered nurse practitioner, or registered nurse, as defined in A.R.S. § 32-1601, who provides medical services for work-related health conditions for an agency or entity for which a health professional works.
4. "Petitioner" means a health professional who petitions a court, under A.R.S. § 32-3207, to order testing of an individual.

**Historical Note**

New Section made by final rulemaking at 8 A.A.R. 1953, effective April 3, 2002 (Supp. 02-2). Section R9-6-901 recodified to R9-6-1001 at 13 A.A.R. 1745, effective April 27, 2007 (Supp. 07-2). New Section made by final

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rulemaking at 14 A.A.R. 1502, effective April 1, 2008  
(Supp. 08-2).

**R9-6-902. Notice of Test Results**

- A.** Within 10 working days after the date of receipt of a laboratory report for a test ordered by a health care provider as a result of a court order issued under A.R.S. § 32-3207, the ordering health care provider shall:
1. If the test is conducted on the blood of a court-ordered subject who is incarcerated or detained:
    - a. Provide a written copy of the laboratory report to the chief medical officer of the correctional facility in which the court-ordered subject is incarcerated or detained; and
    - b. Notify the petitioner's occupational health provider in writing of the results of the test; and
  2. If the test is conducted on the blood of a court-ordered subject who is not incarcerated or detained:
    - a. Unless the court-ordered subject is deceased, notify the court-ordered subject as specified in subsection (D);
    - b. If requested by the court-ordered subject, provide a written copy of the laboratory report to the court-ordered subject; and
    - c. Notify the petitioner's occupational health provider in writing of the results of the test.
- B.** Within five working days after the date of receipt of a laboratory report for a court-ordered subject who is incarcerated or detained, the chief medical officer of the correctional facility in which the court-ordered subject is incarcerated or detained shall:
1. Notify the court-ordered subject as specified in subsection (D);
  2. If requested by the court-ordered subject, provide a written copy of the laboratory report to the court-ordered subject; and
  3. Notify the officer in charge of the correctional facility as specified in subsection (E).
- C.** Within five working days after the petitioner's occupational health provider receives written notice of test results as required in subsection (A), the petitioner's occupational health provider shall notify the petitioner, as specified in subsection (D), and the petitioner's employer, as specified in subsection (E).
- D.** An individual who provides notice to a court-ordered subject or petitioner as required under subsection (A), (B) or (C) shall describe the test results and provide or arrange for the court-ordered subject or petitioner to receive the following information about each agent for which the court-ordered subject was tested:
1. A description of the disease or syndrome caused by the agent, including its symptoms;
  2. A description of how the agent is transmitted to others;
  3. The average window period for the agent;
  4. An explanation that a negative test result does not rule out infection and that retesting for the agent after the average window period has passed is necessary to rule out infection;
  5. Measures to reduce the likelihood of transmitting the agent to others and that it is necessary to continue the measures until a negative test result is obtained after the average window period has passed or until an infection, if detected, is eliminated;
  6. That it is necessary to notify others that they may be or may have been exposed to the agent by the individual receiving notice;
  7. The availability of assistance from local health agencies or other resources; and
  8. The confidential nature of the court-ordered subject's test results.
- E.** An individual who provides notice to the officer in charge of a correctional facility, as required under subsection (B), or to the petitioner's employer, as required under subsection (C), shall describe the test results and provide or arrange for the officer in charge of the facility or the employer to receive the following information about each agent for which a court-ordered subject's test results indicate the presence of infection:
1. A description of the disease or syndrome caused by the agent, including its symptoms;
  2. A description of how the agent is transmitted to others;
  3. Measures to reduce the likelihood of transmitting the agent to others;
  4. The availability of assistance from local health agencies or other resources; and
  5. The confidential nature of the court-ordered subject's test results.
- F.** An individual who provides notice under this Section shall not provide a copy of the laboratory report to anyone other than the court-ordered subject and, if the court-ordered subject is incarcerated or detained, the chief medical officer of the correctional facility in which the court-ordered subject is incarcerated or detained.
- G.** An individual who provides notice under this Section shall protect the confidentiality of the court-ordered subject's personal identifying information and test results.
- H.** A health care provider who orders a test on the blood of a court-ordered subject who is not incarcerated or detained may, at the time the court-ordered subject is seen by the ordering health care provider, present the court-ordered subject with a telephone number and instruct the court-ordered subject to contact the ordering health care provider after a stated period of time for notification of the test results.
- I.** A health care provider who orders a test has not satisfied the obligation of the health care provider to notify under subsection (A) if:
1. The health care provider provides a telephone number and instructions, as allowed by subsection (H), for a court-ordered subject to contact the ordering health care provider and receive the information specified in subsection (D); and
  2. The court-ordered subject does not contact the ordering health care provider.
- J.** A health care provider who orders a test on a court-ordered subject's blood shall comply with all applicable reporting requirements contained in this Chapter.

**Historical Note**

Section renumbered from R9-6-409 and amended by final rulemaking at 8 A.A.R. 1953, effective April 3, 2002 (Supp. 02-2). Section R9-6-902 recodified to R9-6-1002 at 13 A.A.R. 1745, effective April 27, 2007 (Supp. 07-2).  
New Section made by final rulemaking at 14 A.A.R. 1502, effective April 1, 2008 (Supp. 08-2).

**Exhibit A. Recodified****Historical Note**

Exhibit A renumbered from Article 4, Exhibit A and amended by final rulemaking at 8 A.A.R. 1953, effective April 3, 2002 (Supp. 02-2). Exhibit A recodified to Article 10, Exhibit A at 13 A.A.R. 1745, effective April 27, 2007 (Supp. 07-2).

**Exhibit B. Recodified**

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**Historical Note**

Exhibit A renumbered from Article 4, Exhibit A and amended by final rulemaking at 8 A.A.R. 1953, effective April 3, 2002 (Supp. 02-2). Exhibit B recodified to Article 10, Exhibit B at 13 A.A.R. 1745, effective April 27, 2007 (Supp. 07-2).

**R9-6-903. Recodified****Historical Note**

Section renumbered from R9-6-410 and amended by final rulemaking at 8 A.A.R. 1953, effective April 3, 2002 (Supp. 02-2). Section R9-6-903 recodified to R9-6-1003 at 13 A.A.R. 1745, effective April 27, 2007 (Supp. 07-2).

**ARTICLE 10. HIV-RELATED TESTING AND NOTIFICATION****R9-6-1001. Definitions**

In this Article, unless otherwise specified:

1. "Governing board" means a group of individuals, elected as specified in A.R.S. Title 15, Chapter 4, Article 2, to carry out the duties and functions specified in A.R.S. Title 15, Chapter 3, Article 3.
2. "School district" means the same as in A.R.S. § 15-101.
3. "Superintendent of a school district" means an individual appointed by the governing board of a school district to oversee the operation of schools within the school district.

**Historical Note**

New Section recodified from R9-6-901 at 13 A.A.R. 1745, effective April 27, 2007 (Supp. 07-2). Amended by final rulemaking at 14 A.A.R. 1502, effective April 1, 2008 (Supp. 08-2). Amended by final expedited rulemaking at 24 A.A.R. 2761, effective September 11, 2018 (Supp. 18-3).

**R9-6-1002. Local Health Agency Requirements**

For each HIV-infected individual or suspect case, a local health agency shall comply with the requirements in R9-6-347.

**Historical Note**

New Section recodified from R9-6-902 at 13 A.A.R. 1745, effective April 27, 2007 (Supp. 07-2). Former R9-6-1002 renumbered to R9-6-1003; new R9-6-1002 made by final rulemaking at 14 A.A.R. 1502, effective April 1, 2008 (Supp. 08-2). Amended by final rulemaking at 23 A.A.R. 2605, effective January 1, 2018 (Supp. 17-3).

**R9-6-1003. Expired****Historical Note**

New Section recodified from R9-6-903 at 13 A.A.R. 1745, effective April 27, 2007 (Supp. 07-2). Former R9-6-1003 renumbered to R9-6-1004; new R9-6-1003 renumbered from R9-6-1002 and amended by final rulemaking at 14 A.A.R. 1502, effective April 1, 2008 (Supp. 08-2). Section expired under A.R.S. § 41-1056(J) at 19 A.A.R. 1928, effective April 30, 2013 (Supp. 13-3).

**Exhibit A. Expired****Historical Note**

Exhibit A recodified from Article 9, Exhibit A at 13 A.A.R. 1745, effective April 27, 2007 (Supp. 07-2). Exhibit A repealed; new Exhibit A made by final rulemaking at 14 A.A.R. 1502, effective April 1, 2008 (Supp. 08-2). Exhibit A expired under A.R.S. § 41-

1056(J) at 19 A.A.R. 1928, effective April 30, 2013 (Supp. 13-3).

**Exhibit B. Repealed****Historical Note**

Exhibit B recodified from Article 9, Exhibit B at 13 A.A.R. 1745, effective April 27, 2007 (Supp. 07-2). Exhibit B repealed by final rulemaking at 14 A.A.R. 1502, effective April 1, 2008 (Supp. 08-2).

**R9-6-1004. Court-ordered HIV-related Testing**

- A. A health care provider who receives the results of a test, ordered by the health care provider to detect HIV infection and performed as a result of a court order issued under A.R.S. § 13-1210, shall comply with the requirements in 9 A.A.C. 6, Article 8.
- B. A health care provider who receives the results of a test, ordered by the health care provider to detect HIV infection and performed as a result of a court order issued under A.R.S. § 32-3207, shall comply with the requirements in 9 A.A.C. 6, Article 9.
- C. When a court orders a test under A.R.S. § 8-341 or 13-1415 to detect HIV infection, the prosecuting attorney who petitioned the court for the order shall provide to the Department:
  1. A copy of the court order, including an identifying number associated with the court order;
  2. The name and address of the victim; and
  3. The name and telephone number of the prosecuting attorney or the prosecuting attorney's designee.
- D. A person who tests a specimen of blood or another body fluid from a subject to detect HIV infection as authorized by a court order issued under A.R.S. § 8-341 or 13-1415 shall:
  1. Use a screening test; and
  2. If the test results from a screening test on the specimen indicate a positive result, retest the specimen using a confirmatory test.
- E. A person who performs a test described in subsection (D) shall report the test results for each subject to the submitting entity within five working days after obtaining the test results.
- F. A submitting entity that receives the results of a test to detect HIV infection that was performed for a subject as a result of a court order issued under A.R.S. § 8-341 or 13-1415 shall:
  1. Notify the Department within five working days after receiving the results of the test to detect HIV infection;
  2. Provide to the Department:
    - a. A written copy of the court order,
    - b. A written copy of the results of the test to detect HIV infection, and
    - c. The name and telephone number of the submitting entity or submitting entity's designee; and
  3. Either:
    - a. Comply with the requirements in:
      - i. R9-6-802(A)(2)(a) and (b), R9-6-802(D), and R9-6-802(F) through (J) for a subject who is not incarcerated or detained; and
      - ii. R9-6-802(B), R9-6-802(D) through (G), and R9-6-802(J) for a subject who is incarcerated or detained; or
    - b. Provide to the Department or the local health agency in whose designated service area the subject is living:
      - i. The name and address of the subject;
      - ii. A written copy of the results of the test to detect HIV infection, if not provided as specified in subsection (F)(2)(b); and



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- iii. Notice that the submitting entity did not provide notification as specified in subsection (F)(3)(a).
- G. If the Department or a local health agency is notified by a submitting entity as specified in subsection (F)(3)(b), the Department or local health agency shall comply with the requirements in:
  1. R9-6-802(A)(2)(a) and (b), R9-6-802(D), and R9-6-802(F) through (J) for a subject who is not incarcerated or detained; and
  2. R9-6-802(B), R9-6-802(D) through (G), and R9-6-802(J) for a subject who is incarcerated or detained.
- H. When the Department receives a written copy of the results of a test to detect HIV infection that was performed for a subject as a result of a court order issued under A.R.S. § 8-341 or 13-1415, the Department shall either:
  1. Provide to the victim:
    - a. A description of the results of the test to detect HIV infection;
    - b. The information specified in R9-6-802(D); and
    - c. A written copy of the test results; or
  2. Provide to the local health agency in whose designated service area the victim is living:
    - a. The name and address of the victim,
    - b. A written copy of the results of the test to detect HIV infection, and
    - c. Notice that the Department did not provide notification as specified in subsection (H)(1).
- I. If a local health agency is notified by the Department as specified in subsection (H)(2), the local health agency shall:
  1. Provide to the victim:
    - a. A description of the results of the test to detect HIV infection;
    - b. The information specified in R9-6-802(D); and
    - c. A written copy of the test results; or
  2. If the local health agency is unable to locate the victim, notify the Department that the local health agency did not inform the victim of the results of the test to detect HIV infection.
- f. Information about the individual's risk factors for becoming infected with or transmitting HIV; and
- g. The name, address, and telephone number of the person collecting the blood specimen;
- 4. Before the individual leaves the building occupied by the Department or local health agency:
  - a. Test the individual's specimen of blood using the screening test for HIV specified in subsection (B)(3);
  - b. Provide the results of the screening test to the individual;
  - c. Enter the test results in the record established according to subsection (B)(3); and
  - d. If the test results from the screening test on the specimen of blood indicate that the individual may be HIV-infected:
    - i. Assist the individual to connect with persons that may have additional resources available for the individual; and
    - ii. Provide confirmatory testing or submit the specimen of blood to the Arizona State Laboratory for confirmatory testing by:
      - (1) Assigning to the blood specimen an identification number corresponding to the record established according to subsection (B)(3);
      - (2) Giving the individual requesting anonymous HIV testing the identification number assigned to the blood specimen and information about how to obtain the results of the confirmatory test; and
      - (3) Sending the blood specimen and the record specified in subsection (B)(3) to the Arizona State Laboratory for confirmatory testing; and
- 5. If anonymous HIV testing is provided by a local health agency, submit the record specified in subsection (B)(3) to the Department.

**Historical Note**

Section R9-6-1004 renumbered from R9-6-1003 and amended by final rulemaking at 14 A.A.R. 1502, effective April 1, 2008 (Supp. 08-2). Amended by final expedited rulemaking at 24 A.A.R. 2761, effective September 11, 2018 (Supp. 18-3).

**R9-6-1005. Anonymous HIV Testing**

- A. A local health agency and the Department shall offer anonymous HIV testing to individuals.
- B. If an individual requests anonymous HIV testing, the Department or a local health agency shall:
  1. Provide to the individual requesting anonymous HIV testing:
    - a. Health education about HIV,
    - b. The meaning of HIV test results, and
    - c. The risk factors for becoming infected with HIV or transmitting HIV to other individuals;
  2. Collect a specimen of blood from the individual;
  3. Record the following information in a Department-provided format:
    - a. The individual's date of birth;
    - b. The individual's race and ethnicity;
    - c. The individual's gender;
    - d. The date and time the blood specimen was collected;
    - e. The type of screening test;

**Historical Note**

New Section made by final rulemaking at 14 A.A.R. 1502, effective April 1, 2008 (Supp. 08-2). Amended by final expedited rulemaking at 24 A.A.R. 2761, effective September 11, 2018 (Supp. 18-3).

**R9-6-1006. Notification**

- A. The Department or the Department's designee shall confidentially notify an individual reported to be at risk for HIV infection, as required under A.R.S. § 36-664(I), if all of the following conditions are met:
  1. The Department receives the report of risk for HIV infection in a document that includes the following:
    - a. The name and address of the individual reported to be at risk for HIV infection or enough other identifying information about the individual to enable the individual to be recognized and located,
    - b. The name and address of the HIV-infected individual placing the individual named under subsection (A)(1)(a) at risk for HIV infection,
    - c. The name and address of the individual making the report, and
    - d. The type of exposure placing the individual named under subsection (A)(1)(a) at risk for HIV infection;
  2. The individual making the report is in possession of confidential HIV-related information; and
  3. The Department determines that the information provided in the report is accurate and contains sufficient detail to:

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- a. Indicate that the exposure described as required in subsection (A)(1)(d) constitutes a significant exposure for the individual reported to be at risk for HIV infection, and
  - b. Enable the individual reported to be at risk for HIV infection to be recognized
- B.** As authorized under A.R.S. § 36-136(M), the Department shall notify the superintendent of a school district in a confidential document that a pupil of the school district tested positive for HIV if the Department determines that:
1. The pupil places others in the school setting at risk for HIV infection; and
  2. The school district has an HIV policy that includes the following provisions:
    - a. That a school shall not exclude a pupil who tested positive for HIV from attending school or school functions or from participating in school activities solely due to HIV infection;
    - b. That school district personnel who are informed that a pupil tested positive for HIV shall keep the information confidential; and
    - c. That the school district shall provide HIV-education programs to pupils, parents or guardians of pupils, and school district personnel through age-appropriate curricula, workshops, or in-service training sessions.
  3. A description of how the STD is transmitted to others;
  4. A description of measures to reduce the likelihood of transmitting the STD to others and that it is necessary to continue the measures until the infection is eliminated;
  5. That it is necessary for the subject to notify individuals who may have been infected by the subject that the individuals need to be tested for the STD;
  6. The availability of assistance from local health agencies or other resources; and
  7. The confidential nature of the subject's test results;
  8. Report the information required in R9-6-202 to a local health agency; and
  9. If the subject is pregnant and is a syphilis case, inform the subject of the requirement that the subject obtain serologic testing for syphilis according to R9-6-381.

**Historical Note**

New Section made by final rulemaking at 14 A.A.R. 1502, effective April 1, 2008 (Supp. 08-2). Amended by final rulemaking at 23 A.A.R. 2605, effective January 1, 2018 (Supp. 17-3).

**R9-6-1103. Local Health Agency Requirements**

- A.** For each STD case, a local health agency shall:
1. Comply with the requirements in:
    - a. R9-6-317(A)(1) and (2) for each chancroid case reported to the local health agency, and
    - b. R9-6-381(A)(3)(a) through (c) for each syphilis case reported to the local health agency;
  2. Offer or arrange for treatment for each STD case that seeks treatment from the local health agency for symptoms of:
    - a. Chancroid,
    - b. Chlamydia infection,
    - c. Gonorrhea, or
    - d. Syphilis;
  3. Provide information about the following to each STD case that seeks treatment from the local health agency:
    - a. A description of the disease or syndrome caused by the applicable STD, including its symptoms;
    - b. Treatment options for the applicable STD;
    - c. A description of measures to reduce the likelihood of transmitting the STD to others and that it is necessary to continue the measures until the infection is eliminated; and
    - d. The confidential nature of the STD case's test results; and
  4. Inform the STD case that:
    - a. A chlamydia or gonorrhea case must notify each individual, with whom the chlamydia or gonorrhea case has had sexual contact within 60 days preceding the onset of chlamydia or gonorrhea symptoms up to the date the chlamydia or gonorrhea case began treatment for chlamydia or gonorrhea infection, of the need for the individual to be tested for chlamydia or gonorrhea; and
    - b. The Department or local health agency will notify, as specified in subsection (B), each contact named by a chancroid or syphilis case.
- B.** For each contact named by a chancroid or syphilis case, the Department or a local health agency shall:
1. Notify the contact named by a chancroid or syphilis case of the contact's exposure to chancroid or syphilis and of the need for the contact to be tested for:

**Historical Note**

New Section made by final rulemaking at 14 A.A.R. 1502, effective April 1, 2008 (Supp. 08-2). Amended by final expedited rulemaking at 24 A.A.R. 2761, effective September 11, 2018 (Supp. 18-3).

**ARTICLE 11. STD-RELATED TESTING AND NOTIFICATION****R9-6-1101. Definitions**

In this Article, unless otherwise specified:

1. "Primary syphilis" means the initial stage of syphilis infection characterized by the appearance of one or more open sores in the genital area, anus, or mouth of an infected individual.
2. "Secondary syphilis" means the stage of syphilis infection occurring after primary syphilis and characterized by a rash that does not itch, fever, swollen lymph glands, and fatigue in an infected individual.
3. "Sexually transmitted diseases" means the same as in A.R.S. § 13-1415.
4. "STD" means a sexually transmitted disease or other disease that may be transmitted through sexual contact.

**Historical Note**

New Section made by final rulemaking at 14 A.A.R. 1502, effective April 1, 2008 (Supp. 08-2).

**R9-6-1102. Health Care Provider Requirements**

When a laboratory report for a test ordered by a health care provider for a subject indicates that the subject is infected with an STD, the ordering health care provider or the ordering health care provider's designee shall:

1. Describe the test results to the subject;
2. Provide or arrange for the subject to receive the following information about the STD for which the subject was tested:
  - a. A description of the disease or syndrome caused by the STD, including its symptoms;
  - b. Treatment options for the STD and where treatment may be obtained;

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- a. Chancroid, if the chancroid case has had sexual contact with the contact within 10 days preceding the onset of chancroid symptoms up to the date the chancroid case began treatment for chancroid infection; or
  - b. Syphilis, if the syphilis case has had sexual contact with the contact within:
    - i. 90 days preceding the onset of symptoms of primary syphilis up to the date the syphilis case began treatment for primary syphilis infection;
    - ii. Six months preceding the onset of symptoms of secondary syphilis up to the date the syphilis case began treatment for secondary syphilis infection; or
    - iii. 12 months preceding the date the syphilis case was diagnosed with syphilis if the syphilis case cannot identify when symptoms of primary or secondary syphilis began;
  - 2. Offer or arrange for each contact named by a chancroid or syphilis case to receive testing and, if appropriate, treatment for chancroid or syphilis; and
  - 3. Provide information to each contact named by a chancroid or syphilis case about:
    - a. The characteristics of the applicable STD,
    - b. The syndrome caused by the applicable STD,
    - c. Measures to reduce the likelihood of transmitting the applicable STD, and
    - d. The confidential nature of the contact's test results.
  - C. For each contact of a chlamydia or gonorrhea case who seeks treatment from a local health agency for symptoms of chlamydia or gonorrhea, the local health agency shall:
    - 1. Offer or arrange for treatment for chlamydia or gonorrhea;
    - 2. Provide information to each contact of a chlamydia or gonorrhea case about:
      - a. The characteristics of the applicable STD,
      - b. The syndrome caused by the applicable STD,
      - c. Measures to reduce the likelihood of transmitting the applicable STD, and
      - d. The confidential nature of the contact's test results.
- Historical Note**
- New Section made by final rulemaking at 14 A.A.R. 1502, effective April 1, 2008 (Supp. 08-2). Amended by final rulemaking at 23 A.A.R. 2605, effective January 1, 2018 (Supp. 17-3).
- R9-6-1104. Court-ordered STD-related Testing**
- A. A health care provider who receives the results of a test, ordered by the health care provider to detect an STD and performed as a result of a court order issued under A.R.S. § 13-1210, shall comply with the requirements in 9 A.A.C. 6, Article 8.
  - B. A health care provider who receives the results of a test, ordered by the health care provider to detect an STD and performed as a result of a court order issued under A.R.S. § 32-3207, shall comply with the requirements in 9 A.A.C. 6, Article 9.
  - C. When a court orders a test under A.R.S. § 13-1415 to detect a sexually-transmitted disease, the prosecuting attorney who petitioned the court for the order shall provide to the Department:
    - 1. A copy of the court order, including an identifying number associated with the court order;
    - 2. The name and address of the victim; and
    - 3. The name and telephone number of the prosecuting attorney or the prosecuting attorney's designee.
  - D. A person who tests a specimen of blood or another body fluid from a subject to detect a sexually-transmitted disease as authorized by a court order issued under A.R.S. § 13-1415 shall:
    - 1. Be a certified laboratory, as defined in A.R.S. § 36-451;
    - 2. Use a test approved by the U.S. Food and Drug Administration for use in STD-related testing; and
    - 3. Report the test results for each subject to the submitting entity within five working days after obtaining the test results.
  - E. A submitting entity that receives the results of a test to detect a sexually-transmitted disease that was performed as a result of a court order issued under A.R.S. § 13-1415 shall:
    - 1. Notify the Department within five working days after receiving the results of the test to detect a sexually-transmitted disease;
    - 2. Provide to the Department:
      - a. A written copy of the court order,
      - b. A written copy of the results of the test to detect a sexually-transmitted disease, and
      - c. The name and telephone number of the submitting entity or submitting entity's designee; and
    - 3. Either:
      - a. Comply with the requirements in:
        - i. R9-6-802(A)(2)(a) and (b), R9-6-802(D), and R9-6-802(F) through (J) for a subject who is not incarcerated or detained; and
        - ii. R9-6-802(B), R9-6-802(D) through (G), and R9-6-802(J) for a subject who is incarcerated or detained; or
      - b. Provide to the Department or the local health agency in whose designated service area the subject is living:
        - i. The name and address of the subject;
        - ii. A written copy of the results of the test to detect a sexually-transmitted disease, if not provided as specified in subsection (E)(2)(b); and
        - iii. Notice that the submitting entity did not provide notification as specified in subsection (E)(3)(a).
  - F. If the Department or a local health agency is notified by a submitting entity as specified in subsection (E)(3)(b), the Department or local health agency shall comply with the requirements in:
    - 1. R9-6-802(A)(2)(a) and (b), R9-6-802(D), and R9-6-802(F) through (J) for a subject who is not incarcerated or detained; and
    - 2. R9-6-802(B), R9-6-802(D) through (G), and R9-6-802(J) for a subject who is incarcerated or detained.
  - G. When the Department receives the results of a test to detect a sexually-transmitted disease that was performed for a subject as a result of a court order issued under A.R.S. § 13-1415, the Department shall:
    - 1. Provide to the victim:
      - a. A description of the results of the test to detect the sexually-transmitted disease,
      - b. The information specified in R9-6-802(D), and
      - c. A written copy of the test results for the sexually-transmitted disease; or
    - 2. Provide to the local health agency in whose designated service area the victim is living:
      - a. The name and address of the victim,
      - b. A written copy of the results of the test to detect the sexually-transmitted disease, and
      - c. Notice that the Department did not provide notification as specified in subsection (G)(1).

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- H. If a local health agency is notified by the Department as specified in subsection (G)(2), the local health agency shall:
1. Provide to the victim:
    - a. A description of the results of the test to detect the sexually-transmitted disease;
    - b. The information specified in R9-6-802(D); and
    - c. A written copy of the test results for the sexually-transmitted disease; or
  2. If the local health agency is unable to locate the victim, notify the Department that the local health agency did not inform the victim of the results of the test to detect the sexually-transmitted disease.

**Historical Note**

New Section made by final rulemaking at 14 A.A.R. 1502, effective April 1, 2008 (Supp. 08-2).

**ARTICLE 12. TUBERCULOSIS CONTROL****R9-6-1201. Definitions**

In addition to the definitions in A.R.S. § 36-711, the following definitions apply in this Article, unless otherwise specified:

1. "Inmate" means an individual who is incarcerated in a correctional facility.
2. "Latent tuberculosis infection" means the presence of *Mycobacterium tuberculosis*, as evidenced by a positive result from an approved test for tuberculosis, in an individual who:
  - a. Has no symptoms of active tuberculosis,
  - b. Has no clinical signs of tuberculosis other than the positive result from the approved test for tuberculosis, and
  - c. Is not infectious to others.
3. "Symptoms suggestive of tuberculosis" means any of the following that cannot be attributed to a disease or condition other than tuberculosis:
  - a. A productive cough that has lasted for at least three weeks;
  - b. Coughing up blood; or
  - c. A combination of at least three of the following:
    - i. Fever,
    - ii. Chills,
    - iii. Night sweats,
    - iv. Fatigue,
    - v. Chest pain, and
    - vi. Weight loss.

**Historical Note**

Section R9-6-1201 renumbered from R9-6-601 by final rulemaking at 13 A.A.R. 4106, effective January 5, 2008 (Supp. 07-4). Amended by final expedited rulemaking at 25 A.A.R. 255, effective January 8, 2019 (Supp. 19-1).

**R9-6-1202. Local Health Agency Reporting Requirements**

A local health agency shall report to the Department:

1. Regarding each individual in its jurisdiction who:
  - a. Has been diagnosed with active tuberculosis,
  - b. Is suspected of having active tuberculosis, or
  - c. Is believed to have been exposed to an individual with infectious active tuberculosis;
2. According to R9-6-206:
  - a. After receiving information according to R9-6-202; and
  - b. After conducting an epidemiologic investigation of a case, suspect case, or contact;
3. Within 30 days after receiving the information needed to complete an initial summary for a case of active tuberculosis, in a Department-provided format, containing:
  - a. Demographic information about the case,

- b. Information specific to the case's diagnosis of active tuberculosis,
  - c. Information about the case's risk factors for tuberculosis, and
  - d. Information specific to the treatment being provided to the case;
4. As applicable, within 30 days after receiving the information needed to complete a summary of laboratory test results for a case of active tuberculosis, in a Department-provided format, including:
    - a. The results from the analysis of the agent causing tuberculosis in the case, and
    - b. The drug sensitivity pattern of the agent causing tuberculosis in the case;
  5. Within 30 days after determining the final disposition of a case or, except for a case still receiving treatment, two years after the case's initial diagnosis of active tuberculosis, whichever is earlier, in a Department-provided format, including:
    - a. Whether the case:
      - i. Completed treatment, including confirmation of the case's freedom from active tuberculosis;
      - ii. Refused treatment;
      - iii. Was lost to follow-up before completing treatment;
      - iv. Left the jurisdiction of the local health agency before completing treatment; or
      - v. Died;
    - b. If applicable, the method by which the local health agency has knowledge of completion of treatment;
    - c. If the period of treatment was longer than 12 months, the reason for the extended treatment; and
    - d. A description of each course or method of treatment provided to the case, including the date each treatment was initiated.

**Historical Note**

Section R9-6-1202 renumbered from R9-6-602 by final rulemaking at 13 A.A.R. 4106, effective January 5, 2008 (Supp. 07-4). Amended by final rulemaking at 23 A.A.R. 2605, effective January 1, 2018 (Supp. 17-3). Amended by final expedited rulemaking at 25 A.A.R. 255, effective January 8, 2019 (Supp. 19-1).

**R9-6-1203. Tuberculosis Control in Correctional Facilities**

- A. An administrator of a correctional facility shall ensure that:
1. Each new inmate in the correctional facility undergoes a symptom screening for tuberculosis while processing into the correctional facility;
  2. An inmate in whom symptoms suggestive of tuberculosis are detected during screening:
    - a. Is immediately:
      - i. Placed in airborne infection isolation, or
      - ii. Required to wear a surgical mask and retained in an environment where exposure to the general inmate population is minimal and the inmate can be observed at all times to be wearing the mask;
    - b. If not immediately placed in airborne infection isolation, is within 24 hours after screening:
      - i. Given a medical evaluation for active tuberculosis, or
      - ii. Transported to a health care institution to be placed in airborne infection isolation; and
    - c. Is given a medical evaluation for active tuberculosis before being released from airborne infection isolation or permitted to stop wearing a surgical mask

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and released from the environment described in subsection (A)(2)(a)(ii).

3. Except as provided in subsection (A)(5), each new inmate who does not have a documented history of a positive result from an approved test for tuberculosis or who has not received an approved test for tuberculosis within the previous 12 months is given an approved test for tuberculosis within seven days after processing into the correctional facility;
  4. Except as provided in subsection (A)(8), each new inmate who has a positive result from an approved test for tuberculosis or who has a documented history of a positive result from an approved test for tuberculosis is given a chest x-ray and a medical evaluation, within 14 days after processing into the correctional facility, to determine whether the inmate has active tuberculosis;
  5. Each new inmate who is HIV-positive, in addition to receiving an approved test for tuberculosis, is given a chest x-ray and a medical evaluation within seven days after processing into the correctional facility, to determine whether the inmate has active tuberculosis;
  6. Each inmate who had a negative result from an approved test for tuberculosis when tested according to subsection (A)(3) during processing has a repeat approved test for tuberculosis after 12 months of incarceration and every 12 months thereafter during the inmate's term of incarceration;
  7. Each inmate who has a positive result on a repeat approved test for tuberculosis after a negative result on a previous approved test for tuberculosis is given a chest x-ray and a medical evaluation within 14 days after the date of the positive result on the repeat approved test to determine whether the inmate has active tuberculosis;
  8. An inmate is not required to have another chest x-ray unless the inmate has symptoms suggestive of tuberculosis if the inmate has had a documented negative chest x-ray;
  9. Each inmate with active tuberculosis is:
    - a. Provided medical treatment that meets accepted standards of medical practice, and
    - b. Placed in airborne infection isolation until no longer infectious; and
  10. All applicable requirements in 9 A.A.C. 6, Articles 2 and 3 are complied with.
- B.** The requirements of subsection (A) apply to each correctional facility that houses inmates for 14 days or longer and to each inmate who will be incarcerated for 14 days or longer.
- C.** An administrator of a correctional facility, either personally or through a representative, shall:
1. Unless unable to provide prior notification because of security concerns, notify the local health agency at least one working day before releasing a tuberculosis case or suspect case;
  2. If unable to provide prior notification because of security concerns, notify the local health agency within 24 hours after releasing a tuberculosis case or suspect case;
  3. Provide to a local health agency, within three working days after the local health agency's request, the information required by the local health agency to comply with R9-6-1202(5); and
  4. Provide a tuberculosis case or suspect case or an inmate being treated for latent tuberculosis infection the name and address of the local health agency before the case, suspect case, or inmate is released.

**Historical Note**

Section R9-6-1203 renumbered from R9-6-603 by final rulemaking at 13 A.A.R. 4106, effective January 5, 2008 (Supp. 07-4). Amended by final expedited rulemaking at 25 A.A.R. 255, effective January 8, 2019 (Supp. 19-1).

**R9-6-1204. Standards of Medical Care**

- A.** Unless a health care provider believes, based on the health care provider's professional judgment, that deviation is medically necessary, a health care provider caring for an afflicted person shall comply with the recommendations for treatment of tuberculosis in the Official American Thoracic Society/Centers for Disease Control and Prevention/Infectious Diseases Society of America Clinical Practice Guidelines: Treatment of Drug-Susceptible Tuberculosis (October 2016), which is incorporated by reference, on file with the Department, and available from the American Thoracic Society, 25 Broadway, New York, NY 10004 or at [www.atsjournals.org](http://www.atsjournals.org).
- B.** If a health care provider caring for an afflicted person deviates from the recommendations for treatment of tuberculosis specified in subsection (A), the health care provider shall, upon request, explain to the Department or a local health agency the rationale for the deviation.
- C.** If the tuberculosis control officer determines that deviation from the recommendations for treatment of tuberculosis specified in subsection (A) is inappropriate and that the public health and welfare require intervention, the tuberculosis control officer may take charge of the afflicted person's treatment as authorized under A.R.S. § 36-723(C).

**Historical Note**

Section R9-6-1204 renumbered from R9-6-604 by final rulemaking at 13 A.A.R. 4106, effective January 5, 2008 (Supp. 07-4). Amended by final expedited rulemaking at 25 A.A.R. 255, effective January 8, 2019 (Supp. 19-1).

**ARTICLE 13. IMMUNIZATIONS OR VACCINES REQUIRING PRESCRIPTIONS FOR PHARMACIST ADMINISTRATION****R9-6-1301. Immunizations or Vaccines Requiring a Prescription Order for Pharmacist Administration**

- A.** In this Section, unless otherwise specified, the following definitions apply:
1. "Certified pharmacist" means an individual licensed under A.R.S. Title 32, Chapter 18, who is authorized under A.A.C. R4-23-411 to administer immunizations or vaccines.
  2. "Immunization" has the same meaning as in A.R.S. § 36-671.
  3. "Prescription order" has the same meaning as in A.R.S. § 32-1901.
- B.** The following immunizations or vaccines require a prescription order before the immunization or vaccine may be administered under A.A.C. R4-23-411 by a certified pharmacist:
1. Japanese Encephalitis vaccine,
  2. Rabies vaccine,
  3. Typhoid vaccines,
  4. Yellow fever vaccine, and
  5. Cholera vaccine.

**Historical Note**

New Section made by exempt rulemaking at 15 A.A.R. 1793, effective October 5, 2009 (Supp. 09-4). Amended by exempt rulemaking at 23 A.A.R. 3360, effective November 14, 2017 (Supp. 17-4).

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## TITLE 9. HEALTH SERVICES

### CHAPTER 7. DEPARTMENT OF HEALTH SERVICES - RADIATION CONTROL

The table of contents on the first page contains quick links to the referenced page numbers in this Chapter. Refer to the notes at the end of a Section to learn about the history of a rule as it was published in the *Arizona Administrative Register*.

Sections, Parts, Exhibits, Tables or Appendices codified in this supplement. The list provided contains quick links to the updated rules.

This Chapter contains rule Sections that were filed to be codified in the *Arizona Administrative Code* between the dates of April 1, 2020 through June 30, 2020.

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<a href="#">R9-7-302.</a>	<a href="#">Source Material; Exemptions</a>	<a href="#">21</a>	<a href="#">R9-7-1927.</a>	<a href="#">Requirements for Criminal History Records Checks of Individuals Granted Unescorted Access to Category 1 or Category 2 Quantities of Radioactive Material</a>	<a href="#">258</a>
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#### The release of this Chapter in Supp. 20-2 replaces Supp. 19-4, 1-268 pages

Please note that the Chapter you are about to replace may have rules still in effect after the publication date of this supplement. Therefore, all superseded material should be retained in a separate binder and archived for future reference.



## Administrative Rules Division

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**TITLE 9. HEALTH SERVICES****CHAPTER 7. DEPARTMENT OF HEALTH SERVICES - RADIATION CONTROL**

*Laws 1964, Chapter 30, established the Arizona Atomic Energy Commission. Laws 1980, Chapter 206, abolished the Commission, and created the Arizona Radiation Regulatory Agency (ARRA) and the Radiation Regulatory Hearing Board.*

*Laws 2017, Ch. 313, transferred the Radiation Regulatory Agency to the Arizona Department of Health Services and renamed it the Bureau of Radiation Control. The rules in this Chapter (9 A.A.C. 7) were originally promulgated under 12 A.A.C. 1 and were recodified at 24 A.A.R. 813 with Section and agency references revised under Laws 2017, Ch. 313. The historical notes of the rules as codified in 12 A.A.C. 1 remain in the Chapter; therefore 12 A.A.C. 1 as released in Supp. 18-1 should be archived with this Chapter (Supp. 18-1).*

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## ARTICLE 1. GENERAL PROVISIONS

**R9-7-101. Scope and Incorporated Materials**

- A. Except as otherwise specifically provided, this Chapter applies to all persons who receive, possess, use, transfer, own, or acquire any source of radiation.
- B. This Chapter does not apply to any person that is subject to regulation by the Nuclear Regulatory Commission.
- C. State control of source material, byproduct material, and special nuclear material in quantities not sufficient to form a critical mass is subject to the provisions of the agreement between the state and the U.S. Nuclear Regulatory Commission, signed March 30, 1967 and incorporated by reference. This incorporated material contains no later editions or amendments, and together with all other incorporated materials in this Chapter, is available on the Arizona Department of Health Services, Bureau of Radiation Control website at <https://www.azdhs.gov/documents/licensing/radiation-regulatory/arizona-agreement.pdf>.
- D. Federal regulations incorporated by reference in this Chapter are available from the U.S. Government Publishing Office, P.O. Box 979050, St. Louis, MO 63197-9000 and <https://www.govinfo.gov/app/collection/CFR>.

**Historical Note**

New Section R9-7-101 recodified from R12-1-101 at 24 A.A.R. 813, effective March 22, 2018 (Supp. 18-1).  
Amended by final expedited rulemaking at 26 A.A.R. 1067, with an immediate effective date of May 6, 2020 (Supp. 20-2).

**R9-7-102. Definitions**

Terms defined in A.R.S. § 30-651 have the same meanings when used in this Chapter, unless the context otherwise requires. Additional subject-specific definitions are used in other Articles.

“A1” means the maximum activity of special form radioactive material permitted in a type A package. These values are either listed in 10 CFR 71, Appendix A, Table A-1, or may be derived in accordance with the procedures prescribed in 10 CFR 71, Appendix A.

“A2” means the maximum activity of radioactive material, other than special form radioactive material, low specific activity (LSA) material, and surface contaminated object (SCO) material, permitted in a Type A package. These values are either listed in 10 CFR 71, Appendix A, Table A-1, or may be derived in accordance with the procedure prescribed in 10 CFR 71, Appendix A.

“Absorbed dose” means the energy imparted by ionizing radiation per unit mass of irradiated material. The units of absorbed dose are the gray (Gy) and the rad.

“Accelerator” means any machine capable of accelerating electrons, protons, deuterons, or other charged particles in a vacuum and of discharging the resultant particulate or other radiation into a medium at energies usually in excess of 1 MeV. For purposes of this definition, “particle accelerator” is an equivalent term.

“Accelerator produced material” means any material made radioactive by irradiating it in a particle accelerator.

“Act” means A.R.S. Title 30, Chapter 4.

“Activity” means the rate of disintegration, transformation, or decay of radioactive material. The units of activity are the becquerel (Bq) and the curie (Ci).

“Adult” means an individual 18 or more years of age.

“Agreement State” means any state with which the United States Nuclear Regulatory Commission has entered into an effective agreement under Section 274(b) of the Atomic Energy Act of 1954, as amended (73 Stat. 689). “Nonagreement State” means any other state.

“Airborne radioactive material” means any radioactive material dispersed in the air in the form of aerosols, dusts, fumes, mists, vapors, or gases.

“Airborne radioactivity area” means a room, enclosure, or area in which airborne radioactive materials, composed wholly or partly of licensed radioactive material, exist in concentrations:

In excess of the derived air concentrations (DACs) specified in Appendix B, Table I of Article 4 of these rules; or

That an individual present in the area without respiratory protective equipment could exceed, during the hours an individual is present in a week, an intake of 0.6 percent of the annual limit on intake (ALI) or 12 DAC-hours.

“ALARA” means as low as is reasonably achievable, making every reasonable effort to maintain exposures to radiation as far below the dose limits in these rules as is practical, consistent with the purpose for which the licensed or registered activity is undertaken, taking into account the state of technology, the economics of improvements in relation to state of technology, the economics of improvements in relation to benefits to the public health and safety, and other societal and socioeconomic considerations, and in relation to utilization of nuclear energy and licensed or registered sources of radiation in the public interest.

“Analytical x-ray equipment” means equipment used for x-ray diffraction or x-ray-induced fluorescence analysis.

“Analytical x-ray system” means a group of components utilizing x-rays to determine the elemental composition or to examine the microstructure of materials.

“Annual” means done or performed yearly. For purposes of Chapter 1, any required activity done or performed within plus or minus two weeks of the annual due date is considered done or performed in a timely manner.

“Approved individual” means an individual whom the licensee has determined to be trustworthy and reliable for unescorted access in accordance with subpart B of this part and who has completed the training required by 10 CFR 37.43(c).

“Associate Radiation Safety Officer” means an individual who:

Meets the requirements in 10 CFR 35.50 and 10 CFR 35.59; and

Is currently identified as an Associate Radiation Safety Officer for the types of use of byproduct material for which the individual has been assigned duties and tasks by the Radiation Safety Officer on:

A specific medical use license issued by the Commission or an Agreement State; or

A medical use permit issued by a Commission master material licensee.

“Authorized medical physicist” means an individual who meets the requirements in R9-7-711; or is identified as an authorized medical physicist or teletherapy physicist on:

A specific medical use license issued by the Department, the NRC, or another Agreement State;

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A medical use permit issued by a NRC master material licensee;

A permit issued by the Department, the NRC, or another Agreement State broad scope medical use licensee; or

A permit issued by a NRC master material license broad scope medical use permittee.

“Authorized nuclear pharmacist” means a pharmacist who meets the requirements in R9-7-712; or is:

Identified as an authorized nuclear pharmacist on a specific license issued by the Department, the NRC, or another Agreement State that authorizes medical use or the practice of nuclear pharmacy;

Identified as an authorized nuclear pharmacist on a permit issued by a NRC master material licensee that authorizes medical use or the practice of nuclear pharmacy;

Identified as an authorized nuclear pharmacist on a permit issued by the Department, the NRC, or another Agreement State broad scope medical use licensee that authorizes medical use or the practice of nuclear pharmacy; or

Identified as an authorized nuclear pharmacist on a permit issued by a NRC master material license broad scope medical use permittee that authorizes medical use or the practice of nuclear pharmacy; or

Identified as an authorized nuclear pharmacist by a commercial nuclear pharmacy that has been authorized to identify authorized nuclear pharmacists; or

Designated as an authorized nuclear pharmacist in accordance with R9-7-311(G).

“Authorized user” means a physician, dentist, or podiatrist who meets the requirements in R9-7-719, R9-7-723, R9-7-727, R9-7-728, or R9-7-744; or is identified as an authorized user on:

The Department, NRC, or another Agreement State license that authorizes the medical use of radioactive material;

A permit issued by a NRC master material licensee that is authorized to permit the medical use of radioactive material;

A permit issued by the Department, the NRC, or another Agreement State specific licensee of broad scope that is authorized to permit the medical use of radioactive material; or

A permit issued by a NRC master material license broad scope permittee that is authorized to permit the medical use of radioactive material.

“Background investigation” means an assessment of an individual’s prior actions and experience conducted by a licensee or applicant, to support the determination of the individual’s trustworthiness and reliability in accordance with 10 CFR 37.25.

“Background radiation” means radiation from cosmic sources; not technologically enhanced naturally occurring radioactive material, including radon (except as a decay product of source or special nuclear material); and global fallout as it exists in the environment from the testing of nuclear explosive devices or from past nuclear accidents, such as Chernobyl, that contribute to background radiation and are not under the control of

a licensee. “Background radiation” does not include sources of radiation regulated by the Department.

“Becquerel” (Bq) means the International System (SI) unit for activity and is equal to 1 disintegration per second (dps or tps).

“Bioassay” means the determination of kinds, quantities, or concentrations, and in some cases, the locations of radioactive material in the human body, whether by direct measurement, in vivo counting, or by analysis and evaluation of materials excreted or removed from the human body. For purposes of these rules, “radiobioassay” is an equivalent term.

“Brachytherapy” means a method of radiation therapy in which an encapsulated source or group of sources is utilized to deliver beta or gamma radiation at a distance of up to a few centimeters, by surface, intracavitary or interstitial application.

“Byproduct material” means:

Any radioactive material, except special nuclear material, yielded in or made radioactive by exposure to the radiation incident to the process of producing or utilizing special nuclear material;

The tailings or wastes produced by the extraction or concentration of uranium or thorium from ore processed primarily for its source material content, including discrete surface wastes resulting from uranium or thorium solution extraction processes. Underground ore bodies depleted by these solution extraction operations do not constitute “byproduct material” within this definition;

Any discrete source of radium-226 that is produced, extracted, or converted after extraction, for use for a commercial, medical, or research activity; or any material that, has been made radioactive by use of a particle accelerator; and is produced, extracted, or converted after extraction, for use for a commercial, medical, or research activity; and

Any discrete source of naturally occurring radioactive material, other than source material, that the NRC, in consultation with the Administrator of the Environmental Protection Agency, the Secretary of Energy, the Secretary of Homeland Security, and the head of any other appropriate federal agency, determines would pose a threat similar to the threat posed by a discrete source of radium-226 to the public health and safety or the common defense and security and; before, on, or after August 8, 2005, is extracted or converted after extraction for use in a commercial, medical, or research activity.

“Calendar quarter” means not less than 12 consecutive weeks nor more than 14 consecutive weeks. The first calendar quarter of each year shall begin in January and subsequent calendar quarters shall be so arranged such that no day is included in more than one calendar quarter and no day in any one year is omitted from inclusion within a calendar quarter. A licensee or registrant shall not change the method of determining calendar quarters for purposes of this Chapter except at the beginning of a calendar year.

“Calibration” means the determination of:

The response or reading of an instrument relative to a series of known radiation values over the range of the instrument, or

The strength of a source of radiation relative to a standard.



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“Carrier” means a person engaged in the transportation of passengers or property by land or water as a common, contract, or private carrier, or by civil aircraft.

“Certifiable cabinet x-ray system” means an existing uncertified x-ray system that meets or has been modified to meet the certification requirements specified in 21 CFR 1020.40, revised April 1, 2019, incorporated by reference, and available under R9-7-101. This incorporated material contains no future editions or amendments.

“Certificate holder” means a person who has been issued a certificate of compliance or other package approval by the Department or NRC.

“Certificate of Compliance” (CoC) means the certificate issued by the NRC under 10 CFR 71, Subpart D, which authorizes the design of a package for the transportation of radioactive material.

“Certified cabinet x-ray system” means an x-ray system that has been certified in accordance with 21 CFR 1010.2, as being manufactured and assembled on or after April 10, 1975, in accordance with the provisions of 21 CFR 1020.40, both sections revised April 1, 2019, incorporated by reference, and available under R9-7-101. This incorporated material contains no future editions or amendments.

“CFR” means Code of Federal Regulations.

“Chelating agent” means amine polycarboxylic acids, hydroxycarboxylic acids, gluconic acid, and polycarboxylic acids.

“Civil penalty” means the monetary fine which may be imposed on licensees by the Department, pursuant to A.R.S. § 30-687, for violations of the Act, this Chapter, or license conditions.

“Collective dose” means the sum of the individual doses received in a given period of time by a specified population from exposure to a specified source of radiation.

“Committed dose equivalent” (HT,50) means the dose equivalent to organs or tissues of reference (T) that will be received from an intake of radioactive material by an individual during the 50-year period following the intake.

“Committed effective dose equivalent” (HE,50) is the sum of the products of the weighting factors applicable to each of the body organs or tissues that are irradiated and the committed dose equivalent to each of these organs or tissues ( $HE,50 = \sum w_T HT,50$ ).

“Consortium” means an association of medical use licensees and a PET radionuclide production facility in the same geographical area that jointly own or share in the operation and maintenance cost of the PET radionuclide production facility that produces PET radionuclides for use in producing radioactive drugs within the consortium for noncommercial distributions among its associated members for medical use. The PET radionuclide production facility within the consortium must be located at an educational institution or a federal facility or a medical facility.

“Contamination” means the presence of a radioactive substance on a surface in quantities in excess of  $0.4 \text{ Bq/cm}^2$  ( $1 \times 10^{-5} \text{ } \mu\text{Ci/cm}^2$ ) for beta and gamma emitters and low toxicity alpha emitters, or  $0.04 \text{ Bq/cm}^2$  ( $1 \times 10^{-6} \text{ } \mu\text{Ci/cm}^2$ ) for all other alpha emitters.

“Fixed contamination” means contamination that cannot be removed from a surface during normal conditions of transport.

“Non-fixed contamination” means contamination that can be removed from a surface during normal conditions of transport.

“Criticality Safety Index (CSI)” means the dimensionless number (rounded up to the next tenth) assigned to and placed on the label of a fissile material package, to designate the degree of control of accumulation of packages, overpacks or freight containers containing fissile material during transportation. Determination of the criticality safety index is described in 10 CFR 71.22, 10 CFR 71.23, and 10 CFR 71.59. The criticality safety index for an overpack, freight container, consignment or conveyance containing fissile material packages is the arithmetic sum of the criticality safety indices of all the fissile material packages contained within the overpack, freight container, consignment or conveyance.

“Curie” means a unit of quantity of radioactivity. One curie (Ci) is that quantity of radioactive material which decays at the rate of  $3.7 \times 10^{10}$  transformations per second (tps).

“Current license or registration” means a license or registration issued by the Department and for which the licensee has paid the license or registration fee for the current year according to R9-7-1304.

“Deep-dose equivalent” (Hd), which applies to external whole body exposure, is the dose equivalent at a tissue depth of 1 centimeter ( $1000 \text{ mg/cm}^2$ ).

“Depleted uranium” means the source material uranium in which the isotope uranium-235 is less than 0.711 weight percent of the total uranium present. Depleted uranium does not include special nuclear material.

“Discrete source” means a radionuclide that has been processed so that its concentration within a material has been purposely increased for use for commercial, medical, or research activities.

“Dose” is a generic term that means absorbed dose, dose equivalent, effective dose equivalent, committed dose equivalent, committed effective dose equivalent, total organ dose equivalent, or total effective dose equivalent. For purposes of these rules, “radiation dose” is an equivalent term.

“Dose equivalent” (HT) means the product of the absorbed dose in tissue, quality factor, and all other necessary modifying factors at the location of interest. The units of dose equivalent are the sievert (Sv) and rem.

“Dose limits” means the permissible upper bound of radiation doses established in accordance with these rules. For purposes of these rules, “limits” is an equivalent term.

“Dosimeter” (See “Individual monitoring device”)

“Effective dose equivalent” (HE) means the sum of the products of the dose equivalent to each organ or tissue (HT) and the weighting factor (wT) applicable to each of the body organs or tissues that are irradiated ( $HE = \sum w_T HT$ ).

“Effluent release” means any disposal or release of radioactive material into the ambient atmosphere, soil, or any surface or subsurface body of water.

“Embryo/fetus” means the developing human organism from conception until the time of birth.

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“Enclosed beam x-ray system” means an analytical x-ray system constructed in such a way that access to the interior of the enclosure housing the x-ray source during operation is precluded except through bypassing of interlocks or other safety devices to perform maintenance or servicing.

“Enclosed radiography” means industrial radiography conducted by using cabinet radiography or shielded room radiography.

“Cabinet radiography” means industrial radiography conducted by using an x-ray machine in an enclosure not designed for human admittance and which is so shielded that every location on the exterior meets the conditions for an “unrestricted area.”

“Shielded room radiography” means industrial radiography conducted using an x-ray machine in an enclosure designed for human admittance and which is so shielded that every location of the exterior meets the conditions for an “unrestricted area.”

“Entrance or access point” means any opening through which an individual or extremity of an individual could gain access to radiation areas or to licensed radioactive materials. This includes entry or exit portals of sufficient size to permit human entry, irrespective of their intended use.

“Exhibit” for purposes of these rules, is equivalent in meaning to the word “Schedule” as found in previously issued rules, current license conditions, and regulation guide.

“Explosive material” means any chemical compound, mixture, or device which produces a substantial instantaneous release of gas and heat spontaneously or by contact with sparks or flame.

“Exposure” means:

Being subjected to ionizing radiation or radioactive materials.

The quotient of  $dQ$  by  $dm$  where “ $dQ$ ” is the absolute value of the total charge of the ions of one sign produced in air when all the electrons (negatrons and positrons) liberated by photons in a volume element of air having mass “ $dm$ ” are completely stopped in air. The special unit of exposure is the roentgen (R).

“Exposure rate” means the exposure per unit of time.

“External dose” means that portion of the dose equivalent received from any source of radiation outside the body.

“Extremity” means the hand, elbow, arm below the elbow, foot, knee, and leg below the knee. “Fail-safe characteristics” means a design feature which causes beam port shutters to close, or otherwise prevents emergence of the primary beam, upon the failure of a safety or warning device.

“FDA” means the United States Food and Drug Administration.

“Field radiography” means industrial radiography, utilizing a portable or mobile x-ray system, which is not conducted in a shielded enclosure.

“Field station” means a facility where radioactive sources may be stored or used and from which equipment is dispatched to temporary job sites.

“Former U.S. Atomic Energy Commission (AEC) or U.S. Nuclear Regulatory Commission (NRC) licensed facilities” means nuclear reactors, nuclear fuel reprocessing plants, ura-

nium enrichment plants, or critical mass experimental facilities where AEC or NRC licenses have been terminated.

“Generally applicable environmental radiation standards” means standards issued by the U.S. Environmental Protection Agency (EPA), 40 CFR 190, revised December 1, 1979, and 40 CFR 191, revised December 20, 1993, incorporated by reference, and available under R9-7-101, under the authority of the Atomic Energy Act of 1954, as amended, that impose limits on radiation exposures or levels, or concentrations or quantities of radioactive material, in the general environment outside the boundaries of locations under the control of persons possessing or using radioactive material. This incorporated material contains no future editions or amendments.

“Gray” (Gy) means the International System (SI) unit of absorbed dose and is equal to 1 joule per kilogram. One gray equals 100 rad.

“Hazardous waste” means those wastes designated as hazardous in A.R.S. § 49-921(5).

“Healing arts” means the practice of medicine, dentistry, osteopathy, podiatry, chiropractic, and veterinary medicine.

“Health care institution” means every place, institution, or building which provides facilities for medical services or other health-related services, not including private clinics or offices which do not provide overnight patient care.

“High radiation area” means an area, accessible to individuals, in which radiation levels from radiation sources external to the body could result in an individual receiving a dose equivalent in excess of 1 mSv (0.1 rem) in one hour at 30 centimeters from the radiation source or 30 centimeters from any surface that the radiation penetrates.

“Human use” means the internal or external administration of radiation or radioactive materials to human beings.

“Impound” means to abate a radiological hazard. Actions which may be taken by the Department in impounding a source of radiation include seizing the source of radiation, controlling access to an area, and preventing a radiation machine from being utilized.

“Indian Tribe” means an Indian or Alaska native Tribe, band, nation, pueblo, village, or community that the Secretary of the Interior acknowledges to exist as an Indian Tribe pursuant to the Federally Recognized Indian Tribe List Act of 1994, 25 U.S.C. 479a.

“Individual” means any human being.

“Individual monitoring” means the assessment of:

Dose equivalent

By the use of individual monitoring devices, or

By the use of survey data, or

Committed effective dose equivalent

By bioassay; or

By determination of the time-weighted air concentrations to which an individual has been exposed, that is, DAC-hours. (See the definition of DAC-hours in Article 4).

“Individual monitoring device” means a device designed to be worn by a single individual for the assessment of dose equivalent. For purposes of this Chapter, “dosimeter” and “personnel dosimeter,” are equivalent terms. Examples of individual mon-

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monitoring devices are film badges, thermoluminescence dosimeters (TLDs), pocket ionization chambers, optical stimulation devices, and personal ("lapel") air sampling devices.

"Individual monitoring equipment" means one or more individual monitoring devices. For purposes of this Chapter, "personnel monitoring equipment" is an equivalent term.

"Industrial radiography" means the examination of the macroscopic structure of materials by non-destructive methods utilizing sources of ionizing radiation.

"Injection tool" means a device used for controlled subsurface injection of radioactive tracer material.

"Inspection" means an examination or observation by a representative of the Department, including but not limited to tests, surveys, and monitoring to determine compliance with rules, orders, requirements and conditions of the License or certificate of registration.

"Interlock" means a device arranged or connected such that the occurrence of an event or condition is required before a second event or condition can occur or continue to occur.

"Internal dose" means that portion of the dose equivalent received from radioactive material taken into the body.

"Irradiate" means to expose to radiation.

"Laser" (light amplification by the stimulated emission of radiation) means any device which can produce or amplify electromagnetic radiation with wavelengths in the range of 180 nanometers to 1 millimeter primarily by the process of controlled stimulated emission.

"Lens dose equivalent" (LDE) means the external exposure of the lens of the eye and is taken as the dose equivalent at a tissue depth of 0.3 centimeters (300 mg/cm<sup>2</sup>).

"License" means the grant of authority, issued pursuant to Articles 3 and 14 of this Chapter and A.R.S. §§ 30-671, 30-672, and 30-721 et seq., to acquire, possess, transfer, and use sources of radiation. The types of licenses issued by the Department are described in R9-7-1302.

"Licensed material" means radioactive material received, possessed, used, transferred, or disposed of under a general or specific license issued by the Department.

"Licensed practitioner" means a person licensed or otherwise authorized by law to practice medicine, dentistry, osteopathy, chiropractic, podiatry, or naturopathy in this state.

"Licensee" means any person who is licensed by the Department under this Chapter to acquire, possess, transfer, or use sources of radiation.

"Licensing State" means any state having regulations equivalent to this Chapter relating to, and an effective program for the regulation of, naturally occurring and accelerator-produced radioactive material (NARM).

"Limits" (See "Dose limits")

"Local components" means those parts of an analytical x-ray system that are struck by x-rays, including radiation source housings, port and shutter assemblies, collimator, sample holders, cameras, goniometer, detectors and shielding but not including power supplies, transformers, amplifiers, readout devices, and control panels.

"Logging supervisor" means the individual who provides personal supervision of the utilization of sources of radiation at the well site.

"Logging tool" means a device used subsurface to perform well logging.

"Lost or missing licensed or registered source of radiation" means licensed or registered source of radiation the location of which is unknown. Included are licensed radioactive material or a registered radiation source that has been shipped but has not reached its planned destination and whose location cannot be readily traced or ascertained in the transportation system.

"Low-level waste" means waste material which contains radioactive nuclides in concentrations or quantities which exceed applicable standards for unrestricted release but does not include:

High-level waste, such as irradiated reactor fuel, liquid waste from reprocessing irradiated reactor fuel, or solids into which any such liquid waste has been converted;

Waste material containing transuranic elements with contamination levels greater than 10 nanocuries per gram (370 kilobecquerels per kilogram) of waste material; or

The tailings or wastes produced by the extraction or concentration of uranium or thorium from any ore processed primarily for its source material content.

"Low Specific Activity (LSA) material" means radioactive material with limited specific activity which is nonfissile or is excepted under 10 CFR 71.15, and which satisfies the descriptions and limits set forth in the following section. Shielding materials surrounding the LSA material may not be considered in determining the estimated average specific activity of the package contents. The LSA material must be in one of three groups:

LSA—I.

Uranium and thorium ores, concentrates of uranium and thorium ores, and other ores containing naturally occurring radionuclides that are intended to be processed for the use of these radionuclides;

Natural uranium, depleted uranium, natural thorium or their compounds or mixtures, provided they are unirradiated and in solid or liquid form;

Radioactive material other than fissile material, for which the A2 value is unlimited; or

Other radioactive material in which the activity is distributed throughout and the estimated average specific activity does not exceed 30 times the value for exempt material activity concentration determined in accordance with appendix A.

LSA—II.

Water with tritium concentration up to 0.8 TBq/liter (20.0 Ci/liter); or

Other radioactive material in which the activity is distributed throughout and the estimated average specific activity does not exceed 10–4 A2/g for solids and gases, and 10–5 A2/g for liquids.

LSA—III. Solids (e.g., consolidated wastes, activated materials), excluding powders, that satisfy the requirements of 10 CFR 71.77, in which:

The radioactive material is distributed throughout a solid or a collection of solid objects, or is essentially uniformly distributed in a solid compact binding agent (such as concrete, bitumen, ceramic, etc.);

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The radioactive material is relatively insoluble, or it is intrinsically contained in a relatively insoluble material, so that even under loss of packaging, the loss of radioactive material per package by leaching, when placed in water for 7 days will not exceed 0.1 A2; and

The estimated average specific activity of the solid, excluding any shielding material, does not exceed  $2 \times 10^{-3} \text{ A2/g}$ .

“Major processor” means a user processing, handling, or manufacturing radioactive material exceeding Type A quantities as unsealed sources or material or exceeding four times Type B quantities as sealed sources but does not include nuclear medicine programs, universities, industrial radiographers, or small industrial programs. Type A and B quantities are defined in 10 CFR 71.4.

“Medical dose” means a radiation dose intentionally delivered to an individual for medical examination, diagnosis, or treatment.

“Member of the public” means any individual except when that individual is receiving an occupational dose.

“MeV” means Mega Electron Volt which equals 1 million volts (106 eV).

“Mineral logging” means any well logging performed in a borehole drilled for the purpose of exploration for minerals other than oil or gas.

“Minor” means an individual less than 18 years of age.

“Monitoring” means the measurement of radiation, radioactive material concentrations, surface area activities, or quantities of radioactive material, and the use of the results of these measurements to evaluate potential exposures and doses. For purposes of these rules, “radiation monitoring” and “radiation protection monitoring” are equivalent terms.

“Multiplier” means a letter representing a number. The use of a multiplier is based on the code given below:

<i>Prefix</i>	<i>Multiplier Symbol</i>	<i>Value</i>
eka	E	$10^{18}$
peta	P	$10^{15}$
tera	T	$10^{12}$
giga	G	$10^9$
mega	M	$10^6$
kilo	k	$10^3$
milli	m	$10^{-3}$
micro	u	$10^{-6}$
nano	n	$10^{-9}$
pico	p	$10^{-12}$
femto	f	$10^{-15}$
atto	a	$10^{-18}$

“NARM” means any naturally occurring or accelerator-produced radioactive material. It does not include byproduct, source, or special nuclear material. This term should not be confused with “NORM” which is defined as naturally occurring radioactive material.

“Natural radioactivity” means the radioactivity of naturally occurring radioactive substances.

“Normal operating procedures” means the entire set of instructions necessary to accomplish the intended use of the source of radiation. These procedures shall include, but are not limited to, sample insertion and manipulation, equipment alignment, routine maintenance by the licensee, and data recording procedures which are related to radiation safety.

“NRC” means Nuclear Regulatory Commission, the U.S. Nuclear Regulatory Commission, or its duly authorized representatives.

“NRC Document Control Desk” means the Nuclear Regulatory Document Control Desk. ATTN: Document Control Desk, U.S. Nuclear Regulatory Commission, Washington, DC 20555-0001.

“Nuclear waste” means any highway route controlled quantity (defined in 49 CFR 173.403, revised January 8, 2015, incorporated by reference, available under R9-7-101, and containing no future editions or amendments) of source, byproduct, or special nuclear material required to be in NRC-approved packaging while transported to, through, or across state boundaries to a disposal site, or to a collection point for transport to a disposal site. Additional requirements associated with transportation of radioactive material can be found in Article 15.

“Occupational dose” means the dose received by an individual in the course of employment in which the individual’s assigned duties involve exposure to sources of radiation, whether in the possession of a licensee, registrant, or other person. Occupational dose does not include a dose received from background radiation, medical administration of radiation to the individual, exposure to an individual who has been administered radioactive material and released in accordance with R9-7-717, voluntary participation in a medical research program, or as a member of the public.

“Open beam system” means an analytical x-ray system in which an individual could place some body part in the primary beam path during normal operation.

“Ophthalmic physicist” means an individual who:

Meets the requirements in 10 CFR 35.433(a)(2) and 10 CFR 35.59; and

Is identified as an ophthalmic physicist on a:

Specific medical use license issued by the Department, the NRC, or another Agreement State;

Permit issued by a Department, NRC, or another Agreement State broad scope medical use licensee;

Medical use permit issued by a NRC master material licensee; or

Permit issued by a NRC master material licensee broad scope medical use permittee.

“Package” means the packaging together with its radioactive contents as presented for transport.

“Particle accelerator” (See “Accelerator”)

“Permanent radiographic installation” means a fixed, shielded installation or structure designed or intended for industrial radiography and in which industrial radiography is regularly performed.

“Personnel dosimeter” (See “Individual monitoring device”)

“Personnel monitoring equipment” (See “Individual monitoring device”)

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“Personal supervision” means supervision in which the supervising individual is physically present at the site where sources of radiation and associated equipment are being used, watching the performance of the supervised individual and in such proximity that immediate assistance can be given if required.

“PET” (See Positron Emission Tomography (PET))

“Pharmacist” means an individual licensed by this state to compound and dispense drugs, prescriptions, and poisons.

“Physician” means an individual licensed pursuant to A.R.S. Title 32, Chapters 13 or 17.

“Positron Emission Tomography (PET)” means an imaging technique using radionuclides to produce high resolution images of the body’s biological functions.

“Positron Emission Tomography radionuclide production facility” means a facility operating a cyclotron or accelerator for the purpose of producing PET radionuclides.

“Preceptor” means an individual who provides, directs, or verifies training and experience required for an individual to become an authorized user, an authorized medical physicist, an authorized nuclear pharmacist, a Radiation Safety Officer, or an Associate Radiation Safety Officer.

“Primary beam” means radiation which passes through an aperture of the source housing by a direct path from the x-ray tube or a radioactive source located in the radiation source housing.

“Public dose” means the dose received by a member of the public from radiation from radioactive material released by a licensee or registrant, or exposure to a source of radiation used in a licensed or registered operation. It does not include an occupational dose or a dose received from background radiation, medical administration of radiation to the individual, exposure to an individual who has been administered radioactive material and released in accordance with R9-7-717, or voluntary participation in a medical research program.

“Pyrophoric liquid” means any liquid that ignites spontaneously in dry or moist air at or below 130° F (54.4° C).

“Pyrophoric solid” means any solid material, other than one classed as an explosive, which under normal conditions is liable to cause fires through friction, retained heat from manufacturing or processing, or which can be ignited readily and, when ignited, burns so vigorously and persistently that it creates a serious transportation, handling, or disposal hazard. Included are spontaneously combustible and water-reactive materials.

“Qualified expert” means an individual certified in the appropriate field by the American Board of Radiology or the American Board of Health Physics, or having equivalent qualifications that provide the knowledge and training to measure ionizing radiation, to evaluate safety techniques, and to advise regarding radiation protection needs; or an individual certified in Therapeutic Radiological Physics or X-ray and Radium Physics by the American Board of Radiology, or having equivalent qualifications that provide training and experience in the clinical applications of radiation physics to radiation therapy, to calibrate radiation therapy equipment. The detailed requirements for a particular qualified expert may be provided in the respective Articles of this Chapter. For clarification purposes, a qualified expert is not always an authorized medical physicist; however, an authorized medical physicist is included within the definition of “qualified expert.”

“Quality Factor” (Q) means the modifying factor, listed in Tables I and II of this Article, that is used to derive dose equivalent from absorbed dose.

“Quarter” (See “Calendar quarter”)

“Rad” means the special unit of absorbed dose. One rad equals 100 ergs per gram, or 0.01 gray.

“Radiation” means alpha particles, beta particles, gamma rays, x-rays, neutrons, high-speed electrons, high-speed protons, and other particles capable of producing ions. For purposes of these rules, this term is synonymous with ionizing radiation. Equivalent terminology for non-ionizing radiation is defined in Article 14.

“Radiation area” means any area accessible to individuals, in which radiation levels could result in an individual receiving a dose equivalent in excess of 0.05 mSv (0.005 rem) in one hour at 30 centimeters from the source of radiation or from any surface that the radiation penetrates.

“Radiation dose” (See “Dose”)

“Radiation machine” means any device capable of producing radiation except those devices with radioactive material as the only source of radiation.

“Radiation Safety Officer” (RSO) means the individual who:

For license conditions:

Meets the requirements in 10 CFR 35.50(a) or (c)(1), revised July 16, 2018, and 10 CFR 35.59, revised March 27, 2006, incorporated by reference, available under R9-7-10, and containing no future editions or amendments; or

Is identified as a Radiation Safety Officer on a specific medical use license issued by the Department, the NRC or another Agreement State; or a medical use permit issued by a NRC master material licensee; or

For registration conditions, is designated by the registrant as the individual who has the knowledge, authority, and responsibility to apply appropriate radiation protection principles to ensure radiation safety and compliance with the Act, this Chapter, and any registration conditions.

“Radiation Safety Officer” (RSO) means the individual who:

For license conditions:

Meets the requirements of R9-7-407, and for a medical license meets the training requirements of R9-7-710; or

Is identified as a Radiation Safety Officer on a specific medical use license issued by the Department, the NRC, or another Agreement State; or a medical use permit issued by a NRC master material licensee; or

Meets the requirements in R9-7-512 on a specific industrial license issued by the Department, the NRC, or another Agreement State; or an industrial use permit issued by a NRC master material licensee; or

For registration conditions, is designated by the registrant as the individual who has the knowledge, authority, and responsibility to apply appropriate radiation protection

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principles to ensure radiation safety and compliance with the Act, this Chapter and any registration conditions.

“Radioactive marker” means radioactive material placed subsurface or on a structure intended for subsurface use for the purpose of depth determination or direction orientation.

“Radioactive material” means any solid, liquid, or gas which emits radiation spontaneously.

“Radioactivity” means emission of electromagnetic energy or particles or both during the transformation of unstable atomic nuclei.

“Radiographer” means any individual who performs or personally supervises industrial radiographic operations and who is responsible to the licensee or registrant for assuring compliance with the requirements of this Chapter and all conditions of the license or certificate of registration.

“Radiographer’s assistant” means any individual who, under the personal supervision of a radiographer, uses sources of radiation, radiographic exposure devices, related handling tools, or survey instruments in industrial radiography.

“Registrant” means any person who is registered with the Department and is legally obligated to register with the Department pursuant to these rules and the Act.

“Registration” is the process by which a person becomes a registrant pursuant to Article 2 or 14 of this Chapter. With the exception of registration of persons who install or service radiation machines, the types of registrations issued by the Department are described in R9-7-1302.

“Regulations of the U.S. Department of Transportation” means the federal regulations in 49 CFR 107, revised April 19, 2017; 49 CFR 171, revised April 19, 2017; 49 CFR 172, revised November 23, 2015; 49 CFR 173, revised March 6, 2019; 49 CFR 174, revised February 28, 2019; 49 CFR 175, revised October 18, 2018; 49 CFR 176, November 7, 2018; 49 CFR 177, revised September 25, 2013; 49 CFR 178, revised November 7, 2018; 49 CFR 179, revised September 25, 2018; and 49 CFR 180, revised March 30, 2017, incorporated by reference, available under R9-7-101, and containing no future editions or amendments.

“Rem” means the special unit of dose equivalent (see “Dose equivalent”). The dose equivalent in rem is equal to the absorbed dose in rad multiplied by the quality factor (1 rem = 0.01 sievert).

“Research and Development” means exploration, experimentation, or the extension of investigative findings and theories of a scientific or technical nature into practical application for experimental and demonstration purposes, including the experimental production and testing of models, devices, equipment, materials, and processes. Research and Development does not include the internal or external administration of radiation or radioactive material to human beings.

“Restricted area” means any area where the licensee or registrant controls access for purposes of protecting individuals from exposure to radiation and radioactive material. A restricted area does not include any areas used for residential quarters, although a room or separate rooms in a residential building may be set apart as a restricted area.

“Roentgen” (R) means the special unit of exposure and is equal to the quantity of x or gamma radiation which causes ionization in air equal to 258 microcoulomb per kilogram (see “Exposure”).

“Safety system” means any device, program, or administrative control designed to ensure radiation safety.

“Sealed source” means radioactive material that is permanently bonded or fixed in a capsule or matrix designed to prevent release and dispersal of the radioactive material under the most severe conditions which are likely to be encountered in normal use and handling.

“Sealed Source and Device Registry” means the national registry that contains all the registration certificates, generated by both the NRC and the Agreement States, that summarize the radiation safety information for the sealed sources and devices and describe the licensing and use conditions approved for each source or device.

“Shallow dose equivalent” (HS), which applies to the external exposure of the skin of the whole body or the skin of an extremity, is taken as the dose equivalent at a tissue depth of 0.007 centimeter (7 mg/cm<sup>2</sup>).

“Shielded position” means the location within a radiographic exposure device or storage container which, by manufacturer’s design, is the proper location for storage of the sealed source.

“Sievert” means the SI unit of dose equivalent (see “Dose equivalent”). The dose equivalent in sievert is equal to the absorbed dose in gray multiplied by the quality factor (1 Sv = 100 rem).

“Site boundary” means that line beyond which the land or property is not owned, leased, or otherwise controlled by the licensee or registrant.

“Source changer” means a device designed and used for replacement of sealed sources in radiographic exposure devices, including those also used for transporting and storage of sealed sources.

“Source holder” means a housing or assembly into which a radioactive source is placed for the purpose of facilitating the handling and use of the source in well-logging operations.

“Source material” means:

Uranium or thorium, or any combination of uranium or thorium, in any physical or chemical form; or

Ores that contain by weight 1/20 of 1 percent (0.05 percent) or more of uranium, thorium, or any combination of uranium and thorium.

Source material does not include special nuclear material.

“Source material milling” means any activity that results in the production of byproduct material as defined by the second subsection under the definition of “Byproduct material.”

“Source of radiation” or “source” means any radioactive material or any device or equipment emitting, or capable of producing, radiation.

“Special form radioactive material” means radioactive material that satisfies all of the following conditions:

It is either a single solid piece or is contained in a sealed capsule that can be opened only by destroying the capsule;

The piece or capsule has at least one dimension not less than 5 millimeters (0.2 inch); and

It satisfies the test requirements specified in 10 CFR 71.75. A special form encapsulation designed in accordance with the U.S. Nuclear Regulatory Commission

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requirements in effect on June 30, 1983, and constructed prior to July 1, 1985, may continue to be used. A special form encapsulation designed in accordance with the requirements of 10 CFR 71.4 in effect on March 31, 1996 (see 10 CFR part 71, revised as of January 1, 1996), and constructed before April 1, 1998; and special form material that was successfully tested before September 10, 2015 in accordance with the requirements of 10 CFR 71.75(d) in effect before September 10, 2015 may continue to be used. Any other special form encapsulation must meet the specifications of this definition.

“Special nuclear material in quantities not sufficient to form a critical mass” means Uranium enriched in the isotope U-235 in quantities not exceeding 350 grams of contained U-235; Uranium-233 in quantities not exceeding 200 grams; Plutonium in quantities not exceeding 200 grams; or any combination of them in accordance with the following formula: for each kind of special nuclear material, determine the ratio between the quantity of that special nuclear material and the quantity specified above for the same kind of special nuclear material. The sum of such ratios for all of the kinds of special nuclear material in combination shall not exceed one. For example, the following quantities in combination would not exceed the limitation and are within the formula:

$$\frac{X\text{gmsU235}}{350} + \frac{Y\text{gmsU233}}{200} + \frac{Z\text{gmsPu}}{200} \leq 1$$

“Storage area” means any location, facility, or vehicle which is used to store, transport, or secure a radiographic exposure device, storage container, sealed source, or other source of radiation when it is not in use.

“Storage container” means a device in which sealed sources are transported or stored.

“Subsurface tracer study” means the release of a substance tagged with radioactive material for the purpose of tracing the movement or position of the tagged substance in the well-bore or adjacent formation.

“Survey” means an evaluation of the production, use, release, disposal, or presence of sources of radiation or any combination thereof under a specific set of conditions to determine actual or potential radiation hazards. Such evaluations include, but are not limited to, tests, physical examination and measurements of levels of radiation or concentration of radioactive material present.

“TEDE” (See “Total Effective Dose Equivalent”)

“Teletherapy” means therapeutic irradiation in which the source of radiation is at a distance from the body.

“Temporary job site” means any location where sources of radiation are used other than the specified locations listed on a license document. Storage of sources of radiation at a temporary jobsite shall not exceed six months unless the Department has granted an amendment authorizing storage at that jobsite.

“Test” means the process of verifying compliance with an applicable rule, order, or license condition.

“These rules” means all Articles of 9 A.A.C. 7.

“Total Effective Dose Equivalent” (TEDE) means the sum of the effective dose equivalent (for external exposures) and the committed effective dose equivalent (for internal exposures).

“Total Organ Dose Equivalent” (TODE) means the sum of the deep-dose equivalent and the committed dose equivalent to the organ receiving the highest dose. Determination of TODE is described in R9-7-411.

“Tribal official” means the highest ranking individual that represents Tribal leadership, such as the Chief, President, or Tribal Council leadership.

“Unrefined and unprocessed ore” means ore in its natural form prior to any processing, such as grinding, roasting, beneficiating, or refining. Processing does not include sieving or encapsulation of ore or preparation of samples for laboratory analysis.

“Unrestricted area” means any area access to which is not controlled by the licensee for purposes of protection of individuals from exposure to radiation and radioactive material. Any area used for residential quarters is an unrestricted area.

“Uranium - natural, depleted, enriched.”

Natural uranium means uranium (which may be chemically separated) with the naturally occurring distribution of uranium isotopes (approximately 0.711 weight percent uranium-235, and the remainder by weight essentially uranium-238).

Depleted uranium means uranium containing less uranium-235 than the naturally occurring distribution of uranium isotopes.

Enriched uranium means uranium containing more uranium-235 than the naturally occurring distribution of uranium isotopes.

“U.S. Department of Energy” means the Department of Energy established by P.L. 95-91, August 4, 1977, 91 Stat. 565, 42 U.S.C. 7101 et seq., to the extent that the Department of Energy exercises functions formerly vested in the U.S. Atomic Energy Commission, its Chairman, members, officers, and components; and transferred to the U.S. Energy Research and Development Administration and to the administrator of that agency under sections 104(b), (c), and (d) of the Energy Reorganization Act of 1974 (P.L. 93-438, October 11, 1974, 88 Stat. 1233 at 1237, 42 U.S.C. 5814, effective January 19, 1975) and retransferred to the Secretary of Energy under Section 301(a) of the Department of Energy Organization Act (P.L. 95-91, August 4, 1977, 91 Stat. 565 at 577-578, 42 U.S.C. 7151, effective October 1, 1977).

“Very high radiation area” means an area, accessible to individuals, in which radiation levels from radiation sources external to the body could result in an individual receiving an absorbed dose that exceeds 5 grays (500 rads) in one hour at one meter from a radiation source or one meter from any surface that the radiation penetrates.

“Waste” (See “Low-level waste”)

“Waste handling licensees” means persons licensed to receive and store radioactive wastes prior to disposal and persons licensed to dispose of radioactive waste.

“Week” means seven consecutive days starting on Sunday.

“Well-bore” means a drilled hole in which wireline service operations and subsurface tracer studies are performed.

“Well-logging” means the lowering and raising of measuring devices or tools which may contain sources of radiation into well-bores or cavities for the purpose of obtaining information about the well and adjacent formations.

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“Whole body” means, for purposes of external exposure, head, trunk including male gonads, arms above the elbow, or legs above the knee.

“Wireline” means an armored cable containing one or more electrical conductors which is used to lower and raise logging tools in the well-bore.

“Wireline service operation” means any evaluation or mechanical service which is performed in the well-bore using devices on a wireline.

“Worker” means any individual engaged in work under a license or registration issued by the Department and controlled by employment or contract with a licensee or registrant.

“WL” means working level, any combination of short-lived radon daughters in 1 liter of air that will result in the ultimate emission of  $1.3E + 5$  MeV of potential alpha particle energy. The short-lived radon daughters are – for radon-222: polonium-218, lead-214, bismuth-214, and polonium-214; and for radon-220: polonium-216, lead-212, bismuth-212, and polonium-212.

“WLM” means working level month, an exposure to one working level for 170 hours (2,000 working hours per year divided by 12 months per year is approximately equal to 170 hours per month).

“Workload” means the degree of use of an x-ray or gamma-ray source per unit time.

“Year” means the period of time beginning in January used to determine compliance with the provisions of these rules. The licensee or registrant may change the starting date of the year used to determine compliance by the licensee or registrant provided that the change is made at the beginning of the year and that no day is omitted or duplicated in consecutive years.

**Historical Note**

New Section R9-7-102 recodified from R12-1-102 at 24 A.A.R. 813, effective March 22, 2018 (Supp. 18-1).

When the Department recodified Section R9-7-102 it inadvertently left out the definition for “Tribal Official;” the definition has been added; the definitions of “Extremity” “Registration” and “Worker” were also corrected with language as originally codified in 12 A.A.C. 1 (Supp. 18-2). Amended by final expedited rulemaking at 24 A.A.R. 2151, effective July 12, 2018 (Supp. 18-3). An amendment to the definition “Extremity” was inadvertently omitted when codifying changes to this Section by final expedited rulemaking in Supp 18-3. The definition has been listed as filed at 24 A.A.R. 2151 and is effective July 12, 2018 (Supp. 19-3). Amended by final expedited rulemaking at 26 A.A.R. 1067, with an immediate effective date of May 6, 2020 (Supp. 20-2).

**R9-7-103. Exemptions**

- A. Common and contract carriers, freight forwarders, and warehousemen who are subject to 49 CFR 107.109, 107.111, 107.113, 171.2, 171.3, 172.200, 173.1, 173.3, 173.4, 173.401, 175.3, 175.10, 176.3, 176.5, 176.11, 176.24, 176.27, and 177.801, revised October 1, 2007, of the U.S. Department of Transportation, or 39 CFR 111.1 of the U.S. Postal Service, revised July 1, 2007, incorporated by reference, and available under R9-7-101, and who if need be, store radioactive material, for periods of less than 72 hours, in the regular course of their carriage for another, are exempt from this Chapter. The incorporated materials above contain no future editions or amendments.

- B. Any U.S. Department of Energy contractor or subcontractor and any U.S. Nuclear Regulatory Commission contractor or subcontractor of the following categories operating within this state are exempt from this Chapter to the extent that such contractor or subcontractor under the contract receives, possesses, uses, transfers, or acquires sources of radiation:
1. Prime contractors performing work for the Department of Energy at U.S. Government-owned or controlled sites, including the transportation of sources of radiation to or from such sites and the performance of contract services during temporary interruptions of such transportation;
  2. Prime contractors of the Department of Energy performing research or development, manufacture, storage, testing or transportation of nuclear weapons or components thereof;
  3. Prime contractors of the Department of Energy using or operating nuclear reactors or other nuclear devices in a United States Government-owned vehicle or vessel; and
  4. Any other prime contractor or subcontractor of the Department of Energy or of the Nuclear Regulatory Commission when the state and the Nuclear Regulatory Commission jointly determine:
    - a. That the exemption of the prime contractor or subcontractor is authorized by law; and
    - b. That under the terms of the contract or subcontract, there is adequate assurance that the work thereunder can be accomplished without undue risk to the public health and safety.
- C. Any licensee who delivers to a carrier for transport any package which contains radioactive material having a specific activity of 74 kBq/kg (2 nanocuries per gram) or less, is exempt from the provisions of this Chapter with respect to that package.
- D. Any physician licensed by a State to dispense drugs in the practice of medicine is exempt from 10 CFR 71.5 with respect to transport by the physician of licensed material for use in the practice of medicine. However, any physician operating under this exemption must be licensed under 10 CFR part 35 and/or R9-7-703.

**Historical Note**

New Section R9-7-103 recodified from R12-1-103 at 24

A.A.R. 813, effective March 22, 2018 (Supp. 18-1).

Amended by final expedited rulemaking at 24 A.A.R.

2151, effective July 12, 2018 (Supp. 18-3).

**R9-7-104. Prohibited Uses**

- A. A person shall not use the following fluoroscopic devices:
1. Hand-held fluoroscopic screens,
  2. Shoe-fitting fluoroscopic devices.
- B. Except as specifically authorized by law, a person shall not use sources of ionizing radiation for the purpose of screening an individual or inspecting an individual for:
1. Concealed weapons,
  2. Hazardous materials,
  3. Stolen property, or
  4. Contraband.
- C. Unless there is a medical or dental indication for the exposure and the exposure is prescribed by a licensed practitioner, a person shall not deliberately expose an individual to the useful beam from:
1. An ionizing radiation machine; or
  2. A non-ionizing radiation source, having a radiation beam known to be harmful to human tissue.



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**Historical Note**

New Section R9-7-104 recodified from R12-1-104 at 24 A.A.R. 813, effective March 22, 2018 (Supp. 18-1).

**R9-7-105. Quality Factors for Converting Absorbed Dose to Dose Equivalent**

A. As used in these rules, the quality factors for converting absorbed dose to dose equivalent are shown in Table I.

TABLE I. QUALITY FACTORS AND ABSORBED DOSE EQUIVALENCIES

TYPE OF RADIATION	Quality Factor (Q)	Absorbed Dose Equal to a Unit Dose Equivalent <sup>a</sup>
X, gamma, or beta radiation and high-speed electrons		1
Alpha particles, multiple-charged particles, fission fragments, and heavy particles of unknown charge	20	0.05
Neutrons of unknown energy	10	0.1
High-energy protons	10	0.1

<sup>a</sup> The absorbed dose in gray is equal to 1 Sv or the absorbed dose in rad is equal to 1 rem.

B. If it is more convenient to measure the neutron fluence rate than to determine the neutron dose equivalent rate in sievert per hour or rem per hour, 0.01 Sv (1 rem) of neutron radiation of unknown energies may, for purposes of these rules, be assumed to result from a total fluence of 25 million neutrons per square centimeter incident upon the body. If sufficient information exists to estimate the approximate energy distribution of the neutrons, the licensee or registrant may use the fluence rate per unit dose equivalent or the appropriate Q value from Table II to convert a measured tissue dose in gray or rad to dose equivalent in sievert or rem.

TABLE II. MEAN QUALITY FACTORS, Q, AND FLUENCE PER UNIT DOSE EQUIVALENT FOR MONOENERGETIC NEUTRONS

	Neutron Energy (meV)	Quality Factor (Q)	Fluence per Unit Dose Equivalent <sup>b</sup> (neutrons cm <sup>-2</sup> r <sub>em</sub> <sup>-1</sup> )	Fluence per Unit Dose Equivalent <sup>b</sup> (neutrons cm <sup>-2</sup> S <sub>v</sub> <sup>-1</sup> )
(thermal)	2.5E-8	2	980E+6	980E+8
	1E-7	2	980E+6	980E+8
	1E-6	2	810E+6	810E+8
	1E-5	2	810E+6	810E+8
	1E-4	2	840E+6	840E+8
	1E-3	2	980E+6	980E+8
	1E-2	2.5	1010E+6	1010E+8
	1E-1	7.5	170E+6	170E+8
	5E-1	11	39E+6	39E+8
	1	11	27E+6	27E+8
	2.5	9	29E+6	29E+8
	5	8	23E+6	23E+8
	7	7	24E+6	24E+8

10	6.5	24E+6	24E+8
14	7.5	17E+6	17E+8
20	8	16E+6	16E+8
40	7	14E+6	14E+8
60	5.5	16E+6	16E+8
1E+2	4	20E+6	20E+8
2E+2	3.5	19E+6	19E+8
3E+2	3.5	16E+6	16E+8
4E+2	3.5	14E+6	14E+8

<sup>a</sup> Value of quality factor (Q) at the point where the dose equivalent is maximum in a 30-centimeter diameter cylinder tissue-equivalent phantom.

<sup>b</sup> Monoenergetic neutrons incident normally on a 30-centimeter diameter cylinder tissue-equivalent phantom.

**Historical Note**

New Section R9-7-105 and Tables 1 and 2 recodified from R12-1-105, Tables 1 and 2 at 24 A.A.R. 813, effective March 22, 2018 (Supp. 18-1).

**R9-7-106. Units of Activity**

For purposes of these rules, activity is expressed in the SI unit of becquerel (Bq) or in the special unit of curie (Ci), or their multiples, or disintegrations or transformations per unit of time. The definitions for these units are located in R9-7-102.

**Historical Note**

New Section R9-7-106 recodified from R12-1-106, at 24 A.A.R. 813, effective March 22, 2018 (Supp. 18-1).

**R9-7-107. Misconduct**

A. A licensee, registrant, applicant for a license or certificate of registration, or employee of a licensee, registrant, or applicant; or any contractor (including a supplier or consultant), subcontractor, or employee of a contractor or subcontractor of any licensee or certificate of registration holder who provides to any licensee, registrant, applicant, contractor, or subcontractor, any components, equipment, materials, or other goods or services that relate to a licensee's, registrant's, or applicant's activities in this Chapter, shall not:

1. Knowingly engage in conduct that violates or will result in a violation by a licensee, registrant, or applicant, of any statute, rule, regulation, or order; or any term, condition, or limitation of any license or registration issued by the Department; or
2. Knowingly submit to the Department, or a licensee, registrant, or applicant, or a licensee's, registrant's, or applicant's contractor or subcontractor, information that is incomplete or inaccurate.

B. The Board shall impose the applicable civil penalty listed in R9-7-1216 on a person who violates subsection (A)(1) or (A)(2). For this purpose the person is classified as a Division II licensee and the violation is classified as a Severity II violation.

C. For the purposes of this Section, "misconduct" means conduct prohibited under subsection (A).

D. A person who is not a licensee, registrant, or applicant and knowingly violates a rule for the safe use of radiation sources in 9 A.A.C. 7 is subject to the enforcement actions in 9 A.A.C. 7, Article 12.

**Historical Note**

New Section R9-7-107 recodified from R12-1-107, at 24 A.A.R. 813, effective March 22, 2018 (Supp. 18-1).

**ARTICLE 2. REGISTRATION, INSTALLATION, AND SERVICE OF IONIZING RADIATION-PRODUCING**

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**MACHINES; AND CERTIFICATION OF MAMMOGRAPHY FACILITIES****R9-7-201. Exemptions**

- A. Electronic equipment that produces X-radiation incidental to its operation for other purposes is exempt from the registration and notification requirements of this Article, provided that an exposure rate, from any accessible surface, averaged over an area of 10 centimeters squared (1.55 inches squared) does not exceed 5 microsieverts (0.5 milliroentgen) per hour at 5 centimeters (2.0 inches).
- B. The production, testing, or factory servicing of the electronic equipment in subsection (A) is not exempt from the requirements of this Article.
- C. Radiation machines in storage or in transit to or from storage are exempt from the requirements of this Article.
- D. Radiation machines rendered incapable of producing radiation are exempt from the requirements of this Article.

**Historical Note**

New Section R9-7-201 recodified from R12-1-201, at 24 A.A.R. 813, effective March 22, 2018 (Supp. 18-1).

**R9-7-202. Application for Registration of Ionizing Radiation Producing Machines**

- A. A person shall not use a radiation machine except as authorized in this Article.
- B. A person possessing a nonexempt radiation machine shall apply for registration of the machine with the Department within 30 days after its installation. The person applying for registration of a radiation-producing machine shall use the application forms provided by the Department. The applicant shall provide the information identified in Appendix A of this Article.
- C. In addition to the application form or forms, the applicant shall remit the appropriate registration or licensing fee in R9-7-1306 and provide other information required by R9-7-208.
- D. Each applicant that applies for registration of a stationary x-ray system, with the exception of applicants from bone densitometry, cabinet radiography, podiatry, dental, bone mineral analyzer and mammography facilities, shall provide a scale drawing of the room in which the x-ray system is located, or provide measurements from the radiation source to the surrounding barrier surfaces. The drawing shall denote the type of materials and the thickness (or lead equivalence) of each barrier of the room (walls, ceilings, floors, doors, windows). The drawing shall also denote the type and frequency of occupancy in adjacent areas, including those above and below the x-ray room of concern (e.g., hallways, offices, parking lots, and lavatories). Estimates of workload shall also be provided with the drawing.
- E. An applicant proposing to use a particle accelerator for medical purposes shall not use the particle accelerator until the Department inspection required in R9-7-914 has been completed.

**Historical Note**

New Section R9-7-202 recodified from R12-1-202, at 24 A.A.R. 813, effective March 22, 2018 (Supp. 18-1).

**R9-7-203. Application for Registration of Servicing and Installation**

- A. Each person who is engaged in the business of installing or offering to install radiation machines shall apply for registration. For purposes of this Chapter, install includes selling and servicing, or offering to sell or service, x-ray machines in Arizona.

- B. The applicant shall complete the application for registration on forms that request information required by A.R.S. § 30-672.01, provided by the Department.

**Historical Note**

New Section R9-7-203 recodified from R12-1-203, at 24 A.A.R. 813, effective March 22, 2018 (Supp. 18-1).

**R9-7-204. Issuance of Notice of Registration**

- A. Upon determining that the application meets the requirements of the Act and this Article, the Department shall issue a Notice of Registration.
- B. All radiation machines located at the same facility may be registered using one Notice of Registration.

**Historical Note**

New Section R9-7-204 recodified from R12-1-204, at 24 A.A.R. 813, effective March 22, 2018 (Supp. 18-1).

**R9-7-205. Expiration of Notice of Registration or Certification**

- A. Except as provided in subsection (B), a Notice of Registration, issued according to R9-7-204, or a certificate issued according to R9-7-208, expires at the end of the day on the expiration date stated in the Notice of Registration or certificate.
- B. If an application for renewal is filed by the registrant or certificate holder not less than 30 days prior to the expiration of the Notice of Registration or certificate, the Notice of Registration or certificate does not expire until a final determination is made by the Department on the renewal application.

**Historical Note**

New Section R9-7-205 recodified from R12-1-205, at 24 A.A.R. 813, effective March 22, 2018 (Supp. 18-1).

**R9-7-206. Assembly, Installation, Removal from Service, and Transfer**

- A. A person who assembles, or installs ionizing radiation machines in this state shall notify the Department in writing within 15 days of:
  - 1. The name and address of the person possessing the machine that was assembled or installed;
  - 2. The manufacturer, model, and serial number of each radiation machine with the tube housing model number and serial number, maximum kVp, and maximum mA, assembled or installed; and
  - 3. The date each machine was assembled or installed, or the first clinical procedure is performed.
- B. Any person who possesses a radiation machine registered by the Department shall notify the Department within 15 days of the machine being taken out of service. The written notification shall contain the name and address of the person receiving the machine, if it is sold, leased, or transferred to another person; the manufacturer, model, and serial number of the machine; and the date the machine was taken out of service.
- C. In the case of diagnostic x-ray systems that contain certified components, an assembler shall, within 15 days following completion of the assembly, submit to the Department a copy of the assembler's report (FDA Report No. 2579) prepared in compliance with requirements in 21 CFR 1020.30(d), revised April 1, 2008, incorporated by reference, and available under R9-7-101. This incorporated material contains no future editions or amendments. The report shall suffice in lieu of any other report by the assembler, if it contains the information required in subsection (A).
- D. A person shall not make, sell, lease, transfer, lend, assemble, service, or install radiation machines or the supplies used in connection with radiation machines unless the supplies and

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equipment when properly placed in operation and used, meet the requirements of these rules.

**Historical Note**

New Section R9-7-206 recodified from R12-1-206, at 24 A.A.R. 813, effective March 22, 2018 (Supp. 18-1).

**R9-7-207. Reciprocal Recognition of Out-of-state Radiation Machines**

- A.** If any radiation machine is to be brought into the state for temporary use, the person proposing to bring the radiation machine into the state shall provide written notice to the Department at least three working days before the radiation machine is to be used in the state. The notice shall include the type of radiation machine; the nature, duration, and scope of use; and the exact location where the radiation machine is to be used. If, for a specific case, the three working-day period would impose an undue hardship, the person may upon application to the Department, obtain permission to proceed sooner.
- B.** In addition, the owner of the radiation machine and the person possessing the machine while in the state shall:
1. Comply with all applicable rules of the Department;
  2. Upon request, supply the Department with a copy of the machine's registration and other information regarding the safe operation of the machine while it is in the state; and
  3. Upon request, supply the Department with the work authorization from the Department, machine registration, operating and emergency procedures, utilization log, survey instrument and associated calibration record, and training records for all users.
- C.** A radiation machine shall not be operated within the state on a temporary basis in excess of 180 calendar days per year.

**Historical Note**

New Section R9-7-207 recodified from R12-1-207, at 24 A.A.R. 813, effective March 22, 2018 (Supp. 18-1).

**R9-7-208. Certification of Mammography Facilities**

An applicant seeking certification of a facility according to A.R.S. § 30-672(J) shall:

1. Provide evidence with the application that a quality assurance program has been established and is in use under R9-7-614(B)(1) and (2),
2. Provide evidence with the application that physicians reading mammographic images have the training and experience required in A.R.S. § 32-2842, and
3. Provide evidence with the application that physicians reading mammographic images have met the minimum criteria established by their respective licensing boards, as required in A.R.S. § 32-2842(C).

**Historical Note**

New Section R9-7-208 recodified from R12-1-208, at 24 A.A.R. 813, effective March 22, 2018 (Supp. 18-1).

**R9-7-209. Notifications**

- A.** A registrant shall notify the Department within 30 days of any change to the information contained in the notice of registration or a certificate issued according to R9-7-208.
- B.** A person who possesses a radiation machine registered by the Department shall notify the Department within 15 days if the machine is discarded or transferred to another person. In the notice, the person shall provide the name and address of the person who receives the machine, if it is sold, leased, or transferred to another person; the manufacturer, model, and serial number of the machine; and the date the machine was taken out of service.

**Historical Note**

New Section R9-7-209 recodified from R12-1-209, at 24 A.A.R. 813, effective March 22, 2018 (Supp. 18-1).

**Appendix A. Application Information**

An application shall contain the following information as required in R9-7-202(B), before a registration will be issued. The Department shall provide an application form to an applicant with a guide, if available, or shall assist the applicant to ensure that only correct information is provided on the application.

Name and mailing address of applicant	Use location
Person responsible for radiation safety program	Telephone number
Type of facility	Facility subtype
Legal structure and ownership	Signature of certifying agent
Radiation machine information	Equipment identifiers
Shielding information	Scale drawing, if applicable
Equipment operator instructions and restrictions	Physicist name and training, if applicable
Classification of professional in charge	
Record of calibration for therapy units	Type of request: amendment, new, or renewal
Protection survey results, if applicable	
Type of industrial radiography program, if applicable	
Radiation Safety Officer name, if applicable	Contact person
Other registration requirements listed in Articles 2, 6, 8, 9, and 11	Appropriate fee listed in Article 13 schedule

**Historical Note**

New Article 2, Appendix A recodified from 12 A.A.C. 1, Article 2, Appendix A, at 24 A.A.R. 813, effective March 22, 2018 (Supp. 18-1).

**ARTICLE 3. RADIOACTIVE MATERIAL LICENSING****R9-7-301. Ownership, Control, or Transfer of Radioactive Material**

- A.** In addition to the requirements of this Article, all licensees are subject to the requirements of 9 A.A.C. 7, Article 1, Article 4, and Article 10. Licensees engaged in industrial radiographic operations are subject to the requirements of 9 A.A.C. 7, Article 5; licensees using radioactive material in the practice of medicine are subject to the requirements of 9 A.A.C. 7, Article 7; licensees transporting radioactive material are subject to the requirements contained in 9 A.A.C. 7, Article 15; and licensees using radioactive material in well logging operations are subject to the requirements in 9 A.A.C. 7, Article 17.
- B.** Notwithstanding any other provisions of this Article, any person may own radioactive material, provided that the ownership does not include the actual possession, custody, use, or physical transfer of radioactive material or the manufacture or production of any article that contains radioactive material without the applicable certification, license, or registration.
- C.** A manufacturer, processor, or producer of any equipment, device, commodity, or other product that contains source material or radioactive material whose subsequent possession, use, transfer, or disposal by all other persons is exempt from regulatory requirements may only obtain authority to transfer

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possession or control of the material from the U.S. Nuclear Regulatory Commission, Washington, D.C. 20555.

**Historical Note**

New Section R9-7-301 recodified from R12-1-301, at 24 A.A.R. 813, effective March 22, 2018 (Supp. 18-1).

**R9-7-302. Source Material; Exemptions**

- A.** Any person is exempt from this Article to the extent the person receives, possesses, uses, delivers or transfers source material in any chemical mixture, compound, solution, or alloy in which the source material is by weight less than 1/20th of 1 percent (0.0005) of the mixture, compound, solution, or alloy.
- B.** Any person is exempt from this Article to the extent the person receives, possesses, uses, or transfers unrefined and unprocessed ore containing source material, provided that, the person does not refine or process the ore except as authorized in a specific license.
- C.** Any person is exempt from the requirements for a license set forth in this Article if the person receives, possesses, uses, or transfers:
  1. Any quantities of thorium contained in:
    - a. Incandescent gas mantles;
    - b. Vacuum tubes;
    - c. Welding rods;
    - d. Electric lamps for illuminating purposes provided that each lamp does not contain more than 50 milligrams of thorium;
    - e. Germicidal lamps, sunlamps, and lamps for outdoor or industrial lighting, provided that each lamp does not contain more than 2 grams of thorium;
    - f. Rare earth metals, compounds, mixtures, or products containing not more than 0.25 percent by weight thorium, uranium, or any combination of thorium and uranium; or
    - g. Individual neutron dosimeters, provided that each dosimeter does not contain more than 50 milligrams of thorium;
  2. Source material contained in the following products:
    - a. Glazed ceramic tableware manufactured before August 27, 2013, provided that the glaze contains not more than 20 percent source material by weight;
    - b. Glassware containing not more than 2 percent by weight source material or, for glassware manufactured before August 27, 2013, 10 percent by weight source material, but not including commercially manufactured glass brick, pane glass, ceramic tile or other glass or ceramic used in construction; or
    - c. Piezoelectric ceramic containing not more than 2 percent source material by weight;
  3. Photographic film, negatives, and prints containing uranium or thorium;
  4. Any finished product or part fabricated of, or containing, tungsten-thorium or magnesium-thorium alloys, provided that the thorium content of the alloy does not exceed 4 percent by weight and that the exemption contained in this subsection does not authorize the chemical, physical, or metallurgical treatment or processing of the finished product or part;
  5. Uranium contained in counterweights installed in aircraft, rockets, projectiles, and missiles, or stored or handled in connection with installation or removal of counterweights, provided that:
    - a. Each counterweight has been impressed with the following legend clearly legible through any plating or other covering: "DEPLETED URANIUM";
    - b. Each counterweight is durably and legibly labeled or marked with the identification of the manufacturer and the statement: "UNAUTHORIZED ALTERATIONS PROHIBITED";
    - c. The exemption contained in subsection (C)(5) does not authorize the chemical, physical, or metallurgical treatment or processing of any counterweight other than repair or restoration of any plating or other covering; and
    - d. The requirements specified in subsections (C)(5)(a) and (b) need not be met by counterweights manufactured prior to December 31, 1969; provided, that these counterweights were manufactured under a specific license issued by the Atomic Energy Commission and were impressed with the legend, "CAUTION - RADIOACTIVE MATERIAL - URANIUM";
6. Natural or depleted uranium metal used as shielding and constituting part of any shipping container; provided that:
  - a. The shipping container is conspicuously and legibly impressed with the legend "CAUTION - RADIOACTIVE SHIELDING - URANIUM," and
  - b. The uranium metal is encased in mild steel or equally fire resistant metal with minimum wall thickness of 1/8 inch (3.2 mm);
7. Thorium or uranium contained in or on finished optical lenses, provided that each lens or mirror does not contain more than 10 percent by weight thorium or uranium or, for lenses manufactured before August 27, 2013, 30 percent by weight of thorium; and that the exemption contained in this Section does not authorize either:
  - a. The shaping, grinding, or polishing of such lens or mirror or manufacturing processes other than the assembly of such lens or mirror into optical systems and devices without any alteration of the lens or mirror; or
  - b. The receipt, possession, use, or transfer of uranium or thorium contained in contact lenses, spectacles, or the eyepieces of binoculars or other optical instruments;
8. Uranium contained in detector heads of fire detection units, provided that each detector head contains not more than 5 nanocuries (185 Bq) of uranium; or
9. Thorium contained in any finished aircraft engine part containing nickel-thoria alloy, provided that:
  - a. The thorium is dispersed in the nickel-thoria alloy in the form of finely divided thoria (thorium dioxide), and
  - b. The thorium content in the nickel-thoria alloy does not exceed 4 percent by weight.
- D.** No person may initially transfer for sale or distribution a product containing source material to persons exempt under subsection (C), or equivalent regulations of the NRC or another Agreement State, unless authorized by a license issued under R9-7-318 to initially transfer such products for sale or distribution.
- E.** Persons authorized to manufacture, process, or produce these materials or products containing source material by an Agreement State, and persons who import finished products or parts, for sale or distribution must be authorized by a license issued under R9-7-318 for distribution only and are exempt from the requirements of Articles 4 and 10 of this Chapter, and R9-7-309(1) and (2).
- F.** The exemptions in subsections (C), (D), and (E) do not authorize the manufacture of any of the products described.

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**Historical Note**

New Section R9-7-302 recodified from R12-1-302, at 24

A.A.R. 813, effective March 22, 2018 (Supp. 18-1).

Amended by final expedited rulemaking at 24 A.A.R. 2151, effective July 12, 2018 (Supp. 18-3). Amended by final expedited rulemaking at 26 A.A.R. 1067, with an immediate effective date of May 6, 2020 (Supp. 20-2).

**R9-7-303. Radioactive Material Other Than Source Material; Exemptions****A. Exempt concentrations**

1. Except as provided in subsection (A)(3) and (A)(4), any person is exempt from this Article if the person receives, possesses, uses, transfers, owns, or acquires products or materials containing radioactive material in concentrations not in excess of those listed in Exhibit A.
2. This Section shall not be deemed to authorize the import of radioactive material or products containing radioactive material.
3. A manufacturer, processor, or producer of a product or material is exempt from the requirements for a license issued under R9-7-311(A) or the requirements of this Article to the extent that this person transfers radioactive material contained in a product or material in concentrations not in excess of those specified in Exhibit A of this Article and introduced into the product or material by a licensee holding a specific license issued by the NRC expressly authorizing such introduction. This exemption does not apply to the transfer of radioactive material contained in any food, beverage, cosmetic, drug, or other commodity or product designed for ingestion or inhalation by, or application to, a human being.
4. A person shall not introduce radioactive material into a product or material knowing or having reason to believe that it will be transferred to persons exempt under subsection (A)(1) or equivalent Regulations of the U.S. Nuclear Regulatory Commission or any Agreement State or Licensing State, except in accordance with a license issued under 10 CFR 32.11.

**B. Exempt items**

1. Except for persons who apply radioactive material to, or persons who incorporate radioactive material into the following products, or persons who initially transfer for sale or distribution the following products, a person is exempt from this Chapter to the extent that the person receives, possesses, uses, transfers, owns, or acquires the following products:
  - a. Timepieces, hands, or dials containing not more than the following specified quantities of radioactive material and not exceeding the following specified levels of radiation:
    - i. 925 megabecquerels (25 millicuries) of tritium per timepiece;
    - ii. 185 megabecquerels (5 millicuries) of tritium per hand;
    - iii. 555 megabecquerels (15 millicuries) of tritium per dial (bezels when used shall be considered part of the dial);
    - iv. 3.7 megabecquerels (100 microcuries) of promethium-147 per watch or 7.4 megabecquerels (200 microcuries) of promethium-147 per any other timepiece;
    - v. 740 kBq (20 microcuries) of promethium-147 per watch hand or 1.48 megabecquerels (40 microcuries) of promethium-147 per other timepiece hand;
  - vi. 2.22 megabecquerels (60 microcuries) of promethium-147 per watch dial or 4.44 MBq (120 microcuries) of promethium-147 per other timepiece dial (bezels, when used, shall be considered part of the dial);
  - vii. The levels of radiation from hands and dials containing promethium-147 shall not exceed, when measured through 50 milligrams per square centimeter of absorber:
    - (1) For wrist watches, 1.0  $\mu$ Gy (0.1 millirad) per hour at 10 centimeters from any surface of the watch;
    - (2) For pocket watches, (0.1 millirad) per hour at 1 centimeter from any surface;
    - (3) For any other timepiece, 2.0  $\mu$ Gy (0.2 millirad) per hour at 10 centimeters from any surface;
  - viii. 37 kBq (1 microcurie) of radium-226 per timepiece in intact timepieces manufactured prior to November 30, 2007;
- b. Static elimination devices which contain, as a sealed source or sources, radioactive material consisting of a total of not more than 18.5 MBq (500  $\mu$ Ci) of polonium-210 per device.
  - i. Ion generating tubes designed for ionization of air that contain, as a sealed source or sources, radioactive material consisting of a total of not more than 18.5 MBq (500  $\mu$ Ci) of polonium-210 per device or of a total of not more than 1.85 GBq (50 mCi) of hydrogen-3 (tritium) per device.
  - ii. Such devices authorized before October 23, 2012 for use under the general license then provided in R9-7-306 and equivalent regulations of the NRC or Agreement State and manufactured, tested, and labeled by the manufacturer in accordance with the specifications contained in a specific license issued by the NRC.
- c. Balances of precision containing not more than 37 megabecquerels (1 millicurie) of tritium per balance or not more than 18.5 megabecquerels (0.5 millicurie) of tritium per balance part manufactured before December 17, 2007;
- d. Marine compasses containing not more than 27.75 gigabecquerels (750 millicuries) of tritium gas and other marine navigational instruments containing not more than 9.25 gigabecquerels (250 millicuries) of tritium gas manufactured before December 17, 2007;
- e. Ionization chamber smoke detectors containing not more than 37 kBq (1 microcurie) of americium-241 per detector in the form of a foil and designed to protect life and property from fires;
- f. Electron tubes: Provided that each tube does not contain more than one of the following specified quantities of radioactive material:
  - i. 5.55 GBq (150 millicuries) of tritium per microwave receiver protector tube or 370 megabecquerels (10 millicuries) of tritium per any other electron tube;
  - ii. 37 kBq (1 microcurie) of cobalt 60;
  - iii. 185 kBq (5 microcuries) of nickel 63;
  - iv. 1.11 megabecquerels (30 microcuries) of krypton 85;
  - v. 185 kBq (5 microcuries) of cesium 137;

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- vi. 1.11 megabecquerels (30 microcuries) of promethium-147;
- vii. And provided further, that the level of radiation due to radioactive material contained in each electron tube does not exceed 10  $\mu$ Gy (1 millirad) per hour at 1 centimeter from any surface when measured through 7 milligrams per square centimeter of absorber. The term "electron tubes" includes spark gap tubes, power tubes, gas tubes, including glow lamps, receiving tubes, microwave tubes, indicator tubes, pick-up tubes, radiation detection tubes, and any other completely sealed tube that is designed to conduct or control electrical current;
- g. Ionizing radiation measuring instruments containing, for purposes of internal calibration or standardization, one or more sources of radioactive material provided that:
  - i. Each source contains no more than one exempt quantity set forth in Exhibit B of this Article; and
  - ii. Each instrument contains no more than 10 exempt quantities. For the purposes of this subsection, an instrument's source or sources may contain either one type or different types of radionuclide and an individual exempt quantity may be composed of fractional parts of one or more of the exempt quantities in Exhibit B of this Article, provided the sum of the fractions do not exceed unity;
  - iii. For the purposes of subsection (B)(1)(h) only, 185 kBq (50 nanocurie) of americium-241 is considered an exempt quantity under Exhibit B of this Article;
- h. Any person who desires to apply radioactive material to, or to incorporate radioactive material into, the products exempted in subsection (B)(1)(a), or who desires to initially transfer for sale or distribution such products containing radioactive material, should apply for a specific license pursuant to R9-7-311 of this Article, which license states that the product may be distributed by the licensee to persons exempt from the rules pursuant to subsection (A)(1).
- 2. Self-luminous products containing tritium, krypton-85, or promethium-147:
  - a. Except for persons who manufacture, process, initially transfer for sale or distribution, or produce self-luminous products containing tritium, krypton-85, or promethium-147, and except as provided in subsection (B)(2)(c), a person is exempt from this Chapter if the person receives, possesses, uses, owns, transfers or acquires tritium, krypton-85 or promethium-147 in self-luminous products manufactured, processed, produced, imported, initially transferred for sale or distribution, or transferred under a specific license issued by the U.S. Nuclear Regulatory Commission and described in 10 CFR 32.22, and the license authorizes the transfer of the products to persons who are exempt from regulatory requirements.
  - b. Any person who desires to manufacture, process, or produce, or initially transfer for sale or distribution self-luminous products containing tritium, krypton-85, or promethium-147 for use under subsection (B)(2)(a), should apply for a license:
    - i. Under 10 CFR 32 and for a certificate of registration in accordance with 10 CFR 32.210, and
    - ii. As described in R9-7-311.
  - c. A person is exempt from this Chapter if the person receives, possesses, uses, or transfers articles containing less than 3.7 kBq (100 nanocuries) of radium-226, manufactured prior to October 1, 1978.
- 3. Gas and aerosol detectors containing byproduct material
  - a. Except for persons who manufacture, process, initially transfer for sale or distribution, or produce gas and aerosol detectors containing radioactive material, a person is exempt from this Chapter if the person receives, possesses, uses, transfers, owns, or acquires radioactive material in gas and aerosol detectors designed to protect life or property from fires and airborne hazards, provided that detectors containing radioactive material shall be manufactured, imported, or transferred according to a specific license issued by the U.S. Nuclear Regulatory Commission and described in 10 CFR 32.26, or equivalent regulations of an Agreement or Licensing State, this exemption also covers gas and aerosol detectors manufactured or distributed before November 30, 2007 in accordance with a specific license issued by the U.S. Nuclear Regulatory Commission, or equivalent regulations of an Agreement or Licensing State and the license authorizes the transfer of the detectors to persons who are exempt from regulatory requirements.
  - b. Gas and aerosol detectors previously manufactured and distributed to general licensees in accordance with a specific license issued by an Agreement State are exempt under subsection (B)(3)(a), provided that the device is labeled in accordance with the specific license authorizing distribution of the general licensed device, and that the detectors meet the requirements of the regulations of the U.S. Nuclear Regulatory Commission.
  - c. Any person who desires to manufacture, process, or produce gas and aerosol detectors containing byproduct material, or to initially transfer such products for use under subsection (B)(3)(a), should apply for a license under 10 CFR 32.26 and for a certificate of registration in accordance with 10 CFR 32.210.
- 4. Certain industrial devices
  - a. Except for persons who manufacture, process, produce, or initially transfer for sale or distribution industrial devices containing byproduct material designed and manufactured for the purpose of detecting, measuring, gauging or controlling thickness, density, level, interface location, radiation, leakage, or qualitative or quantitative chemical composition, or for producing an ionized atmosphere, any person is exempt from the requirements for a license set forth in this Chapter to the extent that such person receives, possesses, uses, transfers, owns, or acquires byproduct material, in these certain detecting, measuring, gauging, or controlling devices and certain devices for producing an ionized atmosphere, and manufactured, processed, produced, or initially transferred in accordance with a specific license issued under R9-7-311 of this Article, which license authorizes the initial transfer of

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the device for use under this Section. This exemption does not cover sources not incorporated into a device, such as calibration and reference sources.

- b. Any person who desires to manufacture, process, produce, or initially transfer, for sale or distribution, industrial devices containing byproduct material for use under subsection (B)(4)(a), shall apply for a license described in R9-7-311 and for a certificate of registration in accordance with 10 CFR 32.210.

**C. Exempt quantities**

1. Except as provided in subsections (C)(2), (3), and (7), a person is exempt from this Chapter if the person receives, possesses, uses, transfers, owns, or acquires radioactive material in individual quantities each of which does not exceed the applicable quantity set forth in Exhibit B of this Article.
2. This subsection does not authorize the production, packaging, or repackaging or transfer of radioactive material for purposes of commercial distribution, or the incorporation of radioactive material into products intended for commercial distribution.
3. Except as specified in this subsection, a person shall not, for purposes of commercial distribution, transfer radioactive material in the individual quantities set forth in Exhibit B of this Article, knowing or having reason to believe the described quantities of radioactive material will be transferred to persons exempt under subsection (C) or equivalent regulations of the U.S. Nuclear Regulatory Commission or any Agreement State or Licensing State. A person may transfer radioactive material for commercial distribution under a specific license issued by the U.S. Nuclear Regulatory Commission under 10 CFR 32.18 which license states that the radioactive material may be transferred by the licensee to persons exempt under this subsection or the equivalent regulations of the U.S. Nuclear Regulatory Commission or any Agreement State or Licensing State.
4. Sources containing exempt quantities of radioactive material shall not be bundled or placed in close proximity for the purpose of using the radiation from the combined sources in place of a single source, containing a licensable quantity of radioactive material.
5. Possession and use of bundled or combined sources containing exempt quantities of radioactive material in unregistered devices by persons exempt from licensing is prohibited.
6. Any person, who possesses radioactive material received or acquired before September 25, 1971, under the general license issued under R9-7-311(A) of this Article or similar general license of an Agreement State or the NRC, is exempt from the requirements for a license issued under R9-7-311(A) of this Article to the extent that this person possesses, uses, transfers, or owns radioactive material.
7. No person may, for purposes of producing an increased radiation level, combine quantities of radioactive material covered by the exemption described in subsection (C)(6) so that the aggregate quantity exceeds the limits set forth in Exhibit B, except for radioactive material combined within a device placed in use before May 3, 1999, or as otherwise permitted by the rules in this Section.

**Historical Note**

New Section R9-7-303 recodified from R12-1-303, at 24 A.A.R. 813, effective March 22, 2018 (Supp. 18-1).

Amended by final expedited rulemaking at 24 A.A.R. 2151, effective July 12, 2018 (Supp. 18-3).

**R9-7-304. License Types**

- A. Activities requiring license. Except as provided in 10 CFR 30.3 (revised January 1, 2013, incorporated by reference, and available under R9-7-101; this incorporated material contains no future editions or amendments), in subsection (B)(1), and for persons exempt as provided in R9-7-302 and R9-7-303 of this Article, no person shall manufacture, produce, transfer, receive, acquire, own, possess, or use byproduct material except as authorized in a specific or general license issued in accordance with the regulations in this chapter and in accordance with 10 CFR 30.3.
- B. Licenses for radioactive materials are of two types: general and specific.
  1. A general license is provided by rule, grants authority to a person for certain activities involving radioactive material, and is effective without the filing of an application with the Department or the issuance of a licensing document to a particular person. However, registration with the Department may be required by the particular general license.
  2. The Department issues a specific license to a named person who has filed an application for a license under the applicable provision of this Chapter. A specific licensee is subject to all of the applicable rules in this Chapter and any limitation contained in the license document.

**Historical Note**

New Section R9-7-304 recodified from R12-1-304, at 24 A.A.R. 813, effective March 22, 2018 (Supp. 18-1).

Amended by final expedited rulemaking at 24 A.A.R. 2151, effective July 12, 2018 (Supp. 18-3).

**R9-7-305. General Licenses – Source Material**

- A. A general license is hereby issued authorizing commercial and industrial firms; research, educational, and medical institutions; and Federal, State, and local government agencies to receive, possess, use, and transfer uranium and thorium, in their natural isotopic concentrations and in the form of depleted uranium, for research, development, educational, commercial, or operational purposes in the following forms and quantities.
  1. No more than 1.5 kg (3.3 lb) of uranium and thorium in dispersible forms (e.g., gaseous, liquid, powder, etc.) at any one time. Any material processed by the general licensee that alters the chemical or physical form of the material containing source material must be accounted for as a dispersible form. A person authorized to possess, use, and transfer source material under this subsection may not receive more than a total of 7 kg (15.4 lb) of uranium and thorium in any one calendar year.
  2. As applicable:
    - a. No more than a total of 7 kg (15.4 lb) of uranium and thorium at any one time. A person authorized to possess, use, and transfer source material under this subsection may not receive more than a total of 70 kg (154 lb) of uranium and thorium in any one calendar year. A person may not alter the chemical or physical form of the source material possessed under this subsection unless it is accounted for under the limits of subsection (A)(1);
    - b. No more than 7 kg (15.4 lb) of uranium, removed during the treatment of drinking water, at any one time. A person may not remove more than 70 kg (154 lb) of uranium from drinking water during a calendar year under this subsection; or

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- c. No more than 7 kg (15.4 lb) of uranium and thorium at laboratories for the purpose of determining the concentration of uranium and thorium contained within the material being analyzed at any one time. A person authorized to possess, use, and transfer source material under this subsection may not receive more than a total of 70 kg (154 lb) of source material in any one calendar year.
- B. A person who receives, possesses, uses, or transfers source material under a general license granted under subsection (A) is exempt from the provisions of Article 4 and Article 10 of this Chapter, provided the receipt, possession, use, or transfer is within the terms of the general license, except that such person shall comply with the provisions of R9-7-434 and R9-7-452. This exemption does not apply to any person who is also in possession of source material under a specific license issued under this Article.
- C. This subsection grants a general license that authorizes a person to receive, acquire, possess, use, or transfer depleted uranium contained in industrial products and devices provided:
1. The depleted uranium is contained in the industrial product or device for the purpose of providing a concentrated mass in a small volume of the product or device;
  2. The industrial products or devices have been manufactured or initially transferred in accordance with a specific license governed by R9-7-311(J), or a specific license issued by the NRC or another Agreement State that authorizes manufacture of the products or devices for distribution to persons generally licensed by the NRC or an Agreement State; and
  3. The person files an ARRA 23 "Registration Certificate -- Use of Depleted Uranium Under General License" with the Department. The person shall provide the information requested on the certificate and listed in Exhibit E. The person shall submit the information within 30 days after first receipt or acquisition of the depleted uranium, returning the completed registration certificate to the Department. The person shall report in writing to the Department any change in information originally submitted to the Department on ARRA 23. The person shall submit the change report within 30 days after the effective date of the described change.
- D. A person who receives, acquires, possesses, or uses depleted uranium according to the general license provided under subsection (C) shall:
1. Not introduce depleted uranium, in any form, into a chemical, physical, or metallurgical treatment or process, except a treatment or process for repair or restoration of any plating or other covering of the depleted uranium;
  2. Not abandon the depleted uranium;
  3. Transfer the depleted uranium as prescribed in R9-7-318. If the transferee receives the depleted uranium under a general license established by subsection (C), the transferor shall furnish the transferee with a copy of this subsection and a copy of the registration certificate. If the transferee receives the depleted uranium under a general license governed by a regulation of the NRC or another Agreement State that is equivalent to subsection (C), the transferor shall furnish the transferee a copy of the equivalent rule and a copy of the registration certificate, accompanied by a letter explaining that use of the product or device is regulated by the NRC or an Agreement State under requirements substantially similar to those in this Section;
4. Within 30 days of any transfer, report in writing to the Department the name and address of the person receiving the depleted uranium; and
  5. Not export depleted source material except under a license issued by the U.S. Nuclear Regulatory Commission in accordance with 10 CFR 110.
- E. A person who receives, acquires, possesses, uses, or transfers depleted uranium in accordance with a general license granted under subsection (C) is exempt from the requirements in Articles 4 and 10 of this Chapter with respect to the depleted uranium covered by that general license.
- F. Any person who receives, possesses, uses, or transfers source material in accordance with subsection (A) shall conduct activities so as to minimize contamination of the facility and the environment. When activities involving such source material are permanently ceased at any site, if evidence of significant contamination is identified, the general licensee shall notify the Department about such contamination and may consult with the Department as to the appropriateness of sampling and restoration activities to ensure that any contamination or residual source material remaining at the site where source material was used under this general license is not likely to result in exposures that exceed the limits in R9-7-452.
- G. No person may initially transfer or distribute source material to persons generally licensed under subsection (A)(1) or (2), or equivalent regulations of the NRC or another Agreement State, unless authorized by a specific license issued in accordance with R9-7-318 or equivalent provisions of another Agreement State. This prohibition does not apply to analytical laboratories returning processed samples to the client who initially provided the sample.

**Historical Note**

New Section R9-7-305 recodified from R12-1-305, at 24 A.A.R. 813, effective March 22, 2018 (Supp. 18-1).  
Amended by final expedited rulemaking at 24 A.A.R. 2151, effective July 12, 2018 (Supp. 18-3). Amended by final expedited rulemaking at 26 A.A.R. 1067, with an immediate effective date of May 6, 2020 (Supp. 20-2).

**R9-7-306. General License – Radioactive Material Other Than Source Material**

- A. Certain measuring, gauging or controlling devices and certain devices for producing light or an ionized atmosphere.
1. This subsection grants a general license to a commercial or industrial firm; a research, educational or medical institution; an individual conducting business; or a state or local government agency to receive, acquire, possess, use, or transfer radioactive material contained in devices designed and manufactured for the purpose of detecting, measuring, gauging or controlling thickness, density, level, interface location, radiation, leakage, or qualitative or quantitative chemical composition, or for producing light or an ionized atmosphere, according to the provisions of 10 CFR 31.5(b), (c), and (d), (Revised January 1, 2013, incorporated by reference, and available under R9-7-101. The incorporated material contains no future editions or amendments.
  2. A general licensee shall receive a device from one of the specific licensees described in this Section or through a transfer made under subsection (A)(4)(k).
  3. A general license in subsection (A)(1) applies only to radioactive material contained in devices that have been manufactured or initially transferred and labeled in accordance with the requirements contained in:
    - a. A specific license issued under R9-7-311(A), or



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- b. An equivalent specific license issued by the NRC or another Agreement State.
- c. An equivalent specific license issued by a State with rules or regulations comparable to this Section.
- 4. A person who acquires, receives, possesses, uses, or transfers radioactive material in a device licensed under subsection (A)(1) or through a transfer made under subsection (A)(4)(h), shall:
  - a. Ensure that all labels and safety statements affixed to a device at the time of receipt and bearing a statement that removal of the label is prohibited are maintained and not removed, and comply with all instructions and precautions on the labels.
  - b. Ensure that the device is tested for leakage of radioactive material and proper operation of the on-off mechanism and indicator, if any, at no longer than six-month intervals or at other intervals as specified on the label.
    - i. A general licensee need not test a device that contains only krypton for leakage of radioactive material; and
    - ii. A general licensee need not test a device for leakage of radioactive material if the device contains only tritium, not more than 3.7 megabecquerels (100 microcuries) of other beta and/or gamma emitting material, or 370 kilobecquerels (10 microcuries) of alpha emitting material, or the device is held in storage, in the original shipping container, before initial installation.
  - c. Ensure that the tests required by subsection (A)(4)(b) and other testing, installation, servicing, and removal from installation involving the radioactive material or its shielding or containment, are performed:
    - i. In accordance with the device label instructions, or
    - ii. By a person holding a specific license under R9-7-311(A) or in accordance with the provisions of a specific license issued by the NRC or an Agreement State which authorizes distribution of devices to persons generally licensed by the NRC or an Agreement State.
  - d. Maintain records of compliance with the requirements in subsections (A)(4)(b) and (c) that show the results of tests; the dates that required activities were performed, and the names of persons performing required activities involving radioactive material from the installation and its shielding or containment. The records shall be maintained for three years from the date of the recorded event or until transfer or disposal of the device.
  - e. Immediately suspend operation of a device if there is a failure of, or damage to, or any indication of a possible failure of or damage to, the shielding of the radioactive material or the on-off mechanism or indicator, or upon the detection of 185 becquerel (0.005 microcurie) or more of removable radioactive material.
    - i. A general licensee shall not operate the device until it has been repaired by the manufacturer or another person holding a specific license to repair this type of device that was issued by the Department under R9-7-311(A), the NRC, or an Agreement State which authorizes distribution of devices to persons generally licensed by the NRC or an Agreement State.
    - ii. If necessary the general licensee shall dispose of the device and any radioactive material from the device by transfer to a person authorized by a specific license to receive the radioactive material in the device or as otherwise approved by the Department.
    - iii. Within 30 days of an event governed by subsection (A)(4)(e) the general licensee shall furnish a report that contains a brief description of the event and the remedial action taken and, in the case of detection of 185 Becquerel (0.005 microcurie) or more of removable radioactive material or failure of or damage to a source likely to result in contamination of the general licensee's facility or the surrounding area, if applicable, a plan for ensuring that the general licensee's facility and surrounding area, if applicable, are acceptable for unrestricted use. The radiological criteria for unrestricted use in R9-7-452 may be used to prepare the plan, as determined by the Department, on a case-by-case basis.
  - f. Not abandon a device that contains radioactive material.
  - g. Not export a device that contains radioactive material except in accordance with 10 CFR 110, revised January 1, 2013, incorporated by reference, and available under R9-7-101. The incorporated material contains no future editions or amendments.
  - h. Transfer or dispose of a device that contains radioactive material only by export as authorized in subsection (A)(4)(g), transfer to another general licensee as authorized in subsection (A)(4)(k) or a person who is authorized to receive the device by a specific license issued by the Department, the NRC, or an Agreement State, or collection as waste if authorized by equivalent regulations of an Agreement State, or the NRC, or as otherwise approved under subsection (A)(4)(j).
  - i. Within 30 days after the transfer or export of a device to a specific licensee, furnish a report to the Department. The report shall:
    - i. Identify the device by manufacturer's (or initial transferor's) name, model number, and serial number;
    - ii. Provide the name, address, and license number of the person receiving the device (license number not applicable if exported); and
    - iii. Provide the date of transfer or export.
  - j. Obtain written Department approval before transferring a device to any other specific licensee that is not authorized in accordance with subsection (A)(4)(h).
  - k. Transfer a device to another general licensee only:
    - i. If the device remains in use at a particular location. The transferor shall provide the transferee with a copy of this Section, a copy of R9-7-443, R9-7-445, and R9-7-448 and any safety documents identified on the device label. Within 30 days of the transfer, the transferor shall report to the Department the manufacturer's (or initial transferor's) name; the model number and the serial number of the device transferred; the transferee's name and mailing address for the location of use; and the name, title, and tele-

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- phone number of the responsible individual appointed by the transferee in accordance with subsection (A)(4)(n); or
    - ii. If the device is held in storage in the original shipping container at its intended location of use before initial use by a general licensee, and by a person that is not a party to the transaction.
  - l. Comply with the provisions of R9-7-443, R9-7-444, R9-7-445, R9-7-447, and R9-7-448 for reporting and notification of radiation incidents, theft or loss of licensed material, and is exempt from the other requirements of 9 A.A.C. 7, Articles 4 and 10.
  - m. Respond to written requests from the Department to provide information relating to the general license within 30 days from the date on the request, or a longer time period specified in the request. If the general licensee cannot provide the requested information within the specified time period, the general licensee shall request a longer period to supply the information before expiration of the time period, providing the Department with a written justification for the request.
  - n. Appoint an individual responsible for knowledge of applicable laws and possessing the authority to take actions required to comply with applicable radiation safety laws. The general licensee, through this individual, shall ensure the day-to-day compliance with applicable radiation safety laws. This provision does not relieve the general licensee of responsibility.
  - o. Register, in accordance with subsections (A)(4)(p) and (q), any device that contains at least 370 megabecquerels (10 millicuries) of cesium-137, 3.7 megabecquerels (0.1 millicuries) of strontium-90, 37 megabecquerels (1 millicurie) of cobalt-60, or 37 megabecquerels (1 millicurie) of americium-241 or any other transuranic (i.e., element with atomic number greater than uranium (92)), based on the activity indicated on the label. Each address for a location of use, as described under subsection (A)(4)(q)(iv), represents a separate general licensee and requires a separate registration and fee.
  - p. Register each device annually with the Department and pay the fee required by R9-7-1306, Category D4, if in possession of a device that meets the criteria in subsection (A)(4)(o). The general licensee shall register by verifying, correcting, and adding to the information provided in a request for registration received from the Department. The registration information shall be submitted to the Department within 30 days from the date on the request for registration. In addition, a general licensee holding devices meeting the criteria of subsection (A)(4)(o) is subject to the bankruptcy notification requirements in R9-7-313(D).
  - q. In registering a device, furnish the following information and any other registration information specifically requested by the Department:
    - i. Name and mailing address of the general licensee;
    - ii. Information about each device, including the manufacturer (or initial transferor), model number, serial number, radioisotope, and activity (as indicated on the label);
    - iii. Name, title, and telephone number of the responsible individual appointed by the general licensee under subsection (A)(4)(n);
    - iv. Address or location at which each device is used and stored. For a portable device, the address of the primary place of storage;
    - v. Certification by the responsible individual that the information concerning each device has been verified through a physical inventory and review of label information; and
    - vi. Certification by the responsible individual that the individual is aware of the requirements of the general license.
  - r. Report a change in mailing address for the location of use or a change in the name of the general licensee to the Department within 30 days of the effective date of the change. For a portable device, a report of address change is only required for a change in the device's primary place of storage.
  - s. Not use a device if the device has not been used for a period of two years. If a device with shutters is not being used, the general licensee shall ensure that the shutters are locked in the closed position. The testing required by subsection (A)(4)(b) need not be performed during a period of storage. However, if a device is put back into service or transferred to another person, and has not been tested during the required test interval, the general licensee shall ensure that the device is tested for leakage before use or transfer and that the shutter is tested before use. A device kept in standby for future use is excluded from the two-year time limit in this subsection if the general licensee performs a quarterly physical inventory regarding the standby devices.
5. A person that is generally licensed by an Agreement State with respect to a device that meets the criteria in subsection (A)(4)(o) is exempt from registration requirements if the device is used in an area subject to Department jurisdiction for a period less than 180 days in any calendar year. The Department does not request registration information from a general licensee if the device is exempted from licensing requirements in subsection (A)(4)(o).
  6. The general license granted under subsection (A)(1) is subject to the provisions of 9 A.A.C. 7, Articles 1, 3, 12, and 15, and A.R.S. §§ 30-654(B)(13), 30-657(A) and (B), 30-681, and 30-685 through 30-689.
  7. The general license in subsection (A)(1) does not authorize the manufacture or import of devices containing byproduct material.
- B. Luminous safety devices for aircraft**
1. This subsection grants a general license that authorizes a person to own, receive, acquire, possess, and use tritium or promethium-147 contained in luminous safety devices for use in aircraft, provided that each device contains not more than 370 gigabecquerels (10 curies) of tritium or 11.1 gigabecquerels (300 millicuries) of promethium-147; and each device has been manufactured, assembled, initially transferred, or imported according to a specific license issued by the U.S. Nuclear Regulatory Commission, or each device has been manufactured or assembled according to the specifications contained in a specific license issued to the manufacturer or assembler of the device by the Department or any Agreement State or Licensing State in accordance with licensing requirements equivalent to those in 10 CFR 32.53.
  2. A person who owns, receives, acquires, possesses, or uses a luminous safety device according to the general license granted in subsection (B)(1) is:

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- a. Exempt from the requirements of 9 A.A.C. 7, Article 4 and Article 10 except that the person shall comply with the reporting and notification provisions of R9-7-443, R9-7-444, R9-7-445, R9-7-447, and R9-7-448;
  - b. Not authorized to manufacture, assemble, repair, or import a luminous safety device that contains tritium or promethium-147;
  - c. Not authorized to export luminous safety devices containing tritium or promethium-147;
  - d. Not authorized to own, receive, acquire, possess, or use radioactive material contained in instrument dials; and
  - e. Subject to the provisions of 9 A.A.C. 7, Articles 1, 3, 12, and 15 and A.R.S. §§ 30-654(B)(13), 30-657(A) and (B), 30-681, and 30-685 through 30-689.
- C. This subsection grants a general license that authorizes a person who holds a specific license to own, receive, possess, use, and transfer radioactive material if the Department issues the license; or special nuclear material if the NRC issues the license. For americium-241, radium-226, and plutonium contained in calibration or reference sources, this subsection grants a general license in accordance with the provisions of subsections (C)(1), (2), and (3). For plutonium, ownership is included in the licensed activities.
1. This subsection grants a general license for calibration or reference sources that have been manufactured according to the specifications contained in a specific license issued to the manufacturer or importer of the sources by the U.S. Nuclear Regulatory Commission under 10 CFR 32.57 or 10 CFR 70.39. This general license also governs calibration or reference sources that have been manufactured according to specifications contained in a specific license issued to the manufacturer by the Department, an Agreement State, or a Licensing State, according to licensing requirements equivalent to those contained in 10 CFR 32.57 or 10 CFR 70.39, revised January 1, 2013, incorporated by reference, and available under R9-7-101. The incorporated material contains no future editions or amendments.
  2. A general license granted under subsection (C) or (C)(1) is subject to the provisions of 9 A.A.C. 7, Articles 1, 3, 4, 10, 12, and 15 and A.R.S. §§ 30-654(B)(13), 30-657(A) and (B), 30-681, and 30-685 through 30-689. In addition, a person who owns, receives, acquires, possesses, uses, or transfers one or more calibration or reference sources under a general license granted under subsection (C) or (C)(1) shall:
    - a. Not possess at any one time, at any location of storage or use, more than 185 kBq (5 microcuries) of americium-241, plutonium, or radium-226 in calibration or reference sources;
    - b. Not receive, possess, use, or transfer a calibration or reference source unless the source, or the storage container, bears a label that includes one of the following statements, as applicable, or a substantially similar statement that contains the same information:
      - i. The receipt, possession, use and transfer of this source, Model \_\_\_\_\_, Serial No. \_\_\_\_\_, are subject to a general license and the regulations of the U.S. Nuclear Regulatory Commission or a state with which the Commission has entered into an agreement for the exercise of regulatory authority. Do not remove this label.
- CAUTION – RADIOACTIVE MATERIAL – THIS SOURCE CONTAINS (name of the appropriate material) – DO NOT TOUCH RADIOACTIVE PORTION OF THIS SOURCE.
- \_\_\_\_\_  
Name of manufacturer or importer
- ii. The receipt, possession, use and transfer of this source, Model \_\_\_\_\_, Serial No. \_\_\_\_\_, are subject to a general license and the regulations of any Licensing State. Do not remove this label.
- CAUTION – RADIOACTIVE MATERIAL – THIS SOURCE CONTAINS RADIUM-226. DO NOT TOUCH RADIOACTIVE PORTION OF THIS SOURCE.
- \_\_\_\_\_  
Name of manufacturer or importer
- c. Not transfer, abandon, or dispose of a calibration or reference source except by transfer to a person authorized to receive the source by a license from the Department, the U.S. Nuclear Regulatory Commission, an Agreement State, or a Licensing State;
  - d. Store a calibration or reference source, except when the source is being used, in a closed container designed, constructed, and approved for containment of americium-241, plutonium, or radium-226 which might otherwise escape during storage; and
  - e. Not use a calibration or reference source for any purpose other than the calibration of radiation detectors or the standardization of other sources.
3. The general license granted under subsection (C) or (C)(1) does not authorize the manufacture or import of calibration or reference sources that contain americium-241, plutonium, or radium-226.
  4. The general license granted under subsections (C) or (C)(1) does not authorize the manufacture or export of calibration or reference sources that contain americium-241, plutonium, or radium-226.
- D. This subsection grants a general license that authorizes a person to receive, possess, use, transfer, own, or acquire carbon-14 urea capsules, which contain one microcurie of carbon-14 urea for “in vivo” human diagnostic use:
1. Except as provided in subsections (D)(2) and (3), a physician is exempt from the requirements for a specific license, provided that each carbon-14 urea capsule for “in vivo” diagnostic use contains no more than 1 microcurie.
  2. A physician who desires to use the capsules for research involving human subjects shall obtain a specific license issued according to the specific licensing requirements in this Article.
  3. A physician who desires to manufacture, prepare, process, produce, package, repack, or transfer carbon-14 urea capsules for commercial distribution shall obtain a specific license from the Department, issued according to the requirements in 10 CFR 32.21, (Revised January 1, 2013, incorporated by reference, and available under R9-7-101. This incorporated material contains no future editions or amendments.)
  4. Nothing in this subsection relieves physicians from complying with applicable FDA and other federal and state requirements governing receipt, administration, and use of drugs.
- E. This subsection grants a general license that authorizes any physician, clinical laboratory, or hospital to use radioactive material for certain “in vitro” clinical or laboratory testing.

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1. The general licensee is authorized to receive, acquire, possess, transfer, or use, for any of the following stated tests, the following radioactive materials in prepackaged units:
  - a. Iodine-125, in units not exceeding 370 kilobecquerel (10 microcuries) each for use in "in vitro" clinical or laboratory tests not involving internal or external administration of radioactive material, or radiation from such material, to human beings or animals.
  - b. Iodine-131, in units not exceeding 370 kilobecquerel (10 microcuries) each for use in "in vitro" clinical or laboratory tests not involving internal or external administration of radioactive material, or the radiation from such material, to human beings or animals.
  - c. Carbon-14, in units not exceeding 370 kilobecquerel (10 microcuries) each for use in "in vitro" clinical or laboratory tests not involving internal or external administration of radioactive material, or the radiation from such material, to human beings or animals.
  - d. Hydrogen-3 (tritium), in units not exceeding 1.85 megabecquerel (50 microcuries) each for use in "in vitro" clinical or laboratory tests not involving internal or external administration of radioactive material, or the radiation from such material, to human beings or animals.
  - e. Iron-59, in units not exceeding 740 kilobecquerel (20 microcuries) each for use in "in vitro" clinical or laboratory tests not involving internal or external administration of radioactive material, or the radiation from such material, to human beings or animals.
  - f. Cobalt-57 or selenium-75, in units not exceeding 370 kilobecquerels (10 microcuries) each for use in "in vitro" clinical or laboratory tests not involving internal or external administration of radioactive material, or the radiation from such material, to human beings or animals.
  - g. Mock iodine-125 reference or calibration sources, in units not exceeding 1.85 kBq (50 nanocurie) of iodine-129 and 185 becquerel (5 nanocurie) of americium-241 each, for use in "in vitro" clinical or laboratory tests not involving internal or external administration of radioactive material, or the radiation from such material, to human beings or animals.
2. A person shall not acquire, receive, possess, use, or transfer radioactive material according to the general license established by this subsection until the person has filed with the Department ARRA-9, "Certificate -- "In Vitro" Testing with Radioactive Material Under General License," provided the information listed in Exhibit E, and received a validated copy of ARRA-9, which indicates the assigned certification number. The physician, clinical laboratory, or hospital shall furnish on ARRA-9 the following information:
  - a. Name, telephone number, and address of the physician, clinical laboratory, or hospital; and
  - b. A statement that the physician, clinical laboratory, or hospital has radiation measuring instruments to carry out "in vitro" clinical or laboratory tests with radioactive material and that tests will be performed only by personnel competent to use the instruments and handle the radioactive material.
3. A person who receives, acquires, possesses, or uses radioactive material according to the general license granted under this subsection shall:
  - a. Not possess at any one time, in storage or use, a combined total of not more than 7.4 megabecquerels (200 microcuries) of iodine-125, iodine-131, iron-59, cobalt-57, or selenium-75 in excess of 7.4 megabecquerels (200 microcuries), or acquire or use in any one calendar month more than 18.5 megabecquerels (500 microcuries) of these radionuclides.
- b. Store the radioactive material, until used, in the original shipping container or in a container that provides equivalent radiation protection.
- c. Use the radioactive material only for the uses authorized by subsection (E).
- d. Not transfer radioactive material to a person who is not authorized to receive it according to a license issued by the Department, the U.S. Nuclear Regulatory Commission, or any Agreement State or Licensing State, or in any manner other than in an unopened, labeled shipping container received from the supplier.
- e. Not dispose of a mock iodine-125 reference or calibration source described subsection (E)(1) except as authorized by R9-7-434.
- f. Package or prepackage a unit bearing a durable, clearly visible label: identifying the radioactive contents as to chemical form and radionuclide, and indicating that the amount of radioactivity does not exceed 0.37 megabecquerel (10 microcuries) of iodine-131, iodine-125, selenium-75, or carbon-14; 1.85 megabecquerels (50 microcuries) of hydrogen-3 (tritium); or 0.74 megabecquerel (20 microcuries) of iron-59; or Mock Iodine-125 in units not exceeding 1.85 kilobecquerels (0.05 microcurie) of iodine-129 and 0.185 kilobecquerel (0.005 microcurie) of americium-241 each; or cobalt-57 in units not exceeding 0.37 megabecquerel (10 microcuries).
- g. Package to display the radiation caution symbol and the words, "Caution, Radioactive Material", and "Not for Internal or External Use in Humans or Animals."
4. The general licensee shall not receive, acquire, possess, transfer, or use radioactive material according to subsection (E)(1):
  - a. Except as prepackaged units that are labeled according to the provisions of a specific license issued by the U.S. Nuclear Regulatory Commission, or any Agreement State that authorizes the manufacture and distribution of iodine-125, iodine-131, carbon-14, hydrogen-3 (tritium), iron-59, cobalt-57, selenium-75, or mock iodine-125 for distribution to persons generally licensed under subsection (E) or its equivalent federal law; and
  - b. Unless one of the following statements, or a substantially similar statement that contains the same information, appears on a label affixed to each prepackaged unit or appears in a leaflet or brochure that accompanies the package:
    - i. This radioactive material may be acquired, received, possessed, and used only by physicians, clinical laboratories or hospitals and only for in vitro clinical or laboratory tests not involving internal or external administration of the material, or the radiation from such material, to human beings or animals. The acquisition, receipt, possession, use, and transfer are subject to the regulations and a general license of the U.S. Nuclear Regulatory Commission or of a state with which the Commission has

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entered into an agreement for the exercise of regulatory authority.

Name of manufacturer

- ii. This radioactive material shall be acquired, received, possessed, and used only by physicians, clinical laboratories or hospitals and only for in vitro clinical or laboratory tests not involving internal or external administration of the material, or the radiation from such material, to human beings or animals. The receipt, acquisition, possession, use, and transfer are subject to the regulations and a general license of a Licensing State.

Name of manufacturer

5. A physician, clinical laboratory or hospital that possesses or uses radioactive material under a general license granted by subsection (E):
  - a. Shall report to the Department in writing, any change in the information furnished on the ARRA-9. The report shall be furnished within 30 days after the effective date of the change; and
  - b. Is exempt from the requirements of 9 A.A.C. 7, Article 4 and Article 10 with respect to radioactive material covered by the general license, except that a person using mock iodine-125 sources, described in subsection (E)(1)(g), shall comply with the provisions of R9-7-434, R9-7-443, and R9-7-444 of this Chapter.
6. For the purposes of subsection (E), a licensed veterinary care facility is considered a "clinical laboratory."
- F. This subsection grants a general license that authorizes a person to own, receive, acquire, possess, use, and transfer strontium-90, contained in ice detection devices, provided each device contains not more than 1.85 megabecquerels (50 microcuries) of strontium-90 and each device has been manufactured or imported in accordance with a specific license issued by the U.S. Nuclear Regulatory Commission or each device has been manufactured according to the specifications contained in a specific license issued by the Department or any Agreement State to the manufacturer of the device under licensing requirements equivalent to those in 10 CFR 32.61. A person who receives, owns, acquires, possesses, uses, or transfers strontium-90 contained in ice detection devices under a general license in accordance with subsection (F):
  1. Shall, upon occurrence of visually observable damage, such as a bend or crack or discoloration from overheating, discontinue use of the device until it has been inspected, tested for leakage, and repaired by a person who holds a specific license from the U.S. Nuclear Regulatory Commission or an Agreement State to manufacture or service ice detection devices; or dispose of the device according to the provisions of R9-7-434;
  2. Shall assure that each label, affixed to the device at the time of receipt, which bears a statement that prohibits removal of the labels, maintained on the device; and
  3. Is exempt from the requirements of 9 A.A.C. 7, Article 4 and Article 10, except that the user of an ice detection device shall comply with the provisions of R9-7-434, R9-7-443, and R9-7-444.
  4. Shall not manufacture, assemble, disassemble, repair, or import an ice detection device that contains strontium-90.
  5. Is subject to the provisions of 9 A.A.C. 7, Articles 1, 3, 12, and 15, and A.R.S. §§ 30-654(B), 30-657(A) and (B), 30-681, and 30-685 through 30-689.

- G. This subsection grants a general license that authorizes a person to acquire, receive, possess, use, or transfer, in accordance with the provisions of subsections (H) and (I), radium-226 contained in the following products manufactured prior to November 30, 2007.

1. Antiquities originally intended for use by the general public. For the purposes of this subsection, antiquities mean products originally intended for use by the general public and distributed in the late 19th and early 20th centuries, such as radium emanator jars, revigators, radium water jars, radon generators, refrigerator cards, radium bath salts, and healing pads.
2. Intact timepieces containing greater than 0.037 megabecquerel (1 microcurie), nonintact timepieces, and timepiece hands and dials no longer installed in timepieces.
3. Luminous items installed in air, marine, or land vehicles.
4. All other luminous products, provided that no more than 100 items are used or stored at the same location at any one time.
5. Small radium sources containing no more than 0.037 megabecquerel (1 microcurie) of radium-226. For the purposes of this subsection, "small radium sources" means discrete survey instrument check sources, sources contained in radiation measuring instruments, sources used in educational demonstrations (such as cloud chambers and spinthariscopes), electron tubes, lightning rods, ionization sources, static eliminators, or as designated by the NRC.

- H. Persons who acquire, receive, possess, use, or transfer byproduct material under the general license issued in subsection (G) are exempt from the provisions 9 A.A.C. 7, Articles 1, 3, 4, 7, 10, 12, and 15 and A.R.S. §§ 30-654(B)(13), 30-657(A) and (B), 30-681, and 30-685 through 30-689, to the extent that the receipt, possession, use, or transfer of byproduct material is within the terms of the general license; provided, however, that this exemption shall not be deemed to apply to any such person specifically licensed under this chapter. Any person who acquires, receives, possesses, uses, or transfers byproduct material in accordance with the general license in subsection (G):

1. Shall notify the Department should there be any indication of possible damage to the product so that it appears it could result in a loss of the radioactive material. A report containing a brief description of the event, and the remedial action taken, must be furnished to the Department within 30 days.
2. Shall not abandon products containing radium-226. The product, and any radioactive material from the product, may only be disposed of according to Article 4 or by transfer to a person authorized by a specific license to receive the radium-226 in the product or as otherwise approved by the Department.
3. Shall not export products containing radium-226 except in accordance with 10 CFR 110 revised January 1, 2013, incorporated by reference, and available under R9-7-101. The incorporated material contains no future editions or amendments.
4. Shall dispose of products containing radium-226 at a disposal facility authorized to dispose of radioactive material in accordance with any federal or state solid or hazardous waste law, including the Solid Waste Disposal Act, as authorized under the Energy Policy Act of 2005, by transfer to a person authorized to receive radium-226 by a specific license issued under Article 3, equivalent regulations of an Agreement State, or the NRC.

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5. Shall respond to written requests from the Department to provide information relating to the general license within 30 calendar days of the date of the request, or other time specified in the request. If the general licensee cannot provide the requested information within the allotted time, it shall, within that same time period, request a longer period to supply the information by providing the Department Director a written justification for the request.
- I. The general license in subsection (G) does not authorize the manufacture, assembly, disassembly, repair, or import of products containing radium-226, except that timepieces may be disassembled and repaired.

**Historical Note**

New Section R9-7-306 recodified from R12-1-306, at 24 A.A.R. 813, effective March 22, 2018 (Supp. 18-1).  
Amended by final expedited rulemaking at 24 A.A.R. 2151, effective July 12, 2018 (Supp. 18-3).

**R9-7-307. Reserved****Historical Note**

Section R9-7-307 reserved when this Chapter was recodified from 12 A.A.C. 1 (Supp. 18-1).

**R9-7-308. Filing Application for Specific Licenses**

- A. An applicant for a specific license shall file a Department application. The applicant shall prepare the application in duplicate, one copy for the Department and the other for the applicant.
- B. The Department may at any time after the filing of the original application, and before the expiration of the license, require further statements in order to enable the Department to determine whether the application should be granted or denied or whether a license should be modified or revoked.
- C. Each application shall contain the information specified in Exhibit (E) of this Article and be signed by the applicant, licensee, or person duly authorized to act for the applicant or licensee.
- D. Unless R9-7-1302 precludes combination with a license of another category, an application for a specific license may include a request for a license that authorizes more than one activity.
- E. In the application, the applicant may incorporate by reference information contained in previous applications, statements, or reports filed with the Department provided the references are clear and specific.
- F. The Department shall make applications and documents submitted to the Department available for public inspection, but may withhold any document or part of a document from public inspection if disclosure of its content is not required in the public interest and would adversely affect the interest of a person concerned.
- G. Except as provided in subsections (G)(1), (2), and (3), an application for a specific license to use byproduct material in the form of a sealed source or in a device that contains the sealed source must either identify the source or device by manufacturer and model number as registered with the Department, with the NRC, or with an Agreement State, or, for a source or a device containing radium-226 or accelerator-produced radioactive material, with the Department, the NRC, or an Agreement State under 10 CFR 32.210 revised January 1, 2015, incorporated by reference, and available under R9-7-101. This incorporated material contains no future editions or amendments.
  1. For sources or devices manufactured before October 23, 2012, that are not licensed under R9-7-306, R9-7-310,

R9-7-311 or registered with the NRC or with an Agreement State, and for which the applicant is unable to provide all categories of information specified in 10 CFR 32.210(c) the application must include:

- a. All available information identified in 10 CFR 32.210(c) concerning the source, and, if applicable, the device; and
  - b. Sufficient additional information to demonstrate that there is reasonable assurance that the radiation safety properties of the source or device are adequate to protect health and minimize danger to life and property. Such information must include a description of the source or device, a description of radiation safety features, the intended use and associated operating experience, and the results of a recent leak test.
2. For sealed sources and devices allowed to be distributed without registration of safety information, the applicant may supply only the manufacturer, model number, and radionuclide and quantity.
  3. If it is not feasible to identify each sealed source and device individually, the applicant may propose constraints on the number and type of sealed sources and devices to be used and the conditions under which they will be used, in lieu of identifying each sealed source and device.
- H. A certificate holder or licensee who no longer manufactures or initially transfers any of the sealed source(s) or device(s) covered by a particular certificate issued with the Department, with the NRC, or with an Agreement State shall request inactivation of the registration or license with the Department, with the NRC, or with an Agreement State program that the device is currently registered by in accordance with 10 CFR 32.211 revised January 1, 2015, incorporated by reference, and available under R9-7-101. This incorporated material contains no future editions or amendments.

**Historical Note**

New Section R9-7-308 recodified from R12-1-308, at 24 A.A.R. 813, effective March 22, 2018 (Supp. 18-1).

**R9-7-309. General Requirements for Issuance of Specific Licenses**

A license application shall be approved if the Department determines that:

1. The applicant is qualified by reason of training and experience to use the material in question for the purpose requested according to these rules, in a manner that will minimize danger to public health and safety or property;
2. The applicant's proposed equipment, facilities, and procedures are adequate to minimize danger to public health and safety or property;
3. The issuance of the license will not be inimical to the health and safety of the public;
4. The applicant satisfies all applicable special requirements in R9-7-310, R9-7-311, R9-7-322, R9-7-323, and 9 A.A.C. 7, Articles 5, 7, and 17; and
5. The applicant demonstrates that a letter has been sent, return receipt requested, to the Mayor's office of the city, town, or, if not within an incorporated community, to the County Board of Supervisors of the county in which the applicant proposes to operate which describes:
  - a. The nature of the proposed activity involving radioactive material; and
  - b. The facility, including use and storage areas.

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**Historical Note**

New Section R9-7-309 recodified from R12-1-309, at 24  
A.A.R. 813, effective March 22, 2018 (Supp. 18-1).

**R9-7-310. Special Requirements for Issuance of Specific Broad Scope Licenses**

- A.** The Department shall issue three classes of academic and industrial broad scope licenses, and only a single class A medical broad scope license.
1. The license may authorize the radioactive materials in multi-curie quantities, and may authorize other radioactive materials and forms in addition to those listed in subsection (A)(1)(a). A license is a broad scope class A license if it:
    - a. Contains the exact wording "Any radioactive material with Atomic Number 3 through 83" or "Any radioactive material with Atomic Number 84 through 92" in License Item 6; and
    - b. Contains the word "any" to authorize the chemical or physical form of the materials in License Item 7;
  2. A broad scope class B license is any specific license which authorizes the acquisition, possession, use, and transfer of the radioactive materials specified in Exhibit C of 9 A.A.C. 7, Article 3 in any chemical or physical form and in quantities determined as follows:
    - a. The possession limit, if only one radionuclide is possessed, is the quantity specified for that radionuclide in Exhibit C, Column I; or
    - b. The possession limit for multiple radionuclides is determined as follows: The sum of the ratios for all radionuclides possessed under the license shall not exceed unity (1). The ratio for each radionuclide is determined by dividing the quantity possessed by the applicable quantity in Exhibit C, Column I.
  3. A broad scope class C license is any specific license authorizing the possession and use of the radioactive materials specified in Exhibit C of 9 A.A.C. 7, Article 3 in any chemical or physical form and in quantities determined as follows:
    - a. The possession limit, if only one radionuclide is possessed, is the quantity specified for that radionuclide in Exhibit C, Column II; or
    - b. The possession limit for multiple radionuclides is determined as follows: The sum of the ratios for all radionuclides possessed under the license shall not exceed unity (1). The ratio for each radionuclide is determined by dividing the quantity possessed by the applicable quantity in Exhibit C, Column II.
- B.** The Department shall approve:
1. An application for a class A broad scope license if:
    - a. The applicant satisfies the general requirements specified in R9-7-309;
    - b. The applicant has engaged in a reasonable number of activities involving the use of radioactive material. For purposes of this subsection, the requirement of "reasonable number of activities" can be satisfied by showing that the applicant has five years of experience in the use of radioactive material. The Department may accept less than five years of experience if the applicant's qualifications are adequate for the scope of the proposed license; and
    - c. The applicant has established administrative controls and provisions relating to organization, management, procedures, recordkeeping, material control, accounting, and management review that are necessary to assure safe operations, including:
      - i. Establishment of a radiation safety committee composed of a radiation safety officer, a representative of management, and persons trained and experienced in the safe use of radioactive material;
      - ii. Appointment of a radiation safety officer who is qualified by training and experience in radiation protection, and who is available for advice and assistance on radiation safety matters; and
      - iii. Establishment of appropriate administrative procedures to assure:
        - (1) Control of procurement and use of radioactive material;
        - (2) Completion of safety evaluations of proposed uses of radioactive material which take into consideration matters such as the adequacy of facilities and equipment, training and experience of the user, and operating or handling procedures; and
        - (3) Review, approval, and recording by the radiation safety committee of safety evaluations of proposed uses prepared in accordance with this subsection prior to use of the radioactive material.
  2. An application for a class B broad scope license if:
    - a. The applicant satisfies the general requirements specified in R9-7-309; and
    - b. The applicant has established administrative controls and provisions relating to organization, management, procedures, recordkeeping, material control, accounting, and management review that are necessary to assure safe operations, including:
      - i. Appointment of a radiation safety officer who is qualified by training and experience in radiation protection, and available for advice and assistance on radiation safety matters; and
      - ii. Establishment of appropriate administrative procedures to assure:
        - (1) Control of procurement and use of radioactive material;
        - (2) Completion of safety evaluations of proposed uses of radioactive material which take into consideration matters such as the adequacy of facilities and equipment, training and experience of the user, and the operating or handling procedures; and
        - (3) Review, approval, and recording by the radiation safety officer of safety evaluations of proposed uses prepared according to subsection (B)(2)(b)(ii) prior to use of the radioactive material.
  3. An application for a class C broad scope license if:
    - a. The applicant satisfies the general requirements specified in R9-7-309; and
    - b. The applicant submits a statement that radioactive material will be used only by, or under the direct supervision of, individuals who have received:
      - i. A college degree at the bachelor level, or equivalent training and experience, in the physical or biological sciences or in engineering; and
      - ii. At least 40 hours of training and experience in the safe handling of radioactive material, the characteristics of ionizing radiation, units of dose and quantities, radiation detection instrumentation, and biological hazards of exposure

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- to radiation appropriate to the type and forms of radioactive material to be used; and
- c. The applicant has established administrative controls and provisions relating to procurement of radioactive material, procedures, recordkeeping, material control and accounting, and management review necessary to assure safe operations.
- C. Unless specifically authorized, broad-scope licensees shall not:
1. Conduct tracer studies in the environment involving direct release of radioactive material;
  2. Acquire, receive, possess, use, own, import, or transfer devices containing 3.7 petabecquerels (100,000 curies) or more of radioactive material in sealed sources used for irradiation of materials;
  3. Conduct activities for which a specific license is issued under R9-7-311 and 9 A.A.C. 7, Articles 5, 7, or 17; or
  4. Add or cause the addition of radioactive material to any food, beverage, cosmetic, drug, or other product designed for ingestion or inhalation by, or application to, a human being.
- D. Radioactive material possessed under the class A broad scope license shall only be used by, or under the direct supervision of, individuals approved by the licensee's radiation safety committee.
- E. Radioactive material possessed under the class B broad scope license shall only be used by, or under the direct supervision of, individuals approved by the licensee's radiation safety officer.
- F. Radioactive material possessed under the class C broad scope license shall only be used by, or under the direct supervision of, individuals who satisfy the requirements of R9-7-310(B)(3)(b).
- Historical Note**
- New Section R9-7-310 recodified from R12-1-310, at 24 A.A.R. 813, effective March 22, 2018 (Supp. 18-1).
- R9-7-311. Special Requirements for a Specific License to Manufacture, Assemble, Repair, or Distribute Commodities, Products, or Devices that Contain Radioactive Material**
- A. Licensing the manufacture and distribution of devices to persons generally licensed under R9-7-306(A).
1. The Department shall grant a specific license to manufacture or distribute each device that contains radioactive material, excluding special nuclear material, to persons generally licensed under R9-7-306(A) or equivalent regulations of the U.S. NRC, an Agreement State, or the Licensing State if:
    - a. The applicant satisfies the requirements of R9-7-309;
    - b. The applicant submits sufficient information relating to the design, manufacture, prototype testing, quality control, labels, proposed uses, installation, servicing, leak testing, operating and safety instructions, and potential hazards of the device to provide reasonable assurance that:
      - i. The device can be safely operated by persons not having training in radiological protection;
      - ii. Under ordinary conditions of handling, storage, and use of the device, the radioactive material contained in the device will not be released or inadvertently removed from the device, and it is unlikely that any person will receive a dose in excess of 10 percent of the limits specified in R9-7-408; and
      - iii. Under accident conditions (such as fire and explosion) associated with handling, storage, and use of the device, it is unlikely that any person would receive an external radiation dose or dose commitment in excess of the following organ doses:
        - (1) Whole body; head and trunk; active blood-forming organs; gonads; or lens of eye: 150 mSv (15 rem)
        - (2) Hands and forearms; feet and ankles; localized areas of skin averaged over areas no larger than 1 square centimeter; 2 Sv (200 rem)
        - (3) Other organs: 500 mSv (50 rem)
  - c. Each device bears a durable, legible, clearly visible label or labels that contain in a clearly identified and separate statement:
    - i. Instructions and precautions necessary to assure safe installation, operating, and servicing of the device (documents such as operating and service manuals may be identified in the label and used to provide this information);
    - ii. The requirement, or lack of requirement, for leak testing, or for testing any on-off mechanism and indicator, including the maximum time interval for the testing, and the identification of radioactive material by isotope, quantity of radioactivity, and date of determination of the quantity; and
    - iii. The information called for in one of the following statements in the same or substantially similar form:
 

The receipt, possession, use, and transfer of this device, Model \_\_\_\_\_, Serial No. \_\_\_\_\_, are subject to a general license or the equivalent and the regulations of the U.S. Nuclear Regulatory Commission or a state with which the Nuclear Regulatory Commission has entered into an agreement for the exercise of regulatory authority. This label shall be maintained on the device in a legible condition. Removal of this label is prohibited.

**CAUTION – RADIOACTIVE MATERIAL**

\_\_\_\_\_  
(name of manufacturer or distributor)

The receipt, possession, use and transfer of this device, Model \_\_\_\_\_, Serial No. \_\_\_\_\_, are subject to a general license or the equivalent, and the regulations of a Licensing State. This label shall be maintained on the device in a legible condition. Removal of this label is prohibited.

**CAUTION – RADIOACTIVE MATERIAL**

\_\_\_\_\_  
(name of manufacturer or distributor)
- d. The model, serial number, and name of manufacturer or distributor may be omitted from the label if the information location is specified in labeling affixed to the device;
- e. Each device with a separable source housing that provides the primary shielding for the source also bears, on the source housing, a durable label that provides the device model number and serial number, the isotope and quantity, the words, "Caution-Radioactive Material," the radiation symbol



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- described in R9-7-428, and the name of the manufacturer or initial distributor; and
- f. Each device meets the criteria in 10 CFR 31.5(c)(13)(i) (revised January 1, 2013, incorporated by reference, and available under R9-7-101. This incorporated material contains no future editions or amendments) and bears a permanent (e.g., embossed, etched, stamped, or engraved) label affixed to the source housing, if separable, or the device if the source housing is not separable, that includes the words, "Caution-Radioactive Material," and, if practicable, the radiation symbol described in R9-7-428.
  - g. The device has been registered in the Sealed Source and Device Registry.
2. In the event the applicant desires that the device undergo mandatory testing at intervals longer than six months, either for proper operation of the on-off mechanism and indicator, if any, or for leakage of radioactive material or for both, the application shall contain sufficient information to demonstrate that the longer interval is justified by performance characteristics of the device or similar devices and by design features which have a significant bearing on the probability or consequences of leakage of radioactive material from the device or failure of the on-off mechanism and indicator. In determining the acceptable interval for the test for leakage of radioactive material, the Department shall consider information which includes, but is not limited to:
    - a. Primary containment (source capsule),
    - b. Protection of primary containment,
    - c. Method of sealing containment,
    - d. Containment construction materials,
    - e. Form of contained radioactive material,
    - f. Maximum temperature withstood during prototype tests,
    - g. Maximum pressure withstood during prototype tests,
    - h. Maximum quantity of contained radioactive material,
    - i. Radiotoxicity of contained radioactive material, and
    - j. Operating experience with identical devices or similarly designed and constructed devices.
  3. In the event the applicant desires that the general licensee under R9-7-306(A), or under equivalent regulations of the NRC or an Agreement State or Licensing State, be authorized to install the device, collect the sample to be analyzed by a specific licensee for leakage of radioactive material, service the device, test the on-off mechanism and indicator, or remove the device from installation, the application shall include written instructions to be followed by the general licensee, estimated calendar quarter doses associated with the activity or activities, and bases for the estimates. The submitted information shall demonstrate that performance of the activity or activities by an individual untrained in radiological protection, in addition to other handling, storage, and use of devices under the general license, is unlikely to cause that individual to receive a dose in excess of 10 percent of the limits specified in R9-7-408.
  4. A licensee authorized under subsection (A) to distribute a device to a generally licensed person shall provide, if a device that contains radioactive material is to be transferred for use under the general license granted in R9-7-306(A), the name of each person that is licensed under R9-7-311(A) and the information specified in this subsection for each person to whom a device will be transferred. The licensee shall provide this information before the device may be transferred. In the case of transfer through another person, the licensee shall provide the listed information to the intended user before initial transfer to the other person.
    - a. The licensee shall provide:
      - i. A copy of the general license, issued under R9-7-306(A),
      - ii. A copy of R9-7-443 and R9-7-445,
      - iii. A list of the services that can only be performed by a specific licensee,
      - iv. Information on authorized disposal options, including estimated costs of disposal, and
      - v. A list of civil penalties for improper disposal.
    - b. The licensee shall:
      - i. Report on a quarterly basis to the responsible Agreement State or NRC all transfers of devices to persons for use under a general license in accordance with 10 CFR 32.52, revised January 1, 2013, incorporated by reference, and available under R9-7-101. This incorporated material contains no future editions or amendments.
      - ii. Maintain all information concerning transfers and receipts of devices that supports the reports required by subsection (A)(4)(b)(i).
      - iii. Maintain records required by subsection (A)(4)(b)(i) for a period of three years following the date of the recorded event.
  5. If radioactive material is to be transferred in a device for use under an equivalent general license of the NRC or another Agreement State, each person that is licensed under R9-7-304(B) shall provide the information specified in this subsection to each person to whom a device will be transferred. The licensee shall provide this information before the device is transferred. In the case of transfer through another person, the licensee shall provide the listed information to the intended user before initial transfer to the other person. The licensee shall provide:
    - a. A copy of the Agreement State's requirements that are equivalent to R9-7-306(A), R9-7-443, and R9-7-445, and to A.R.S. § 30-657. If a copy of NRC regulations is provided to a prospective general licensee in lieu of the Agreement State's requirements, the licensee shall explain in writing that use of the device is regulated by the Agreement State. If certain requirements do not apply to a particular device, the licensee may omit the requirement from the material provided;
    - b. A list of the services that can only be performed by a specific licensee;
    - c. Information on authorized disposal options, including estimated costs of disposal; and
    - d. The name, title, address, and telephone number of the individual at the Agreement State regulatory agency who can provide additional information.
  6. A licensee may propose to the Department an alternate method of informing the customer.
  7. If a licensee has notified the Department of bankruptcy under R9-7-313(E) or is terminating under R9-7-319, the licensee shall provide, upon request, to the Department, the NRC, or another Agreement State, records of the disposition as required under A.R.S. § 30-657.

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8. A licensee authorized to transfer a device to a generally licensed person, shall comply with the following requirements:
- The person licensed under subsection (A) shall report all transfers of devices to persons for use under a general license obtained under R9-7-306(A), and all receipts of devices from persons licensed under R9-7-306(A) to the Department, the NRC, or other affected Agreement State. The report shall be submitted on a quarterly basis, in a clear and legible form, and contain the following information:
    - The identity of each general licensee by name and mailing address for the location of use. If there is no mailing address for the location of use, the person licensed under subsection (A) shall submit an alternate address for the general licensee, along with information on the actual location of use;
    - The name, title, and telephone number of a person identified by the general licensee as having knowledge of and authority to take required actions to ensure compliance with the applicable laws;
    - The date of transfer;
    - The type, model number, and serial number of the device transferred; and
    - The quantity and type of radioactive material contained in the device.
  - If one or more intermediaries will temporarily possess the device at the intended place of use before its possession by the intended user, the report shall include the information required of the general licensee in subsection (A)(4) for both the intended user and each intermediary, clearly identifying the intended user and each intermediary.
  - For devices received from a general licensee, licensed under R9-7-306(A), the report shall include:
    - The identity of the general licensee by name and address;
    - The type, model number, and serial number of the device received;
    - The date of receipt; and
    - In the case of a device not initially transferred by the reporting licensee, the name of the manufacturer or initial transferor.
  - If the person licensed under subsection (A) makes a change to a device possessed by a general licensee so that the label must be changed to update required information, the report shall identify the general licensee, the device, and the changes to information on the device label.
  - The report shall cover a calendar quarter, be filed within 30 days of the end of each calendar quarter, and clearly indicate the period covered by the report.
  - The report shall clearly identify the person licensed under subsection (A) submitting the report and include the license number of the license.
  - If no transfers are made to or from persons generally licensed under R9-7-306(A) during a reporting period, the person licensed under subsection (A) shall submit a report indicating the lack of activity.
9. The licensee shall maintain records of all transfers for Department inspection. Records shall be maintained for three years after termination of the license to manufacture the generally licensed devices regulated under R9-7-306(A).
- B.** The Department shall grant a specific license to manufacture, assemble, repair, or initially transfer luminous safety devices that contain tritium or promethium-147 for use in aircraft, for distribution to persons generally licensed under R9-7-306(B), if the applicant satisfies:
- The general requirements specified in R9-7-309; and
  - The requirements of 10 CFR 32.53 through 32.56 revised January 1, 2015, incorporated by reference, and available under R9-7-101. This incorporated material contains no future editions or amendments.
- C.** The Department shall grant a specific license to manufacture or initially transfer calibration or reference sources that contain americium-241, radium-226, or plutonium for distribution to persons generally licensed under R9-7-306(C) if the applicant satisfies:
- The general requirements of R9-7-309; and
  - The requirements of 10 CFR 32.57, 32.58, 32.59, and 70.39, revised January 1, 2015, incorporated by reference, and available under R9-7-101. This incorporated material contains no future editions or amendments.
- D.** The Department shall grant a specific license to distribute radioactive material for use by a physician under the general license in R9-7-306(D) if:
- The general requirements of R9-7-309; and
  - The requirements of 10 CFR 32.57, 32.58, 32.59, and 70.39, revised January 1, 2015, incorporated by reference, and available under R9-7-101. This incorporated material contains no future editions or amendments.
- E.** The Department shall grant for a specific license to manufacture or distribute radioactive material for use under the general license of R9-7-306(E) if:
- The applicant satisfies the general requirements specified in R9-7-309.
  - The radioactive material is to be prepared for distribution in prepackaged units of:
    - Iodine-125 in units not exceeding 370 kBq (10 microcuries) each;
    - Iodine-131 in units not exceeding 370 kBq (10 microcuries) each;
    - Carbon-14 in units not exceeding 370 kBq (10 microcuries) each;
    - Hydrogen-3 (tritium) in units not exceeding 1.85 MBq (50 microcuries) each;
    - Iron-59 in units not exceeding 740 kBq (20 microcuries) each;
    - Cobalt-57 or selenium-75 in units not exceeding 370 kilobecquerels (10 microcuries) each;
    - Mock iodine-125 in units not exceeding 1.85 kBq (50 nanocuries) of iodine-129 and 185 Bq (5 nanocuries) of americium-241 each.
  - Each prepackaged unit bears a durable, clearly visible label:
    - Identifying the radioactive contents as to chemical form and radionuclide and indicating that the amount of radioactivity does not exceed 370 kilobecquerels (10 microcuries) of iodine-125, iodine-131, cobalt-57, selenium-75, or carbon-14; 1.85 megabecquerels (50 microcuries) of hydrogen-3 (tritium); 740 kilobecquerels (20 microcuries) of iron-59; or mock iodine-125 in units not exceeding 1.85 kilobecquerels (0.05 microcurie) of iodine-129 and 185 becquerels (0.005 microcurie) of americium-241 each; and



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equivalent licenses of the U.S. Nuclear Regulatory Commission or an Agreement State or Licensing State. The labels, leaflets or brochures required by this subsection supplement the labeling required by FDA and they may be separate from or, with the approval of FDA, combined with the labeling required by FDA.

- I. The Department shall grant a specific license to manufacture and distribute sources and devices that contain radioactive material to a person licensed in accordance with Article 7 of this Chapter for use as a calibration, transmission, or reference source or for medical purposes, if the applicant meets all of the requirements in 10 CFR 32.74, revised January 1, 2015, incorporated by reference, and available under R9-7-101. This incorporated material contains no future editions or amendments.
- J. Requirements for license to manufacture and distribute industrial products containing depleted uranium for mass volume applications.
  1. The Department shall grant a specific license to manufacture industrial products and devices that contain depleted uranium for use under R9-7-305(C) or equivalent regulations of the U.S. Nuclear Regulatory Commission or an Agreement State if:
    - a. The applicant satisfies the general requirements in R9-7-309;
    - b. The applicant submits sufficient information relating to the design, manufacture, prototype testing, quality control procedures, labeling or marking, proposed uses, and potential hazards of the industrial product or device to provide reasonable assurance that possession, use, or transfer of the depleted uranium in the product or device is not likely to cause any individual to receive a radiation dose in excess of 10 percent of the limits specified in R9-7-408;
    - c. The applicant submits sufficient information regarding the industrial product or device and the presence of depleted uranium for a mass volume application in the product or device to provide reasonable assurance that unique benefits will accrue to the public because of the usefulness of the product or device.
  2. In the case of an industrial product or device whose unique benefits are questionable, the Department shall approve an application for a specific license under this subsection only if the product or device is found to combine a high degree of utility and low probability of uncontrolled disposal and dispersal of significant quantities of depleted uranium into the environment.
  3. The Department may deny any application for a specific license under this subsection if the end use or uses of the industrial product or device cannot be reasonably foreseen.
  4. Each person licensed under subsection (J)(1) shall:
    - a. Maintain the level of quality control required by the license in the manufacture of the industrial product or device and the installation of the depleted uranium into the product or device;
    - b. Label or mark each unit to:
      - i. Identify the manufacturer of the product or device, the number of the license under which the product or device was manufactured or initially transferred, the fact that the product or device contains depleted uranium, and the quantity of depleted uranium in each product or device; and
      - ii. State that the receipt, possession, use, and transfer of the product or device are subject to a general license or the equivalent and the regulations of the U.S. Nuclear Regulatory Commission or an Agreement State;
- c. Assure that the depleted uranium, before being installed in each product or device, has been impressed with the following legend, clearly legible through any plating or other covering: "Depleted Uranium";
- d. Furnish a copy of the general license contained in R9-7-305(C) and a copy of ARRA-23 to each person to whom depleted uranium in a product or device is transferred for use under a general license contained in R9-7-305(C); or
- e. Furnish a copy of the general license contained in the U.S. Nuclear Regulatory Commission's or Agreement State's regulation equivalent to R9-7-305(C) and a copy of the U.S. Nuclear Regulatory Commission's or Agreement State's certificate, or alternatively, furnish a copy of the general license contained in R9-7-305(C) and a copy of ARRA-23 to each person to whom depleted uranium in a product or device is transferred for use under a general license of the U.S. Nuclear Regulatory Commission or an Agreement State, with a document explaining that use of the product or device is regulated by the U.S. Nuclear Regulatory Commission or an Agreement State under requirements substantially the same as those in R9-7-305(C);
- f. Report to the Department all transfers of industrial products or devices to persons for use under the general license in R9-7-305(C). The report shall identify each general licensee by name and address, an individual by name or position who serves as the point of contact person for the general licensee, the type and model number of device transferred, and the quantity of depleted uranium contained in the product or device. The report shall be submitted within 30 days after the end of each calendar quarter in which a product or device is transferred to the generally licensed person. If no transfers have been made to persons generally licensed under R9-7-305(C) during the reporting period, the report shall so indicate;
  - i. Report to the U.S. Nuclear Regulatory Commission all transfers of industrial products or devices to persons for use under the U.S. Nuclear Regulatory Commission general license in 10 CFR 40.25; or
  - ii. Report to the responsible state agency all transfers of devices manufactured and distributed under subsection (J)(4)(f) for use under a general license in that state's regulations equivalent to R9-7-305(C);
  - iii. The report required in subsection (J)(4)(f)(i) or (ii) shall identify each general licensee by name and address, an individual by name or position who serves as the contact person for the general licensee, the type and model number of the device transferred, and the quantity of depleted uranium contained in the product or device. The report shall be submitted within 30 days after the end of each calendar quarter in which a product or device is transferred to the generally licensed person;

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- iv. If no transfers have been made to U.S. Nuclear Regulatory Commission licensees during the reporting period, this information shall be reported to the U.S. Nuclear Regulatory Commission;
  - v. If no transfers have been made to general licensees within a particular Agreement State during the reporting period, this information shall be reported to the responsible Agreement state agency; and
  - vi. Keep records showing the name, address, and contact person for each general licensee to whom depleted uranium in industrial products or devices is transferred for use under a general license provided in R9-7-305(C) or equivalent regulations of the U.S. Nuclear Regulatory Commission or of an Agreement State. The records shall be maintained for a period of three years and show the date of each transfer, the quantity of depleted uranium in each product or device transferred, and compliance with the reporting requirements of this Section.
- K.** A licensee who manufactures nationally tracked sources, as defined in Article 4, shall:
- 1. Serialize the sources in accordance with 10 CFR 32.201, revised January 1, 2013, incorporated by reference, and available under R9-7-101. This incorporated material contains no future editions or amendments; and
  - 2. Report manufacturing activities in accordance with R9-7-454.

**Historical Note**

New Section R9-7-311 recodified from R12-1-311, at 24 A.A.R. 813, effective March 22, 2018 (Supp. 18-1).  
Amended by final expedited rulemaking at 24 A.A.R. 2151, effective July 12, 2018 (Supp. 18-3).

**R9-7-312. Issuance of Specific Licenses**

- A.** Upon determination that a license application meets the requirements of the Act and Department rules, the Department shall grant a specific license that may contain conditions or limitations if the Department has determined that additional requirements regarding the proposed activity will protect health and safety.
- B.** The Department may incorporate in any license at the time of issuance, or thereafter by rule or order, additional requirements and conditions with respect to the licensee's receipt, possession, use, and transfer of radioactive material in order to:
  - 1. Minimize danger to public health and safety or property;
  - 2. Require reports and recordkeeping, and provide for inspections of activities under the license as may be necessary to protect health and safety; and
  - 3. Prevent loss or theft of material subject to this Article.
- C.** The Department may verify information contained in an application and secure additional information necessary to make a determination on issuance of a license and whether any special conditions should be attached to the license. The Department may inspect the facility or location where radioactive materials would be possessed or used, and discuss details of the proposed possession or use of the radioactive materials with the applicant or representatives designated by the applicant.
- A.** Each license issued under this Article is subject to all provisions of A.R.S. Title 30, Chapter 4 and to all rules, regulations, and orders of the Department.
- B.** A licensee shall not transfer, assign, or in any manner dispose of a license issued or granted under this Article or a right to possess or utilize radioactive material granted by any license issued under this Article unless the Department finds that the transfer is consistent with the Department's statutes and rules, and gives its consent in writing. An application for transfer of license must include:
  - 1. The identity, technical and financial qualifications of the proposed transferee; and
  - 2. Financial assurance for decommissioning information required by R9-7-323.
- C.** Each person licensed by the Department under this Article shall confine the use and possession of the material licensed to the locations and purposes authorized in the license.
- D.** Each license issued pursuant to the rules in Articles 3, 5, 7, and 15 of this Chapter shall be deemed to contain the provisions set forth in the Act, whether or not these provisions are expressly set forth in the license.
- E.** The Department may incorporate, in any license issued pursuant to the rules in this Chapter, at the time of issuance, or thereafter by appropriate rule, regulation or order, such additional requirements and conditions with respect to the licensee's receipt, possession, use and transfer of byproduct material as it deems appropriate or necessary in order to:
  - 1. Promote the common defense and security;
  - 2. Protect health or to minimize danger to life or property;
  - 3. Protect restricted data; or
  - 4. Require such reports and the keeping of such records, and to provide for such inspections of activities under the license as may be necessary or appropriate to effectuate the purposes of the Act and rules thereunder.
- F.** Licensees required to submit emergency plans in accordance with R9-7-322 shall follow the emergency plan approved by the Department. The licensee may change the approved plan without Department approval only if the changes do not reduce the commitment of the plan. The licensee shall furnish the change to the Department and to affected offsite response organizations within six months after the change is made. Proposed changes that reduce, or potentially reduce, the commitment of the approved emergency plan may not be implemented without prior application to and prior approval by the Department.
- G.** Each person licensed under this Section and each general licensee that is required to register under R9-7-306(A)(4)(o) shall notify the Department in writing if the licensee decides to permanently discontinue any or all activities involving materials authorized under the license. A specific licensee or general licensee shall notify the Department, in writing:
  - 1. Immediately following the filing of a petition for bankruptcy under any Chapter of Title 11 of the United States Code if the petition for bankruptcy is by or against:
    - a. The licensee;
    - b. An entity (as defined in the bankruptcy code) controlling the licensee or listing the license or licensee as property of the estate; or
    - c. An affiliate (as defined in the bankruptcy code) of the licensee; and
  - 2. Providing the following information:
    - a. The bankruptcy court in which the petition for bankruptcy was filed, and
    - b. The bankruptcy case title and number, and
    - c. The date the petition was filed.

**Historical Note**

New Section R9-7-312 recodified from R12-1-312, at 24 A.A.R. 813, effective March 22, 2018 (Supp. 18-1).

**R9-7-313. Specific Terms and Conditions**

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**H.** Each licensee preparing technetium-99m radiopharmaceuticals from molybdenum-99/technetium-99m generators or rubidium-82 from strontium-82/rubidium-82 generators shall test the generator eluates for molybdenum-99 breakthrough or strontium-82 and strontium-85 contamination, respectively, in accordance with R9-7-720. The licensee shall record the results of each test and retain each record for three years after the record is made. The licensee shall report the results of any test that exceeds the permissible concentration listed in R9-7-720 at the time of generator elution, in accordance with 10 CFR 35.3204.

**I. Inalienability of Licenses**

1. No license issued or granted pursuant to the regulations in this part shall be transferred, assigned or in any manner disposed of, either voluntarily or involuntarily, directly or indirectly, through transfer of control of any license to any person, unless the Department, after securing full information, finds that the transfer is in accordance with the provisions of this act and gives its consent in writing.
2. An application for transfer of license must include:
  - a. The identity, technical and financial qualifications of the proposed transferee; and
  - b. Financial assurance for decommissioning information required by R9-7-323, 10 CFR 40.3 and 10 CFR 70.25.

**Historical Note**

New Section R9-7-313 recodified from R12-1-313, at 24 A.A.R. 813, effective March 22, 2018 (Supp. 18-1).  
Amended by final expedited rulemaking at 24 A.A.R. 2151, effective July 12, 2018 (Supp. 18-3). Amended by final expedited rulemaking at 26 A.A.R. 1067, with an immediate effective date of May 6, 2020 (Supp. 20-2).

**R9-7-314. Expiration of License**

Except as provided in R9-7-315(B), each specific license expires at the end of the day, in the month and year stated on the license.

**Historical Note**

New Section R9-7-314 recodified from R12-1-314, at 24 A.A.R. 813, effective March 22, 2018 (Supp. 18-1).

**R9-7-315. Renewal of License**

- A.** An applicant shall file an application for renewal of a specific license according to R9-7-308.
- B.** If a licensee files a renewal application not less than 30 days before the license expiration date and the existing license and associated renewal application is in proper form, the existing license does not expire until a final renewal determination is made by the Department.

**Historical Note**

New Section R9-7-315 recodified from R12-1-315, at 24 A.A.R. 813, effective March 22, 2018 (Supp. 18-1).

**R9-7-316. Amendment of Licenses at Request of Licensee**

An applicant shall file an application for amendment of a specific license by complying with R9-7-308 and specifying the grounds for the amendment.

**Historical Note**

New Section R9-7-316 recodified from R12-1-316, at 24 A.A.R. 813, effective March 22, 2018 (Supp. 18-1).

**R9-7-317. Department Action on Applications to Renew or Amend**

In considering an application by a licensee to renew or amend a specific license, the Department shall apply the criteria set forth in R9-7-309, R9-7-310, or R9-7-311, as applicable.

**Historical Note**

New Section R9-7-317 recodified from R12-1-317, at 24 A.A.R. 813, effective March 22, 2018 (Supp. 18-1).

**R9-7-318. Transfer of Radioactive Material**

- A.** A licensee shall not transfer radioactive material except as authorized under this Section.
- B.** Except as otherwise provided in the license and subject to the provisions of subsections (C) and (D), any licensee may transfer radioactive material:
  1. To the Department, after receiving prior approval from the Department;
  2. To the Department of Energy;
  3. To any person exempt from the rules in this Article to the extent permitted under the exemption;
  4. To any person authorized to receive radioactive material under terms of a general license or its equivalent, or a specific license or equivalent licensing document, issued by the Department, the U.S. Nuclear Regulatory Commission, or any Agreement State or Licensing State, or to any person otherwise authorized to receive radioactive material by the Federal Government or any agency of the Federal Government, the Department, any Agreement State or Licensing State; or
  5. As otherwise authorized by the Department in writing.
- C.** Before transferring radioactive material to a specific licensee of the Department, the U.S. Nuclear Regulatory Commission, or an Agreement State or Licensing State, or to a general licensee who is required to register with the Department, the U.S. Nuclear Regulatory Commission, or an Agreement State or Licensing State prior to receipt of the radioactive material, the licensee transferring the material shall verify that the transferee's license authorizes the receipt of the type, form, and quantity of radioactive material to be transferred.
- D.** The transferor shall use one or more of the following methods for the verification required by subsection (C):
  1. The transferor shall possess, and read, a current copy of the transferee's specific license or registration certificate;
  2. The transferor shall possess a written certification by the transferee that the transferee is authorized by license or registration certificate to receive the type, form, and quantity of radioactive material to be transferred, specifying the license or registration certificate number, issuing agency, and expiration date;
  3. For emergency shipments the transferor shall accept oral certification by the transferee that the transferee is authorized by license or registration certificate to receive the type, form, and quantity of radioactive material to be transferred, specifying the license or registration certificate number, issuing agency, and expiration date; provided the oral certification is confirmed in writing within 10 days;
  4. The transferor shall obtain information equivalent to that in subsection (D)(1) to (3) compiled by a reporting service from official records of the Department, the U.S. Nuclear Regulatory Commission, or the licensing agency of an Agreement State or Licensing State regarding the identity of any licensee and the scope and expiration date of any license, registration, or certificate; or
  5. When none of the methods of verification described in subsections (D)(1) to (4) are readily available or when a transferor desires to verify that information received by one of the above methods is correct or up-to-date, the transferor shall obtain and record confirmation from the Department, the U.S. Nuclear Regulatory Commission, or the licensing agency of an Agreement State or Licens-

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ing State that the transferee is licensed to receive the radioactive material.

- E. A transferor shall prepare and transport radioactive material as prescribed in the provisions of 9 A.A.C. 7, Article 15.
- F. The Department shall approve an application for a specific license to initially transfer source material for use under R9-7-305, or equivalent regulations of the NRC or another Agreement State, if:
  1. The applicant satisfies the general requirements specified in R9-7-309; and
  2. The applicant submits adequate information on, and the Department approves, the methods to be used for quality control, labeling, and providing safety instructions to recipients.
- G. Each person licensed under this Section shall label the immediate container of each quantity of source material with the type of source material and quantity of material and the words, "RADIOACTIVE MATERIAL."
- H. Each person licensed under this Section shall ensure that the quantities and concentrations of source material are as labeled and indicated in any transfer records.
- I. Each person licensed under this Section shall provide the information specified in subsections (I)(1) and (2) to each person to whom source material is transferred for use under R9-7-305 or equivalent provisions in the NRC or Agreement State regulations. This information must be transferred before the source material is transferred for the first time in each calendar year to the particular recipient. The required information includes:
  1. A copy of R9-7-305 and R9-7-318, or relevant equivalent regulations of the NRC or another Agreement State; and
  2. Appropriate radiation safety precautions and instructions relating to handling, use, storage, and disposal of the source material.
- J. Each person licensed under 10 CFR 40.54 shall file a report with the Department that includes the following information:
  1. The name, address, and license number of the person who transferred the source material;
  2. For each general licensee under R9-7-305 or equivalent Agreement State provisions to whom greater than 50 grams (0.11 lb) of source material has been transferred in a single calendar quarter, the name and address of the general licensee to whom source material is distributed; a responsible agent, by name and/or position and phone number, of the general licensee to whom the material was sent; and the type, physical form, and quantity of source material transferred; and
  3. The total quantity of each type and physical form of source material transferred in the reporting period to all such generally licensed recipients.
- K. Each person licensed under this Section shall maintain all information that supports the reports required by this Section concerning each transfer to a general licensee for a period of one year after the event is included in a report to the Department, the NRC, or another Agreement State agency.

**Historical Note**

New Section R9-7-318 recodified from R12-1-318, at 24 A.A.R. 813, effective March 22, 2018 (Supp. 18-1).  
Amended by final expedited rulemaking at 26 A.A.R. 1067, with an immediate effective date of May 6, 2020 (Supp. 20-2).

**R9-7-319. Modification, Revocation, or Termination of a License**

- A. The terms and conditions of all licenses are subject to amendment, revision, or modification, and a license may be sus-

pending or revoked by reason of amendments to the Department's statutes or rules and orders issued by the Department.

- B. The Department may revoke, suspend, or modify any license, in whole or in part, for any material false statement in the application; any omission or misstatement of fact required by statute, rule, or order, or because of conditions revealed by the application or any report, record, or inspection or other means that would cause the Department to refuse to grant a license; or any violation of license terms and conditions, or the Department's statutes, rules, or orders.
- C. Except in cases of willfulness or those in which the public health, interest, or safety requires otherwise, the Department shall not modify, suspend, or revoke a license unless, before the institution of proceedings, facts or conduct that may warrant action have been called to the attention of the licensee in writing and the licensee has been accorded an opportunity to demonstrate or achieve compliance.
- D. The Department may terminate a specific license upon a written request by the licensee that provides evidence the licensee has met the termination criteria in R9-7-451 and R9-7-452, and the decommissioning requirements in R9-7-323.
- E. Specific licenses, including expired licenses, continue in effect until terminated by written notice to the licensee, when the Department determines that the licensee has:
  1. Properly disposed of all radioactive material;
  2. Made a reasonable effort to eliminate residual radioactive contamination, if present;
  3. Performed an accurate radiation survey that demonstrates the premises are suitable for release in accordance with the criteria for decommissioning in R9-7-323;
  4. Submitted other information that is sufficient to demonstrate that the premises are suitable for release in accordance with the criteria for decommissioning in R9-7-323.
  5. Provided records to the Department that detail the disposal of all radioactive material in unsealed form with a half-life greater than 120 days, and copies of the records required by 10 CFR 30.35(g), January 1, 2004, which is incorporated by reference and on file with the Department. This incorporation by reference contains no future editions or amendments.

**Historical Note**

New Section R9-7-319 recodified from R12-1-319, at 24 A.A.R. 813, effective March 22, 2018 (Supp. 18-1).

**R9-7-320. Reciprocal Recognition of Licenses**

- A. This subsection grants a general license to perform specific licensed activities in Arizona for a period not to exceed 180 days in any calendar year to any person who holds a specific license from an Agreement State, where the licensee maintains an office for directing the licensed activity and retaining radiation safety records, is granted a general license to conduct the same activity involving the use of radioactive material from the U.S. Nuclear Regulatory Commission, Licensing State, or any Agreement State, provided that:
  1. The license does not limit the activity to specific installations or locations;
  2. Following the first notification, application, and payment of fees, the licensee shall notify the Department three days prior to entering the state and prior to each non-consecutive visit while reciprocity remains in effect.
  3. The out-of-state licensee complies with all applicable statutes, now or hereafter in effect, rules, and orders of the Department and with all the terms and conditions of the license, except those terms and conditions inconsis-

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tent with applicable statutes, rules and orders of the Department;

4. The out-of-state licensee supplies any other information the Department requests; and
5. The out-of-state licensee does not transfer or dispose of radioactive material possessed or used under the general license provided in this Section except by transfer to a person:
  - a. Specifically licensed by the Department or by the U.S. Nuclear Regulatory Commission to receive the radioactive material; or
  - b. Exempt under R9-7-303(A).
- B. Notwithstanding the provisions of subsection (A)(1), this subsection grants a general license to manufacture, install, transfer, demonstrate, or service a device described in R9-7-306(A)(1) to any person who holds a specific license issued by the U.S. Nuclear Regulatory Commission, Licensing State, or an Agreement State authorizing the same activities within areas subject to the jurisdiction of the licensing body, provided that:
  1. The person files a report with the Department within 30 days after the end of each calendar quarter in which any device is transferred to or installed in this State. Each report shall identify the general licensee to whom the device is transferred by name and address, the type of device transferred, and the quantity and type of radioactive material contained in the device;
  2. The device has been manufactured, labeled, installed, and serviced according to the applicable provisions of the specific license issued to the person by the U.S. Nuclear Regulatory Commission or an Agreement State;
  3. The person entering the state ensures that any labels required to be affixed to the device under rules of the authority which licensed manufacture of the device bear the following statement: "Removal of this label is prohibited"; and
  4. The holder of the specific license furnishes a copy of the general license contained in R9-7-306(A)(1), or equivalent rules of the agency having jurisdiction over the manufacture or distribution of the device, to each general licensee to whom the licensee transfers the device or on whose premises the device is installed.
- C. The Department may withdraw, limit, or qualify the acceptance of any specific license or equivalent licensing document issued by another agency, or any product distributed under a license, upon determining that an action is necessary to prevent undue hazard to public health and safety, or property.
- D. Before radioactive material can be used at a temporary job site within the state at any federal facility, a specific licensee shall determine the jurisdictional status of the job site. If the jurisdictional status is unknown, the specific licensee shall contact the controlling federal agency to determine whether the job site is under exclusive federal jurisdiction.
- E. Before using radioactive material at a job site under exclusive federal jurisdiction, a specific licensee shall:
  1. Obtain authorization from the NRC; and
  2. Use the radioactive material in accordance with applicable NRC regulations and orders, and be able to demonstrate to the Department that the correct license fee was paid to the NRC.
- F. Before radioactive material can be used at a temporary job site in another state, a specific licensee shall obtain authorization from the state, if it is an Agreement State, or from the NRC for any non-Agreement State, either by filing for reciprocity or applying for a specific license.

**Historical Note**

New Section R9-7-320 recodified from R12-1-320, at 24 A.A.R. 813, effective March 22, 2018 (Supp. 18-1).

**R9-7-321. Reserved****Historical Note**

Section R9-7-321 reserved when this Chapter was recodified from 12 A.A.C. 1 (Supp. 18-1).

**R9-7-322. The Need for an Emergency Plan for Response to a Release of Radioactive Material**

- A. For purposes of this Section, "Emergency Plan" means a procedure that will be followed when an accident occurs involving licensed radioactive materials for which an offsite response may be needed from organizations, such as police, fire, or medical organizations.
- B. Each application to possess radioactive materials in unsealed form, on foils or plated sources, or sealed in glass in excess of the quantities in Exhibit D, "Radioactive Material Quantities Requiring Consideration for an Emergency Plan" shall contain either:
  1. An evaluation showing that the maximum dose to a person off-site due to a release of radioactive materials would not exceed 1 rem effective dose equivalent or 5 rems to the thyroid; or
  2. An emergency plan for responding to a release of radioactive material.
- C. One or more of the following factors may be used to support an evaluation submitted under subsection (B)(1):
  1. The radioactive material is physically separated so that only a portion could be involved in an accident.
  2. All or part of the radioactive material is not subject to release during an accident because of the way it is stored or packaged;
  3. The release fraction in the respirable size range would be lower than the release fraction shown in Exhibit D due to the chemical or physical form of the material;
  4. The solubility of the radioactive material would reduce the dose received;
  5. Facility design or engineered safety features in the facility would cause the release fraction to be lower than shown in Exhibit D;
  6. Operating restrictions or procedures would prevent a release fraction as large as that shown in Exhibit D; or
  7. Other factors appropriate for the specific facility.
- D. An emergency plan for responding to a release of radioactive material submitted under subsection (B)(2) shall include the following information:
  1. A brief description of the licensee's facility and areas near the site that could expose a member of the public to a dose equal to or greater than the levels expressed in subsection (B)(1).
  2. An identification of each type of radioactive materials accident for which protective actions may be needed.
  3. A classification system for classifying accidents as alerts or site area emergencies.
  4. Identification of the means of detecting each type of accident in a timely manner.
  5. A brief description of the means and equipment for mitigating the consequences of each type of accident, including those provided to protect workers onsite, and a description of the program for maintaining the equipment.
  6. A brief description of the methods and equipment to assess releases of radioactive materials.
  7. A brief description of the responsibilities of licensee personnel responsible for promptly notifying offsite



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response organizations and the Department; also responsibilities for developing, maintaining, and updating the plan.

8. A commitment to and a brief description of the means to promptly notify offsite response organizations and request off-site assistance, including medical assistance for the treatment of contaminated and injured onsite workers when appropriate. A control point shall be established. The notification and coordination shall be planned so that unavailability of some personnel, parts of the facility, and some equipment will not prevent the notification and coordination. The licensee shall also commit to notify the Department immediately after notification of the appropriate off-site response organizations and not later than one hour after the licensee declares an emergency.
  9. A brief description of the types of information on facility status, radioactive releases, and recommended protective actions, if necessary, to be given to off-site response organizations and to the Department.
  10. A brief description of the frequency, performance objectives, and plans for the training that the licensee will provide workers on how to respond to an emergency including any special instructions and orientation tours the licensee would offer to fire, police, medical, and other emergency personnel. The training shall familiarize personnel with site-specific emergency procedures. Also, the training shall thoroughly prepare site personnel for their responsibilities in the event of accident scenarios postulated as most probable for the specific site, including the use of team training for such scenarios.
  11. A brief description of the means of restoring the facility to a safe condition after an accident.
  12. Provisions for conducting quarterly communications checks with off-site response organizations and biennial onsite exercises to test response to simulated emergencies. Quarterly communications checks with off-site response organizations shall include the verifying and updating of all necessary telephone numbers. The licensee shall invite off-site response organizations to participate in the biennial exercises. Their participation is not required. Exercises shall use accident scenarios postulated as most probable for the specific site and the scenarios shall not be known to most exercise participants. The licensee shall critique each exercise, using individuals without direct implementation responsibility for the plan. Critiques of exercises shall evaluate the appropriateness of the plan, emergency procedures, facilities, equipment, training of personnel, and overall effectiveness of the response. Deficiencies found by the critiques shall be corrected.
  13. A certification that the applicant has met its responsibilities in A.R.S. §§ 26-341 through 26-353 (Emergency Planning and Community Right-to-Know Act of 1986), if applicable to the applicant's activities at the proposed place of use of the radioactive material.
- E. The licensee shall allow 60 days for the off-site response organizations, expected to respond in case of an accident, to comment on the licensee's emergency plan before submitting it to the Department. The licensee shall provide any comments received within the 60 days to the Department with the emergency plan.

**Historical Note**

New Section R9-7-322 recodified from R12-1-322, at 24 A.A.R. 813, effective March 22, 2018 (Supp. 18-1).

**R9-7-323. Financial Assurance and Recordkeeping for Decommissioning**

- A. For purposes of terminating specific licensed activities:
1. "Decommissioning" means to remove a radioactive material use facility safely from service and to reduce residual radioactivity to a level that permits release of the property for unrestricted use and termination of the radioactive material use license.
  2. "Byproduct material" as used in 10 CFR 30, means "radioactive material" which is defined in A.R.S. § 30-651.
  3. "Facility" means the entire site of radioactive material use, or any separate building or outdoor area where it is used.
  4. "Appendix B to Part 30" as used in 10 CFR 30, means Appendix E in 9 A.A.C. 7, Article 4.
  5. "Financial security" means having a net worth of not less than \$10,000.
- B. When applying, each non-government applicant for a specific license that authorizes the possession and use of radioactive material, and each non-government holder of a license to possess and use radioactive material issued before the effective date of this Section, shall submit to the Department a decommissioning funding plan or certification of financial security, as required in A.R.S. § 30-672(H). A licensee required to meet the requirements in subsection (C) is exempt from the requirements in this subsection.
- C. When applying, each applicant for a specific license that authorizes the possession and use of radioactive material, and each holder of a license to possess and use radioactive material issued before the effective date of this Section, shall submit to the Department a decommissioning funding plan or certification of financial assurance that meets the requirements in 10 CFR 30.35, 40.36, and 70.25, revised January 1, 2015, incorporated by reference, and available under R9-7-101. This incorporated material contains no future editions or amendments. Each decommissioning funding plan shall be submitted to the Department for review and approval and shall contain a detailed cost estimate for decommissioning, in an amount reflecting:
1. The cost of an independent contractor to perform all decommissioning activities;
  2. The cost of meeting the R9-7-452(B) criteria for unrestricted use, provided that, if the applicant or licensee can demonstrate its ability to meet the provisions of R9-7-452(C), the cost estimate may be based on meeting the R9-7-452(C) criteria;
  3. The volume of onsite subsurface material containing residual radioactivity that will require remediation to meet the criteria for license termination;
  4. The ability to meet the provisions of this Section, for which the cost estimate may be based on meeting the criteria specified in this Section; and
  5. An adequate contingency factor, including:
    - a. Identification of and justification for using the key assumptions contained in the DCE;
    - b. A description of the method of assuring funds for decommissioning including means for adjusting cost estimates and associated funding levels periodically over the life of the facility;
    - c. A certification by the licensee that financial assurance for decommissioning has been provided in the

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- amount of the cost estimate for decommissioning; and
- d. An original signed copy of the financial instrument obtained to satisfy the requirements of subsection (F) unless a previously submitted and accepted financial instrument continues to cover the cost estimate for decommissioning.
- D.** Each licensee required to provide financial assurance for decommissioning a radioactive material facility under this Section shall maintain records of information important to the safe and effective decommissioning of the facility in an identified location until the license is terminated by the Department. The licensee shall maintain the following records during the decommissioning process:
1. Records of spills or other unusual occurrences involving the spread of contamination in and around the facility, equipment, and site. These records may be limited to instances when contamination remains after any cleanup procedures or when there is reasonable likelihood that contaminants may have spread to inaccessible areas as in the case of possible seepage into porous materials such as concrete. The licensee shall keep records identifying the involved radionuclides and associated quantities, forms, and concentrations.
  2. As-built drawings showing modifications of structures and equipment in restricted areas where radioactive materials are used and stored, and locations of possible inaccessible contamination. If drawings are not available, the licensee shall provide appropriate records describing each location of possible contamination.
  3. Records of the cost estimate performed for the decommissioning funding plan or of the amount certified for decommissioning, and records of the funding method used for assuring funds if either a funding plan or certification is used.
- E.** Decommissioning procedures:
1. Upon expiration or termination of principal activities a licensee shall notify the Department in writing whether the licensee is discontinuing licensed activities. The licensee shall begin decommissioning its facility within 60 days after the Department receives notice of the decision to permanently terminate principal activities, or within 12 months after receipt of notice, submit to the Department a decommissioning plan, as prescribed in 10 CFR 30.36(g)(1), 40.42(g)(1), and 70.38(g)(1), revised January 1, 2015, incorporated by reference, and available under R9-7-101. This incorporated material contains no future editions or amendments. The licensee shall begin decommissioning upon approval of the plan if the license has expired or no licensed activities have been conducted at the licensee's facility for a period of 24 months.
  2. In addition to the notification requirements in subsection (E)(1), the licensee shall maintain in effect all decommissioning financial assurances required by this Section. The financial assurances shall be increased or may be decreased as appropriate to cover the cost estimate established for decommissioning in subsection (E)(1). The licensee may reduce the amount of the financial assurance following approval of the decommissioning plan, provided the radiological hazard is decreasing and the licensee has the approval of the Department.
  3. The Department shall extend the time periods established in subsection (E)(1) if a new time period is in the best interest of public health and safety.
- a. The licensee shall submit a request for an extension no later than 30 days after the Department receives the notice required in subsection (E)(1).
  - b. If a licensee has requested an extension, the licensee is not required to commence decommissioning activities required in subsection (E)(1), until the Department has made a determination on the request submitted to the Department under subsection (E)(3)(a).
4. Except as provided in subsection (E)(5), the licensee shall complete decommissioning of a facility as soon as practicable but no later than 24 months following the initiation of decommissioning; and except as provided in subsection (E)(5), when decommissioning involves the entire facility, the licensee shall request license termination as soon as practicable but no later than 24 months following initiation of decommissioning.
  5. The Department shall approve a request for an alternate schedule for completion of decommissioning and license termination if the Department determines that the alternative is warranted by consideration of the conditions specified in 10 CFR 30.36(i), 40.42(i), and 70.38(i), revised January 1, 2015, incorporated by reference, and available under R9-7-101. This incorporated material contains no future editions or amendments.
  6. As a final step in decommissioning, the licensee shall meet the requirements specified in 10 CFR 30.36(j), 40.42(j), and 70.38(j), revised January 1, 2015, incorporated by reference, and available under R9-7-101. This incorporated material contains no future editions or amendments.
- F.** Each person licensed under this Article shall keep records of information important to the decommissioning of a facility in an identified location until the site is released for unrestricted use. Before licensed activities are transferred or assigned in accordance with R9-7-318, licensees shall transfer all records described in subsections (F)(1) through (F)(4) to the new licensee. In this case, the new licensee will be responsible for maintaining these records until the license is terminated. If records important to the decommissioning of a facility are kept for other purposes, reference to these records and their locations may be used. Information the Department considers important to decommissioning consists of:
1. Records of spills or other unusual occurrences involving the spread of contamination in and around the facility, equipment, or site. These records may be limited to instances when contamination remains after any cleanup procedures or when there is reasonable likelihood that contaminants may have spread to inaccessible areas as in the case of possible seepage into porous materials such as concrete. These records must include any known information on identification of involved nuclides, quantities, forms, and concentrations.
  2. As-built drawings and modifications of structures and equipment in restricted areas where radioactive materials are used and/or stored, and of locations of possible inaccessible contamination such as buried pipes which may be subject to contamination. If required drawings are referenced, each relevant document need not be indexed individually. If drawings are not available, the licensee shall substitute appropriate records of available information concerning these areas and locations.
  3. Except for areas containing depleted uranium used only for shielding or as penetrators in unused munitions, a list contained in a single document and updated every 2 years, of the following:

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- a. All areas designated and formerly designated as restricted areas as defined under R9-7-102;
  - b. All areas outside of restricted areas that require documentation under subsection (F)(1);
  - c. All areas outside of restricted areas where current and previous wastes have been buried as documented under R9-7-441; and
  - d. All areas outside of restricted areas that contain material such that, if the license expired, the licensee would be required to either decontaminate the area to meet the criteria for decommissioning in R9-7-451 or R9-7-452; or apply for approval for disposal under R9-7-435.
4. Records of the cost estimate performed for the decommissioning funding plan or of the amount certified for decommissioning, and records of the funding method used for assuring funds if either a funding plan or certification is used.
- G.** In providing financial assurance under this section, each licensee shall use the financial assurance funds only for decommissioning activities and each licensee shall monitor the balance of funds held to account for market variations. The licensee shall replenish the funds, and report such actions to the Department, as follows:
1. If, at the end of a calendar quarter, the fund balance is below the amount necessary to cover the cost of decommissioning, but is not below 75 percent of the cost, the licensee shall increase the balance to cover the cost, and shall do so within 30 days after the end of the calendar quarter.
  2. If, at any time, the fund balance falls below 75 percent of the amount necessary to cover the cost of decommissioning, the licensee shall increase the balance to cover the cost, and shall do so within 30 days of the occurrence.
  3. Within 30 days of taking the actions required by subsection (G)(1) or (G)(2), the licensee shall provide a written report of such actions to the Director of the Department, and state the new balance of the fund.
- H.** The financial instrument must include the licensee's name, license number, and docket number, and the name, address, and other contact information of the issuer, and, if a trust is used, the trustee. When any of the foregoing information changes, the licensee must, within 30 days, submit financial instruments to the Department reflecting such changes. The financial instrument submitted must be a signed original or signed original duplicate, except where a copy of the signed original is specifically permitted. Financial assurance for decommissioning must be provided by one or more of the following methods:
1. Prepayment. Prepayment is the deposit before the start of operation into an account segregated from licensee assets and outside the licensee's administrative control of cash or liquid assets such that the amount of funds would be sufficient to pay decommissioning costs. Prepayment must be made into a trust account, and the trustee and the trust must be acceptable to the Department.
  2. A surety method, insurance, or other guarantee method. These methods guarantee that decommissioning costs will be paid. A surety method may be in the form of a surety bond, or letter of credit. A parent company guarantee of funds for decommissioning costs based on a financial test may be used if the guarantee and test are approved by the Department. For commercial corporations that issue bonds, a guarantee of funds by the applicant or licensee for decommissioning costs based on a financial test may be used if the guarantee and test are approved by the Department. For commercial companies that do not issue bonds, a guarantee of funds by the applicant or licensee for decommissioning costs may be used if the guarantee and test are approved by the Department. For nonprofit entities, such as colleges, universities, and nonprofit hospitals, a guarantee of funds by the applicant or licensee may be used if the guarantee and test are approved by the Department. Except for an external sinking fund, a parent company guarantee or a guarantee by the applicant or licensee may not be used in combination with any other financial methods used to satisfy the requirements of this section. A guarantee by the applicant or licensee may not be used in any situation where the applicant or licensee has a parent company holding majority control of the voting stock of the company. Any surety method or insurance used to provide financial assurance for decommissioning must contain the following conditions:
    - a. The surety method or insurance must be open-ended or, if written for a specified term, such as five years, must be renewed automatically unless 90 days or more prior to the renewal date, the issuer notifies the Department, the beneficiary, and the licensee of its intention not to renew. The surety method or insurance must also provide that the full face-value amount be paid to the beneficiary automatically prior to the expiration without proof of forfeiture if the licensee fails to provide a replacement acceptable to the Department within 30 days after receipt of notification of cancellation.
    - b. The surety method or insurance must be payable to a trust established for decommissioning costs. The trustee and trust must be acceptable to the Department. An acceptable trustee includes an appropriate State or Federal government agency or an entity which has the authority to act as a trustee and whose trust operations are regulated and examined by a Federal or State agency.
    - c. The surety method or insurance must remain in effect until the Department has terminated the license.
  3. An external sinking fund in which deposits are made at least annually, coupled with a surety method, insurance, or other guarantee method, the value of which may reduce by the amount being accumulated in the sinking fund. An external sinking fund is a fund established and maintained by setting aside funds periodically in an account segregated from licensee assets and outside the licensee's administrative control in which the total amount of funds would be sufficient to pay decommissioning costs at the time termination of operation is expected. An external sinking fund must be in the form of a trust. If the other guarantee method is used, no surety or insurance may be combined with the external sinking fund. The surety, insurance, or other guarantee provisions must be as stated in subsection (H)(2).
  4. In the case of Federal, State, or local government licensees, a statement of intent containing a cost estimate for decommissioning, and indicating that funds for decommissioning will be obtained when necessary.
  5. When a governmental entity is assuming custody and ownership of a site, an arrangement that is deemed acceptable by such governmental entity.

**Historical Note**

New Section R9-7-323 recodified from R12-1-323, at 24 A.A.R. 813, effective March 22, 2018 (Supp. 18-1).

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Amended by final expedited rulemaking at 24 A.A.R.  
2151, effective July 12, 2018 (Supp. 18-3).

**R9-7-324. Public Notification and Public Participation**

Upon the receipt of a license termination plan (LTP) or decommissioning plan from a licensee, or a proposal by a licensee for decommissioning of a site in accordance with R9-7-452(C) and (D) or for other events when the Department deems a notice to be in the public interest, the Department shall:

1. Notify and solicit comments from:
  - a. State and local governments and any Indian Nation or other indigenous people who have legal rights that could be affected by the decommissioning, and
  - b. The Arizona Department of Environmental Quality for cases in which the licensee proposes to decommission a site in accordance with R9-7-452(D).
2. Publish the notice in the Arizona Administrative Register and use other methods of publication such as local newspapers, letters to local organizations, or any other method that is reasonably calculated to provide notice, and solicit comments from affected parties.

**Historical Note**

New Section R9-7-324 recodified from R12-1-324, at 24 A.A.R. 813, effective March 22, 2018 (Supp. 18-1).

**R9-7-325. Timeliness in Decommissioning Facilities**

- A. "Principal activities," as used in this Section, means activities authorized by the license that are essential to achieving the purposes for which the license was issued or amended. Storage, during which licensed material is not accessed for use, or disposal and other activities incidental to decontamination or decommissioning are not principal activities.
- B. Each specific license revoked by the Department expires at midnight on the date of the Department's final determination to revoke the license, the expiration date stated in the determination, or as otherwise provided by Department order.
- C. Each specific license continues in effect, beyond the expiration date if necessary, with respect to possession of radioactive

material, until the Department notifies the licensee in writing that the license is terminated. During this time, the licensee shall:

1. Limit actions involving radioactive material to those related to decommissioning;
  2. Continue to control entry to restricted areas until they are suitable for release in accordance with NRC requirements; and
  3. Pay the applicable annual fee for the license category listed in R9-7-1306.
- D. Within 60 days of the occurrence of any of the following, each licensee shall notify the Department in writing of the occurrence and either begin decommissioning its site, or any separate building or outdoor area that contains residual radioactivity, so that the building or outdoor area is suitable for release in accordance with Department requirements, or submit within 12 months of notification a decommissioning plan, if required by R9-7-323, and begin decommissioning upon approval of that plan if:
1. The license expires in accordance with subsection (B) or R9-7-314, unless the licensee submits a renewal application in accordance with R9-7-315;
  2. The licensee decides to permanently terminate principal activities at the entire site or in any separate building or outdoor area that contains residual radioactivity such that the building or outdoor area is unsuitable for release in accordance with Department requirements;
  3. No principal activities under the license have been conducted for a period of 24 months; or
  4. No principal activities have been conducted for a period of 24 months in any separate building or outdoor area that contains residual radioactivity such that the building or outdoor area is unsuitable for release in accordance with Department requirements.

**Historical Note**

New Section R9-7-325 recodified from R12-1-325, at 24 A.A.R. 813, effective March 22, 2018 (Supp. 18-1).

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## Exhibit A. Exempt Concentrations

Element (atomic number)	Isotope	Column I Gas Concentration ( $\mu\text{Ci/ml}$ ) <sup>1/</sup>	Column II Liquid and Solid Concentration ( $\mu\text{Ci/ml}$ ) <sup>2/</sup>	Element (atomic number)	Isotope	Column I Gas Concentration ( $\mu\text{Ci/ml}$ ) <sup>1/</sup>	Column II Liquid and Solid Concentration ( $\mu\text{Ci/ml}$ ) <sup>2/</sup>
Antimony (51)	Sb-122		$3 \times 10^{-4}$	Gold (79)	Au-196		$2 \times 10^{-3}$
	Sb-124		$2 \times 10^{-4}$		Au-198		$5 \times 10^{-4}$
	Sb-125		$1 \times 10^{-3}$		Au-199		$2 \times 10^{-3}$
Argon (18)	Ar-37	$1 \times 10^{-3}$		Hafnium (72)	Hf-181		$7 \times 10^{-4}$
	Ar-41	$4 \times 10^{-7}$					
Arsenic (33)	As-73		$5 \times 10^{-3}$	Hydrogen (1)	H-3	$5 \times 10^{-6}$	$3 \times 10^{-2}$
	As-74		$5 \times 10^{-4}$				
	As-76		$2 \times 10^{-4}$	Indium (49)	In-113m		$1 \times 10^{-2}$
	As-77		$8 \times 10^{-4}$		In-114m		$2 \times 10^{-4}$
Barium (56)	Ba-131		$2 \times 10^{-3}$	Iodine	I-126	$3 \times 10^{-9}$	$2 \times 10^{-5}$
	Ba-140		$3 \times 10^{-4}$		I-131	$3 \times 10^{-9}$	$2 \times 10^{-5}$
Beryllium (4)	Be-7		$2 \times 10^{-2}$		I-132	$8 \times 10^{-8}$	$6 \times 10^{-4}$
					I-133	$1 \times 10^{-8}$	$7 \times 10^{-5}$
Bismuth (83)	Bi-206		$4 \times 10^{-4}$		I-134	$2 \times 10^{-7}$	$1 \times 10^{-3}$
Bromine (35)	Br-82	$4 \times 10^{-7}$	$3 \times 10^{-3}$	Iridium (77)	Ir-190		$2 \times 10^{-3}$
					Ir-192		$4 \times 10^{-4}$
Cadmium (48)	Cd-109		$2 \times 10^{-3}$		Ir-194		$3 \times 10^{-4}$
	Cd-115m		$3 \times 10^{-4}$	Iron (26)	Fe-55		$8 \times 10^{-3}$
	Cd-115		$3 \times 10^{-4}$		Fe-59		$6 \times 10^{-4}$
Calcium (20)	Ca-45		$9 \times 10^{-5}$	Krypton (36)	Kr-85m	$1 \times 10^{-6}$	
	Ca-47		$5 \times 10^{-4}$		Kr-85	$3 \times 10^{-6}$	
Carbon (6)	C-14	$1 \times 10^{-6}$	$8 \times 10^{-3}$	Lanthanum (57)	La-140		$2 \times 10^{-4}$
Cerium (58)	Ce-141		$9 \times 10^{-4}$	Lead (82)	Pb-203		$4 \times 10^{-3}$
	Ce-143		$4 \times 10^{-4}$	Lutetium (71)	Lu-177		$1 \times 10^{-3}$
	Ce-144		$1 \times 10^{-4}$				
Cesium (55)	Cs-131		$2 \times 10^{-2}$	Manganese (25)	Mn-52		$3 \times 10^{-4}$
	Cs-134m		$6 \times 10^{-2}$		Mn-54		$1 \times 10^{-3}$
	Cs-134		$9 \times 10^{-5}$		Mn-56		$1 \times 10^{-3}$
Chlorine (17)	Cl-38	$9 \times 10^{-7}$	$4 \times 10^{-3}$	Mercury (80)	Hg-197m		$2 \times 10^{-3}$
					Hg-197		$3 \times 10^{-3}$
Chromium (24)	Cr-51		$2 \times 10^{-2}$		Hg-203		$2 \times 10^{-4}$
				Molybdenum (42)	Mo-99		$2 \times 10^{-3}$
Cobalt (27)	Co-57		$5 \times 10^{-3}$				
	Co-58		$1 \times 10^{-3}$	Neodymium (60)	Nd-147		$6 \times 10^{-4}$
	Co-60		$5 \times 10^{-4}$		Nd-149		$3 \times 10^{-3}$
Copper (29)	Cu-64		$3 \times 10^{-3}$	Nickel (28)	Ni-65		$1 \times 10^{-3}$
Dysprosium (66)	Dy-165		$4 \times 10^{-3}$	Niobium (Columbium)(41)	Nb-95	$1 \times 10^{-3}$	
	Dy-166		$4 \times 10^{-4}$		Nb-97		$9 \times 10^{-3}$
Erbium (68)	Er-169		$9 \times 10^{-4}$	Osmium (76)	Os-185		$7 \times 10^{-4}$
	Er-171		$1 \times 10^{-4}$		Os-191m		$3 \times 10^{-2}$
Europium (63)	Eu-152 ( $T_{1/2}=9.2 \text{ h}$ )		$6 \times 10^{-4}$		Os-191		$2 \times 10^{-3}$
	Eu-155		$2 \times 10^{-3}$		Os-193		$6 \times 10^{-4}$
Fluorine (9)	F-18	$2 \times 10^{-6}$	$8 \times 10^{-3}$	Palladium (46)	Pd-103		$3 \times 10^{-3}$
					Pd-109		$9 \times 10^{-4}$
Gadolinium (64)	Gd-153		$2 \times 10^{-3}$	Phosphorus (15)	P-32		$2 \times 10^{-4}$
	Gd-159		$8 \times 10^{-4}$				
Gallium (31)	Ga-72		$4 \times 10^{-4}$	Platinum (78)	Pt-191		$1 \times 10^{-3}$
					Pt-193m		$1 \times 10^{-2}$
					Pt-197m		$1 \times 10^{-2}$
Germanium (32)	Ge-71		$2 \times 10^{-2}$		Pt-197		$1 \times 10^{-3}$
				Potassium (19)	K-42		$3 \times 10^{-3}$

## CHAPTER 7. DEPARTMENT OF HEALTH SERVICES - RADIATION CONTROL

## Exhibit A. Exempt Concentration (Continued)

Element (atomic number)	Isotope	Column I Gas Concentration ( $\mu\text{Ci/ml}$ ) <sup>1/</sup>	Column II Liquid and Solid Concentration ( $\mu\text{Ci/ml}$ ) <sup>2/</sup>	Element (atomic number)	Isotope	Column I Gas Concentration ( $\mu\text{Ci/ml}$ ) <sup>1/</sup>	Column II Liquid and Solid Concentration ( $\mu\text{Ci/ml}$ ) <sup>2/</sup>
Praseodymium (59)	Pr-142		$3 \times 10^{-4}$	Tellurium (52)	Te-125m		$2 \times 10^{-3}$
	Pr-143		$5 \times 10^{-4}$		Te-127m		$6 \times 10^{-4}$
Promethium (61)	Pm-147		$2 \times 10^{-3}$		Te-127		$3 \times 10^{-3}$
	Pm-149		$4 \times 10^{-4}$		Te-129m		$3 \times 10^{-4}$
Rhenium (75)	Re-183		$6 \times 10^{-3}$		Te-131m		$6 \times 10^{-4}$
	Re-186		$9 \times 10^{-4}$		Te-132		$3 \times 10^{-4}$
	Re-188		$6 \times 10^{-4}$	Terbium (65)	Tb-160		$4 \times 10^{-4}$
Rhodium (45)	Rh-103m		$1 \times 10^{-1}$	Thallium (81)	Tl-200		$4 \times 10^{-3}$
	Rh-105		$1 \times 10^{-3}$		Tl-201		$3 \times 10^{-3}$
Rubidium (37)	Rb-86		$7 \times 10^{-4}$		Tl-202		$1 \times 10^{-3}$
Ruthenium (44)	Ru-97		$4 \times 10^{-3}$		Tl-204		$1 \times 10^{-3}$
	Ru-103		$8 \times 10^{-4}$	Thulium (69)	Tm-170		$5 \times 10^{-4}$
	Ru-105		$1 \times 10^{-3}$		Tm-171		$5 \times 10^{-3}$
	Ru-106		$1 \times 10^{-4}$	Tin (50)	Sn-113		$9 \times 10^{-4}$
Samarium (62)	Sm-153		$8 \times 10^{-4}$		Sn-125		$2 \times 10^{-4}$
Scandium (21)	Sc-46		$4 \times 10^{-4}$	Tungsten (Wolfram) (74)	W-181		$4 \times 10^{-3}$
	Sc-47		$9 \times 10^{-4}$		W-187		$7 \times 10^{-4}$
	Sc-48		$3 \times 10^{-4}$	Vanadium (23)	V-48		$3 \times 10^{-4}$
Selenium (34)	Se-75		$3 \times 10^{-3}$	Xenon (54)	Xe-131m	$4 \times 10^{-6}$	
Silicon (14)	Si-31		$9 \times 10^{-3}$		Xe-133	$3 \times 10^{-6}$	
Silver (47)	Ag-105		$1 \times 10^{-3}$		Xe-135	$1 \times 10^{-6}$	
	Ag-110m		$3 \times 10^{-4}$	Ytterbium (70)	Yb-175		$1 \times 10^{-3}$
	Ag-111		$4 \times 10^{-4}$	Yttrium (39)	Y-90		$2 \times 10^{-4}$
Sodium (11)	Na-24		$2 \times 10^{-3}$		Y-91m		$3 \times 10^{-2}$
Strontium (38)	Sr-85		$1 \times 10^{-3}$		Y-91		$3 \times 10^{-4}$
	Sr-89		$1 \times 10^{-4}$		Y-92		$6 \times 10^{-4}$
	Sr-91		$7 \times 10^{-4}$		Y-93		$3 \times 10^{-4}$
	Sr-92		$7 \times 10^{-4}$	Zinc (30)	Zn-65		$1 \times 10^{-3}$
Sulfur (16)	S-35	$9 \times 10^{-8}$	$6 \times 10^{-4}$		Zn-69m		$7 \times 10^{-4}$
Tantalum (73)	Ta-182		$4 \times 10^{-4}$		Zn-69		$2 \times 10^{-2}$
Technetium (43)	Tc-96m		$1 \times 10^{-1}$	Zirconium (40)	Zr-95		$6 \times 10^{-4}$
	Tc-96		$1 \times 10^{-3}$		Zr-97		$2 \times 10^{-4}$
				Beta and/or gamma emitting radioactive material not listed above with half-life less than three years		$1 \times 10^{-10}$	$1 \times 10^{-6}$

NOTE 1: Many radioisotopes disintegrate into isotopes which are also radioactive. In expressing the concentrations in Schedule A the activity stated is that of the parent isotope and takes into account the daughters.

<sup>1/</sup> Values are given in Column I only for those materials normally used as gases

<sup>2/</sup>  $\mu\text{Ci/gm}$  are for solids

NOTE 2: For purposes of Section 303 where there is involved a combination of isotopes, the limit for the combination should be derived as follows: Determine for each isotope in the product the ratio between the concentration present in the product and the exempt concentration established in Schedule A for the specific isotope when not in combination. The sum of such ratios may not exceed "1" (i.e., unity).

EXAMPLE:

$$\frac{\text{Concentration of Isotope A in Product}}{\text{Exempt concentration of Isotope A}} + \frac{\text{Concentration of Isotope B in Product}}{\text{Exempt concentration of Isotope B}} \leq 1$$

## Historical Note

New Article 3, Exhibit A recodified from 12 A.A.C. 1, Article 3, Exhibit A, effective March 22, 2018 (Supp. 18-1).

## CHAPTER 7. DEPARTMENT OF HEALTH SERVICES - RADIATION CONTROL

## Exhibit B. Exempt Quantities

<u>Material</u>	<u>Microcuries</u>	<u>Material</u>	<u>Microcuries</u>
Antimony-122 (Sb-122)	100	Indium-113m (In-113m)	100
Antimony-124 (Sb-124)	10	Indium-114m (In-114m)	10
Antimony-125 (Sb-125)	10	Indium-115m (In-115m)	100
Arsenic-73 (As-73)	100	Indium-115 (In-115)	10
Arsenic-74 (As-74)	10	Iodine-123 (I-123)	100
Arsenic-76 (As-76)	10	Iodine-125 (I-125)	1
Arsenic-77 (As-77)	100	Iodine-126 (I-126)	1
Barium-131 (Ba-131)	10	Iodine-129 (I-129)	0.1
Barium-133 (Ba-133)	10	Iodine-131 (I-131)	1
Barium-140 (Ba-140)	10	Iodine-132 (I-132)	10
Bismuth-210 (Bi-210)	1	Iodine-133 (I-133)	1
Bromine-82 (Br-82)	10	Iodine-134 (I-134)	10
Cadmium-109 (Cd-109)	10	Iodine-135 (I-135)	10
Cadmium-115m (Cd-115m)	10	Iridium-192 (Ir-192)	10
Cadmium-115 (Cd-115)	100	Iridium-194 (Ir-194)	100
Calcium-45 (Ca-45)	10	Iron-52 (Fe-52)	10
Calcium-47 (Ca-47)	10	Iron-55 (Fe-55)	100
Carbon-14 (C-14)	100	Iron-59 (Fe-59)	10
Cerium-141 (Ce-141)	100	Krypton-85 (Kr-85)	100
Cerium-143 (Ce-143)	100	Krypton-87 (Kr-87)	10
Cerium-144 (Ce-144)	1	Lanthanum-140 (La-140)	10
Cesium-129 (Cs-129)	100	Lutetium-177 (Lu-177)	100
Cesium-131 (Cs-131)	1,000	Manganese-52 (Mn-52)	10
Cesium-134m (Cs-134m)	100	Manganese-54 (Mn-54)	10
Cesium-134 (Cs-134)	1	Manganese-56 (Mn-56)	10
Cesium-135 (Cs-135)	10	Mercury-197m (Hg-197m)	100
Cesium-136 (Cs-136)	10	Mercury-197 (Hg-197)	100
Cesium-137 (Cs-137)	10	Mercury-203 (Hg-203)	10
Chlorine-36 (Cl-36)	10	Molybdenum-99 (Mo-99)	100
Chlorine-38 (Cl-38)	10	Neodymium-147 (Nd-147)	100
Chromium-51 (Cr-51)	1,000	Neodymium-149 (Nd-149)	100
Cobalt-57 (Co-57)	100	Nickel-59 (Ni-59)	100
Cobalt-58m (Co-58m)	10	Nickel-63 (Ni-63)	10
Cobalt-58 (Co-58)	10	Nickel-65 (Ni-65)	100
Cobalt-60 (Co-60)	1	Niobium-93m (Nb-93m)	10
Copper-64 (Cu-64)	100	Niobium-95 (Nb-95)	10
Dysprosium-165 (Dy-165)	10	Niobium-97 (Nb-97)	10
Dysprosium-166 (Dy-166)	100	Osmium-185 (Os-185)	10
Erbium-169 (Er-169)	100	Osmium-191m (Os-191m)	100
Erbium-171 (Er-171)	100	Osmium-191 (Os-191)	100
Europium-152 (Eu-152) (9.2 h)	100	Osmium-193 (Os-193)	100
Europium-152 (Eu-152) (13 yr)	1	Palladium-103 (Pd-103)	100
Europium-154 (Eu-154)	1	Palladium-109 (Pd-109)	100
Europium-155 (Eu-155)	10	Phosphorus-32 (P-32)	10
Fluorine-18 (F-18)	1,000	Platinum-191 (Pt-191)	100
Gadolinium-153 (Gd-153)	10	Platinum-193m (Pt-193m)	100
Gadolinium-159 (Gd-159)	100	Platinum-193 (Pt-193)	100
Gallium-67 (Ga-67)	100	Platinum-197m (Pt-197m)	100
Gallium-72 (Ga-72)	10	Platinum-197 (Pt-197)	100
Germanium-68 (Ge-68)	10	Polonium-210 (Po-210)	0.1
Germanium-71 (Ge-71)	100	Potassium-42 (K-42)	10
Gold-195 (Au-195)	10	Potassium-43 (K-43)	10
Gold-198 (Au-198)	100	Praseodymium-142 (Pr-142)	100
Gold-199 (Au-199)	100	Praseodymium-143 (Pr-143)	100
Hafnium-181 (Hf-181)	10	Promethium-147 (Pm-147)	10
Holmium-166 (Ho-166)	100	Promethium-149 (Pm-149)	10
Hydrogen-3 (H-3)	1,000	Rhenium-186 (Re-186)	100
Indium-111 (In-111)	100	Rhenium-188 (Re-188)	100

## CHAPTER 7. DEPARTMENT OF HEALTH SERVICES - RADIATION CONTROL

**Exhibit B. Exempt Quantities (Continued)**

<u>Material</u>	<u>Microcuries</u>	<u>Material</u>	<u>Microcuries</u>
Rhodium-103m (Rh-103m)	100	Tellurium-129m (Te-129m)	10
Rhodium-105 (Rh-105)	100	Tellurium-129 (Te-129)	100
Rubidium-81 (Rb-81)	10	Tellurium-131m (Te-131m)	10
Rubidium-86 (Rb-86)	10	Tellurium-132 (Te-132)	10
Rubidium-87 (Rb-87)	10	Terbium-160 (Tb-160)	10
Ruthenium-97 (Ru-97)	100	Thallium-200 (Tl-200)	100
Ruthenium-103 (Ru-103)	10	Thallium-201 (Tl-201)	100
Ruthenium-105 (Ru-105)	10	Thallium-202 (Tl-202)	100
Ruthenium-106 (Ru-106)	1	Thallium-204 (Tl-204)	10
Samarium-151 (Sm-151)	10	Thulium-170 (Tm-170)	10
Samarium-153 (Sm-153)	100	Thulium-171 (Tm-171)	10
Scandium-46 (Sc-46)	10	Tin-113 (Sn-113)	10
Scandium-47 (Sc-47)	100	Tin-125 (Sn-125)	10
Scandium-48 (Sc-48)	10	Tungsten-181 (W-181)	10
Selenium-75 (Se-75)	10	Tungsten-185 (W-185)	10
Silicon-31 (Si-31)	100	Tungsten-187 (W-187)	100
Silver-105 (Ag-105)	10	Vanadium-43 (V-43)	10
Silver-110m (Ag-110m)	1	Xenon-131m (Xe-131m)	1,000
Silver-111 (Ag-111)	100	Xenon-133 (Xe-133)	100
Sodium-22 (Na-22)	10	Xenon-135 (Xe-135)	100
Sodium-24 (Na-24)	10	Ytterbium-175 (Yb-175)	100
Strontium-85 (Sr-85)	10	Yttrium-87 (Y-87)	10
Strontium-89 (Sr-89)	1	Yttrium-88 (Y-88)	10
Strontium-90 (Sr-90)	0.1	Yttrium-90 (Y-90)	10
Strontium-91 (Sr-91)	10	Yttrium-91 (Y-91)	10
Strontium-92 (Sr-92)	10	Yttrium-92 (Y-92)	100
Sulfur-35 (S-35)	100	Yttrium-93 (Y-93)	100
Tantalum-182 (Ta-182)	10	Zinc-65 (Zn-65)	10
Technetium-96 (Tc-96)	10	Zinc-69m (Zn-69m)	100
Technetium-97m (Tc-97m)	100	Zinc-69 (Zn-69)	1,000
Technetium-97 (Tc-97)	100	Zirconium-93 (Zr-93)	10
Technetium-99m (Tc-99m)	100	Zirconium-95 (Zr-95)	10
Technetium-99 (Tc-99)	10	Zirconium-97 (Zr-97)	10
Tellurium-125m (Te-125m)	10	Any radionuclide material not	
Tellurium-127m (Te-127m)	10	listed above other than alpha-	
Tellurium-127 (Te-127)	100	emitting radioactive material	0.1

**Historical Note**

New Article 3, Exhibit B recodified from 12 A.A.C. 1, Article 3, Exhibit B, effective March 22, 2018 (Supp. 18-1).



## CHAPTER 7. DEPARTMENT OF HEALTH SERVICES - RADIATION CONTROL

## Exhibit C. Limits for Class B and C Broad Scope Licenses (R9-7-310)

<b>Radioactive Material</b>	<b>Col. I curies</b>	<b>Col. II curies</b>	<b>Radioactive Material</b>	<b>Col. I curies</b>	<b>Col. II curies</b>
Antimony-122	1	0.01	Iodine-134	10	0.1
Antimony-124	1	0.01	Iodine-135	1	0.1
Antimony-125	1	0.01	Iridium-192	1	0.1
Arsenic-73	10	0.1	Iridium-194	10	0.1
Arsenic-74	1	0.01	Iron-55	10	0.1
Arsenic-76	1	0.01	Iron-59	1	0.1
Arsenic-77	10	0.1	Krypton-85	100	1.
Barium-131	10	0.1	Krypton-87	10	0.1
Barium-140	1	0.01	Lanthanum-140	1	0.1
Beryllium-7	10	0.1	Lutetium-177	10	0.1
Bismuth-210	0.1	0.001	Manganese-52	1	0.1
Bromine-82	10	0.1	Manganese-54	1	0.1
Cadmium-109	1	0.01	Manganese-56	10	0.1
Cadmium-115m	1	0.01	Mercury-197m	10	0.1
Cadmium-115	10	0.1	Mercury-197	10	0.1
Calcium-45	1	0.01	Mercury-203	1	0.1
Calcium-47	10	0.1	Molybdenum-99	10	0.1
Carbon-14	100	1.	Neodymium-147	10	0.1
Cerium-141	10	0.1	Neodymium-149	10	0.1
Cerium-143	10	0.1	Nickel-59	10	0.1
Cerium-144	0.1	0.001	Nickel-63	1	0.1
Cesium-131	100	1.	Nickel-65	10	0.1
Cesium-134m	100	1.	Niobium-93m	1	0.1
Cesium-134	0.1	0.001	Niobium-95	1	0.1
Cesium-135	1	0.01	Niobium-97	100	1.
Cesium-136	10	0.1	Osmium-185	1	0.1
Cesium-137	0.1	0.001	Osmium-191m	100	1.
Chlorine-36	1	0.01	Osmium-191	10	0.1
Chlorine-38	100	1.	Osmium-193	10	0.1
Chromium-51	100	1.	Palladium-103	10	0.1
Cobalt-57	10	0.1	Palladium-109	10	0.1
Cobalt-58m	100	1.	Phosphorus-32	1	0.01
Cobalt-58	1	0.01	Platinum-191	10	0.1
Cobalt-60	0.1	0.001	Platinum-193m	100	1.
Copper-64	10	0.1	Platinum-193	10	0.1
Dysprosium-165	100	1.	Platinum-197m	100	1.
Dysprosium-166	10	0.1	Platinum-197	10	0.1
Erbium-169	10	0.1	Polonium-210	0.01	0.0001
Erbium-171	10	0.1	Potassium-42	1	0.01
Europium-152 (9.2 h)	10	0.1	Praseodymium-142	10	0.1
Europium-152 (13 yr)	0.1	0.001	Praseodymium-143	10	0.1
Europium-154	0.1	0.001	Promethium-147	1	0.01
Europium-155	1	0.01	Promethium-149	10	0.1
Fluorine-18	100	1.	Radium-226	0.01	0.0001
Gadolinium-153	1	0.1	Rhenium-186	10	0.1
Gadolinium-159	10	0.1	Rhenium-188	10	0.1
Gallium-72	10	0.1	Rhodium-103m	1,000	10
Germanium-71	100	1.	Rhodium-105	10	0.1
Gold-198	10	0.1	Rubidium-86	1	0.01
Gold-199	10	0.1	Rubidium-87	1	0.01
Hafnium-181	1	0.1	Ruthenium-97	100	1.
Holmium-166	10	0.1	Ruthenium-103	1	0.01
Hydrogen-3	100	1.	Ruthenium-105	10	0.1
Indium-113m	100	1.	Ruthenium-106	0.1	0.001
Indium-114m	1	0.1	Samarium-151	1	0.01
Indium-115m	100	1.	Samarium-153	10	0.1
Indium-115	1	0.1	Scandium-46	1	0.01
Iodine-125	0.1	0.001	Scandium-47	10	0.1
Iodine-126	0.1	0.001	Scandium-48	1	0.01
Iodine-129	0.1	0.001	Selenium-75	1	0.01
Iodine-131	0.1	0.001	Silicon-31	10	0.1
Iodine-132	10	0.1	Silver-105	1	0.01
Iodine-133	1	0.1	Silver-110m	0.1	0.001

## CHAPTER 7. DEPARTMENT OF HEALTH SERVICES - RADIATION CONTROL

## Exhibit C. Limits for Class B and C Broad Scope Licenses (R9-7-310) (Continued)

<b>Radioactive Material</b>	<b>Col. I curies</b>	<b>Col. II curies</b>	<b>Radioactive Material</b>	<b>Col. I curies</b>	<b>Col. II curies</b>
Silver-111	10	0.1	Thulium-170	1	0.01
Sodium-22	0.1	0.001	Thulium-171	1	0.01
Sodium-24	1	0.01	Tin-113	1	0.01
Strontium-85	1,000	10	Tin-125	1	0.01
Strontium-85	1	0.01	Tungsten-181	1	0.01
Strontium-89	1	0.01	Tungsten-185	1	0.01
Strontium-90	0.01	0.0001	Tungsten-197	10	0.1
Strontium-91	10	0.1	Vanadium-43	1	0.01
Strontium-92	10	0.1	Xenon-131m	1,000	10
Sulfur-35	100	0.1	Xenon-133	100	1.
Tantalum-182	1	0.01	Xenon-135	100	1.
Technetium-96	10	0.1	Ytterbium-175	10	0.1
Technetium-97m	10	0.1	Yttrium-90	1	0.01
Technetium-97	10	0.1	Yttrium-91	1	0.01
Technetium-99m	100	1.	Yttrium-92	10	0.1
Technetium-99	1	0.01	Yttrium-93	1	0.01
Tellurium-125m	1	0.01	Zinc-65	1	0.01
Tellurium-127m	1	0.01	Zinc-69m	10	0.1
Tellurium-127	10	0.1	Zinc-69	100	1.
Tellurium-129m	1	0.01	Zirconium-93	1	0.01
Tellurium-129	100	1.	Zirconium-95	1	0.01
Tellurium-131m	10	0.1	Zirconium-97	1	0.01
Tellurium-132	1	0.01	Any radioactive		
Terbium-160	1	0.01	material other than		
Thallium-200	10	0.1	source material,		
Thallium-201	10	0.1	special nuclear		
Thallium-202	10	0.1	material, or alpha		
Thallium-204	1	0.01	emitting radioactive		
			material not listed above.	0.1	0.001

**Historical Note**

New Article 3, Exhibit C recodified from 12 A.A.C. 1, Article 3, Exhibit C, effective March 22, 2018 (Supp. 18-1).

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**Exhibit D. Radioactive Material Quantities Requiring Consideration for an Emergency Plan (R9-7-322)**

<u>Radioactive Material</u>	<u>Release Fraction</u>	<u>Quantity (Ci)</u>	<u>Radioactive Material</u>	<u>Release Fraction</u>	<u>Quantity (Ci)</u>
Actinium-228	0.001	4,000	Polonium-210	.01	10
Americium-241	.001	2	Potassium-42	.01	9,000
Americium-242	.001	2	Promethium-145	.01	4,000
Americium-243	.001	2	Promethium-147	.01	4,000
Antimony-124	.01	4,000	Radium-226	.001	100
Antimony-126	.01	6,000	Ruthenium-106	.01	200
Barium-133	.01	10,000	Samarium-151	.01	4,000
Barium-140	.01	30,000	Scandium-46	.01	3,000
Bismuth-207	.01	5,000	Selenium-75	.01	10,000
Bismuth-210	.01	600	Silver-110m	.01	1,000
Cadmium-109	.01	1,000	Sodium-22	.01	9,000
Cadmium-113	.01	80	Sodium-24	.01	10,000
Calcium-45	.01	20,000	Strontium-89	.01	3,000
Californium-252	.001	9 (20 mg)	Strontium-90	.01	90
Carbon-14 (Non CO)	.01	50,000	Sulfur-35	.5	900
Cerium-141	.01	10,000	Technetium-99	.01	10,000
Cerium-144	.01	300	Technetium-99m	.01	400,000
Cesium-134	.01	2,000	Tellurium-127m	.01	5,000
Cesium-137	.01	3,000	Tellurium-129m	.01	5,000
Chlorine-36	.5	100	Terbium-160	.01	4,000
Chromium-51	.01	300,000	Thulium-170	.01	4,000
Cobalt-60	.001	5,000	Tin-113	.01	10,000
Copper-64	.01	200,000	Tin-123	.01	3,000
Curium-242	.001	60	Tin-126	.01	1,000
Curium-243	.001	3	Titanium-44	.01	100
Curium-244	.001	4	Vanadium-48	.01	7,000
Curium-245	.001	2	Xenon-133	1.0	900,000
Europium-152	.01	500	Yttrium-91	.01	2,000
Europium-154	.01	400	Zinc-65	.01	5,000
Europium-155	.01	3,000	Zirconium-93	.01	400
Gadolinium-153	.01	5,000	Zirconium-95	.01	5,000
Germanium-68	.01	2,000	Any other beta-gamma emitter	.01	10,000
Gold-198	.01	30,000	Mixed fission products	.01	1,000
Hafnium-172	.01	400	Mixed corrosion products	.01	10,000
Hafnium-181	.01	7,000	Contaminated equipment		
Holmium-166m	.01	100	beta-gamma	.001	10,000
Hydrogen-3	.5	20,000	Irradiated material, any form		
Indium-114m	.01	1,000	other than solid non-		
Iodine-125	.5	10	combustible	.01	1,000
Iodine-131	.5	10	Irradiated material, solid non-		
Iridium-192	.001	40,000	combustible	.001	10,000
Iron-55	.01	40,000	Mixed radioactive waste,		
Iron-59	.01	7,000	beta-gamma	.01	1,000
Krypton-85	1.0	6,000,000	Packaged mixed waste, beta gamma	.001	10,000
Lead-210	.01	8	Any other alpha emitter	.001	2
Manganese-56	.01	60,000	Contaminated equipment, alpha	.0001	20
Mercury-203	.01	10,000	Packaged waste, alpha	.0001	20
Molybdenum-99	.01	30,000	Combinations of radioactive materials listed above:		
Neptunium-237	.001	2	For combinations of radioactive materials, consideration of the		
Nickel-63	.01	20,000	need for an emergency plan is required if the sum of the ratios		
Niobium-94	.01	300	of the quantity of each radioactive material authorized to the		
Phosphorus-32	.5	100	quantity listed for that material in Exhibit D exceeds 1.		
Phosphorus-33	.5	1,000	NOTE: Waste packaged in Type B containers does not require an		
			emergency plan.		

**Historical Note**

New Article 3, Exhibit D recodified from 12 A.A.C. 1, Article 3, Exhibit D, effective March 22, 2018 (Supp. 18-1).

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**Exhibit E. Application Information****1. Radioactive Material (RAM) Specific License Application Information**

An applicant shall provide the following information in a specific license application before a license is issued to the applicant. The Department shall provide an application form to an applicant with a guide, when possible, to ensure that correct information is provided in the application:

Name and mailing address of applicant	Use location
Contact person	Telephone number
Users of RAM	Training of users
Radiation Safety Officer identity (RSO)	Duties of RSO
Description of RAM and uses	Description of radiation detection/ measurement instruments and their calibration
Personnel monitoring	Bioassay program
Facility description	Survey program
Leak test program	Records management program
Instruction to personnel	Waste disposal program
Emergency procedures	Procedures for ordering, receiving, and opening packages
Description of animal use	Licensing fee provided with application
Copy of letter-of-intent	Description of ALARA and quality management to local governing body
programs	
Description of transportation procedures	Certifying signature
Legal structure of licensee's operation	
Other licensing requirements listed in: R9-7-310, R9-7-311, R9-7-312, R9-7-511, R9-7-703, and R9-7-1721	

**2. Radioactive Material (RAM) General License Application Information**

An applicant shall provide the following information on a registration certificate. The certificate will be validated and returned to the applicant if the information provided is complete.

Name and address	Telephone number
Where will the radioactive material be used	Address of use location
Description of radioactive material use	Date
Authorizing signature and printed name	Position of person signing the form

**Historical Note**

New Article 3, Exhibit E recodified from 12 A.A.C. 1, Article 3, Exhibit E, effective March 22, 2018 (Supp. 18-1).

**ARTICLE 4. STANDARDS FOR PROTECTION AGAINST IONIZING RADIATION****R9-7-401. Purpose**

- A.** Article 4 establishes standards for protection against ionizing radiation resulting from activities conducted according to licenses or registrations issued by the Department. These rules are issued according to A.R.S. Title 30, Chapter 4, as amended.
- B.** The requirements of Article 4 are designed to control the receipt, possession, use, transfer, and disposal of sources of radiation by any licensee or registrant so the total dose equivalent to an individual, including radiation exposure resulting from all sources of radiation other than radiation prescribed by a physician in the practice of medicine, radiation received while voluntarily participating in a medical research program, and background radiation, does not exceed the standards for protection against radiation prescribed in this Article. However, this Article does not limit actions that may be necessary to protect health and safety.

**Historical Note**

New Section R9-7-401 recodified from R12-1-401, at 24 A.A.R. 813, effective March 22, 2018 (Supp. 18-1).

**R9-7-402. Scope**

Except as specifically provided in other Articles, Article 4 applies to persons licensed or registered by the Department to receive, possess, use, transfer, or dispose of sources of ionizing radiation.

**Historical Note**

New Section R9-7-402 recodified from R12-1-402, at 24 A.A.R. 813, effective March 22, 2018 (Supp. 18-1).

**R9-7-403. Definitions**

The following definitions apply in this Article, unless the context otherwise requires:

“Air-purifying respirator” means respiratory protective equipment with an air-purifying filter, cartridge, or canister that removes specific air contaminants by passing ambient air through the air-purifying element.

“ALI” means annual limit on intake, the derived limit for the amount of radioactive material taken into the body of an adult worker by inhalation or ingestion in a year. ALI is the smaller value of intake of a given radionuclide in a year by the Reference Man that would result in a committed effective dose equivalent of 0.05 Sv (5 rem) or a committed dose equivalent of 0.5 Sv (50 rem) to any individual organ or tissue. ALI values for intake by ingestion and by inhalation of selected radionuclides are given in Appendix B, Table I, Columns 1 and 2.

“Assigned protection factor” or “APF” means the expected workplace level of respirator protection that would be provided by a properly functioning respirator or a class of respirators to properly fitted and trained users. Operationally, the inhaled concentration can be estimated by dividing the ambient airborne concentration by the APF.

“Atmosphere-supplying respirator” means respiratory protective equipment that supplies the equipment user with breathing air from a source independent of the ambient atmosphere, and includes supplied-air respirators (SARs) and self-contained breathing apparatus (SCBA) units.

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“Class” means a classification scheme for inhaled material according to the material’s rate of clearance from the lung. Materials are classified as D, W, or Y, which applies to a range of clearance half-times: for Class D, days, of less than 10 days, for Class W, weeks, from 10 to 100 days, and for Class Y, years, of greater than 100 days (see Introduction, Appendix B). For purposes of these rules, “lung class” and “inhalation class” are equivalent terms.

“Constraint” or “dose constraint” means a value above which specified licensee or registrant actions are required.

“Critical group” means the group of individuals reasonably expected to receive the greatest exposure to residual radioactivity for any applicable set of circumstances.

“DAC” means derived air concentration, the concentration of a given radionuclide in air which, if breathed by Reference Man for a working year of 2,000 hours under conditions of light work, results in an intake of one ALI. For purposes of these rules, the condition of light work is an inhalation rate of 1.2 cubic meters of air per hour for 2,000 hours in a year. DAC values are given in Appendix B, Table I, Column 3.

“DAC-hour” means derived air concentration-hour, the product of the concentration of radioactive material in air, expressed as a fraction or multiple of the derived air concentration for each radionuclide, and the time of exposure to that radionuclide, in hours. A licensee or registrant may take 2,000 DAC-hours to represent one ALI, equivalent to a committed effective dose equivalent of 0.05 Sv (5 rem).

“Declared pregnant woman” means a woman who has voluntarily informed the licensee or registrant in writing of her pregnancy and the estimated date of conception. The declaration remains in effect until the declared pregnant woman withdraws the declaration in writing or is no longer pregnant.

“Decommission” means to remove a facility or site safely from service and reduce residual radioactivity to a level that permits release of the property for unrestricted use and termination of the license or release of the property under restricted conditions and the termination of the license.

“Demand respirator” means an atmosphere-supplying respiratory protective equipment that admits breathing air to the face piece only when a negative pressure is created inside the face piece by inhalation.

“Deterministic effect” (See “Nonstochastic effect”)

“Disposable respirator” means respiratory protective equipment for which maintenance is not intended and that is designed to be discarded after excessive breathing resistance, sorbent depletion, physical damage, or end-of-service-life renders it unsuitable for use. Examples of this type of device include a disposable half-mask respirator or a disposable, escape-only, self-contained breathing apparatus (SCBA).

“Distinguishable from background” means that the detectable concentration of a radionuclide is statistically greater than the background concentration of that radionuclide in the vicinity of a site or, in the case of structures, in similar materials using accepted measurement, survey, and statistical techniques.

“Dosimetry processor” means an individual or an organization that processes and evaluates individual monitoring devices in order to determine the radiation dose delivered to the monitoring devices.

“Filtering face piece (dust mask)” means a particulate respirator that operates under a negative pressure with a filter as an

integral part of the face piece or with the entire face piece composed of the filtering medium, not equipped with elastomeric sealing surfaces and adjustable straps.

“Fit factor” means a quantitative estimate of the fit of a particular respirator to a specific individual, and typically estimates the ratio of the concentration of a substance in ambient air to its concentration inside the respirator when worn.

“Fit test” means the use of protocol to qualitatively or quantitatively evaluate the fit of a respirator on an individual.

“Helmet” means a rigid respiratory inlet covering that also provides head protection against impact and penetration.

“Hood” means a respiratory inlet covering that completely covers the head, neck, and may also cover portions of the shoulders and torso.

“Inhalation class” (See “Class”)

“Loose-fitting face piece” means a respiratory inlet covering that is designed to form a partial seal with the face.

“Lung class” (See “Class”)

“Nationally tracked source” means a sealed source that contains a quantity equal to or greater than Category 1 or Category 2 levels of radioactive material listed in 10 CFR 20, Appendix E, revised January 1, 2008, incorporated by reference, and available under R9-7-101. This incorporated material contains no future editions or amendments. In this context sealed source does not mean material encapsulated solely for disposal, or nuclear material contained in any fuel assembly, sub-assembly, fuel rod, or fuel pellet.

“Negative pressure respirator (tight fitting)” means respiratory protective equipment in which the air pressure inside the face piece is negative during inhalation with respect to the ambient air pressure outside the respirator.

“Nonstochastic effect” means a health effect, the severity of which varies with the dose and for which a threshold is believed to exist. Radiation-induced cataract formation is an example of a nonstochastic effect. For purposes of these rules, “deterministic effect” is an equivalent term and “threshold” means that which if not exceeded, poses no risk or likelihood of an effect to occur.

“Planned special exposure” means an infrequent exposure to radiation received while employed, but separate from and in addition to the annual occupational dose limits.

“Positive pressure respirator” means respiratory protective equipment in which the pressure inside the respiratory inlet covering exceeds the ambient air pressure outside the respirator.

“Powered air-purifying respirator” or “PAPR” means an air-purifying respirator that uses a blower to force the ambient air through air-purifying elements to the inlet covering.

“Pressure demand respirator” means a positive pressure, atmosphere-supplying respirator that admits breathing air to the face piece when the positive pressure is reduced inside the face piece by inhalation.

“Probabilistic effect” (See “Stochastic effect”)

“Qualitative fit test” or “QLFT” means a pass or fail fit test to assess the adequacy of respirator fit that relies on the individual’s response to the test agent.

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“Quantitative fit test” or “QNFT” means an assessment of the adequacy of respirator fit by numerically measuring the amount of leakage into the respirator.

“Reference Man” means a hypothetical aggregation of human physical and physiological characteristics determined by international consensus. These characteristics may be used by researchers and public health workers to standardize results of experiments and to relate biological insult to a common base. A description of Reference Man is contained in the International Commission on Radiological Protection report, ICRP Publication 23, “Report of the Task Group on Reference Man,” published in 1975 by Pergamon Press, incorporated by reference and on file with the Department and the Office of the Secretary of State. This incorporation by reference contains no future editions or amendments.

“Residual radioactivity” means radioactivity in structures, materials, soils, groundwater, or other media at a site, resulting from activities under a licensee’s control. This includes radioactivity from all licensed and unlicensed sources used by the licensee, but excludes background radiation. It also includes radioactive materials that remain at the site because of routine or accidental release of radioactive material at the site or a previous burial at the site, even if the licensee complied with reagent provisions of 9 A.A.C. 7.

“Respiratory protective equipment” means an apparatus, such as a respirator, used to reduce an individual’s intake of airborne radioactive materials.

“Sanitary sewerage” means a system of public sewers for carrying off waste water and refuse, but excluding sewage treatment facilities, septic tanks, and leach fields owned or operated by the licensee or registrant.

“Self-contained breathing apparatus” or “SCBA” means an atmosphere-supplying respirator for which the breathing air source is designed to be carried by the user.

“Stochastic effect” means a health effect that occurs randomly and for which the probability of the effect occurring, rather than its severity, is assumed to be a linear function of dose without a threshold. Hereditary effects and cancer incidence are examples of stochastic effects. For purposes of these rules, “probabilistic effect” is an equivalent term.

“Supplied-air respirator” or “SAR” or “airline respirator” means an atmosphere-supplying respirator for which the source of breathing air is not designed to be carried by the user.

“Tight-fitting face piece” means a respiratory inlet covering that forms a complete seal with the face.

“User seal check” or “fit check” means an action conducted by the respirator user to determine if the respirator is properly seated to the face. Examples include negative pressure check, positive pressure check, irritant smoke check, or isoamyl acetate check.

“Very-high radiation area” means an area, accessible to individuals, in which radiation levels from radiation sources external to an individual’s body could result in the individual receiving an absorbed dose in excess of 5 Gy (500 rad) in one hour at one meter from a radiation source or one meter from any surface that the radiation penetrates. (At very high doses received at high dose rates, units of absorbed dose, the gray and rad should be used, rather than units of dose equivalent, the sievert and rem).

“Weighting factor”  $w_T$  for an organ or tissue (T) means the proportion of the risk of stochastic effects resulting from irradiation of that organ or tissue to the total risk of stochastic effects when the whole body is irradiated uniformly. For calculating the effective dose equivalent, the values of  $w_T$  are:

ORGAN DOSE WEIGHTING FACTORS	
Organ or Tissue	$w_T$
Gonads	0.25
Breast	0.15
Red bone marrow	0.12
Lung	0.12
Thyroid	0.03
Bone surfaces	0.03
Remainder	0.30 <sup>a</sup>
Whole Body	1.00 <sup>b</sup>
<sup>a</sup> 0.30 results from 0.06 for each of five “remainder” organs, excluding the skin and the lens of the eye, that receive the highest doses.	
<sup>b</sup> For the purpose of weighting the external whole body dose, for adding it to the internal dose, a single weighting factor, $w_T = 1.0$ , has been specified. The use of other weighting factors for external exposure will be approved by the Department on a case-by-case basis.	

**Historical Note**

New Section R9-7-403 recodified from R12-1-403, at 24 A.A.R. 813, effective March 22, 2018 (Supp. 18-1).

**R9-7-404. Units and Quantities**

- A. Each licensee or registrant shall use the Standard International (SI) units becquerel, gray, sievert, and coulomb per kilogram, or the special units curie, rad, rem, and roentgen, including multiples and subdivisions, and shall clearly indicate the units of all quantities on records required by this Article.
- B. The licensee or registrant shall make a clear distinction among the quantities entered on the records required by this Article, such as, total effective dose equivalent, total organ dose equivalent, shallow dose equivalent, lens dose equivalent, deep dose equivalent, or committed effective dose equivalent.

**Historical Note**

New Section R9-7-404 recodified from R12-1-404, at 24 A.A.R. 813, effective March 22, 2018 (Supp. 18-1).

**R9-7-405. Form of Records**

- A. A licensee or registrant shall ensure that each record required by this Article is legible throughout the specified retention period. The record shall be the original, a reproduced copy, or a microform, provided that the copy or microform is authenticated by authorized personnel and that the microform is capable of producing a clear copy throughout the required retention period. As an alternative the record may be stored in electronic media capable of producing legible records during the required retention period. Records, such as letters, drawings, and specifications, shall include all pertinent information, such as stamps, initials, and signatures. A licensee or registrant shall maintain adequate safeguards against tampering with and loss of records.
- B. In the records required by this Article, a licensee or registrant may record quantities in SI units in parentheses following each of the required units, curie, rad, and rem, and include multiples and subdivisions.
- C. Notwithstanding subsection (B), the licensee or registrant shall ensure that information is recorded in the International System

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of Units (SI) or in SI and the units specified in subsection (B) on each shipment manifest as required in R9-7-439(A).

- D. A licensee or registrant shall make a clear distinction among the quantities entered on the records required by this Section (e.g., total effective dose equivalent, shallow-dose equivalent, lens dose equivalent, deep-dose equivalent, committed effective dose equivalent).

**Historical Note**

New Section R9-7-405 recodified from R12-1-405, at 24 A.A.R. 813, effective March 22, 2018 (Supp. 18-1).

**R9-7-406. Implementation**

Any existing license or registration condition that is more restrictive than this Article remains in force until amendment or renewal of the license or registration.

**Historical Note**

New Section R9-7-406 recodified from R12-1-406, at 24 A.A.R. 813, effective March 22, 2018 (Supp. 18-1).

**R9-7-407. Radiation Protection Programs**

- A. Each licensee or registrant shall develop, document, and implement a radiation protection program sufficient to ensure compliance with the provisions of Article 4.
- B. The licensee or registrant shall use, to the extent practical, procedures and engineering controls based upon sound radiation protection principles to achieve occupational doses and public doses that are as low as is reasonably achievable (ALARA).
- C. The licensee or registrant shall, at intervals not to exceed 12 months, review the radiation protection program content and implementation.
- D. To implement the ALARA requirements in subsection (B), and notwithstanding the requirements in R9-7-416, each licensee or registrant governed by 9 A.A.C. 7, Article 3 shall limit air emissions of radioactive material to the environment so that individual members of the public likely to receive the highest dose will not receive a total effective dose equivalent in excess of 0.1mSv (10 mrem) per year from the emissions. If a licensee or registrant subject to this requirement exceeds this limit, the licensee or registrant shall report the incident to the Department, in accordance with R9-7-444, and take prompt corrective action to prevent additional violations.
- E. Records.
- Each licensee or registrant shall maintain records of the radiation protection program, including:
    - The provisions of the program; and
    - Audits and other reviews of program content and implementation.
  - A licensee or registrant shall retain the records required by subsection (E)(1)(a) for three years after the termination of the license or registration. The licensee or registrant shall retain the records required by subsection (E)(1)(b) for three years after the record is made.
  - The following licensees and registrants are exempt from the record requirements contained in this subsection:
    - B6-General Medical,
    - C9-Gas Chromatograph,
    - C10-General Industrial,
    - D15-Possession Only,
    - E2-X-ray Machine class B, and
    - E3-X-ray Machine class C.

**Historical Note**

New Section R9-7-407 recodified from R12-1-407, at 24 A.A.R. 813, effective March 22, 2018 (Supp. 18-1).

**R9-7-408. Occupational Dose Limits for Adults**

- A. Each licensee or registrant shall control the occupational dose to individual adults, except for planned special exposures required in R9-7-413, to the following dose limits:
- An annual limit, which is the more limiting of:
    - The total effective dose equivalent being equal to 0.05 Sv (5 rem); or
    - The sum of the deep-dose equivalent and the committed dose equivalent to any individual organ or tissue other than the lens of the eye being equal to 0.5 Sv (50 rem).
  - The annual limits to the lens of the eye, to the skin, and to the extremities which are:
    - A lens dose equivalent of 0.15 Sv (15 rem), and
    - A shallow dose equivalent of 0.5 Sv (50 rem) to the skin of the whole body or to the skin of any extremity.
- B. Doses received in excess of the annual limits, including doses received during accidents, emergencies, and planned special exposures, shall be subtracted from the limits for planned special exposures that the individual may receive during the current year and during the individual's lifetime. See R9-7-413.
- C. The assigned deep-dose equivalent and shallow-dose equivalent are, for the portion of the body receiving the highest exposure, determined as follows:
- The deep-dose equivalent, lens dose equivalent, and shallow-dose equivalent may be assessed from surveys or other radiation measurements for the purpose of demonstrating compliance with the occupational dose limits, if the individual monitoring device was not in the region of highest potential exposure, or the results of individual monitoring are unavailable.
  - If a protective apron is worn and monitoring is conducted as specified in R9-7-419(B), the effective dose equivalent for external radiation shall be determined as follows:
    - If only one individual monitoring device is used and it is located at the neck outside the protective apron, and the reported dose exceeds 25% of the limit specified in subsection (A), the reported deep-dose equivalent value multiplied by 0.3 is the effective dose equivalent for external radiation; or
    - When individual monitoring devices are worn, both under the protective apron at the waist and outside the protective apron at the neck, the effective dose equivalent for external radiation is assigned the value of the sum of the deep-dose equivalent reported for the individual monitoring device located at the waist under the protective apron multiplied by 1.5 and the deep-dose equivalent reported for the individual monitoring device located at the neck outside the protective apron multiplied by 0.04.
  - When the external exposure is determined by measurement with an external personal monitoring device, the deep-dose equivalent must be used in place of the effective dose equivalent, unless the effective dose equivalent is determined by a dosimetry method approved by the Department. The assigned deep-dose equivalent shall be determined for the part of the body that receives the highest exposure. The assigned shallow-dose equivalent is the dose averaged over the contiguous 10 square centimeters of skin that receives the highest exposure. The deep-dose equivalent, lens-dose equivalent, and shallow-dose equivalent may be assessed from surveys or other radiation measurements for the purpose of demonstrating compliance with the occupational dose limits, if the individual monitoring device was not in the region of highest poten-

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tial exposure, or the results of individual monitoring are unavailable.

- D. Derived air concentration (DAC) and annual limit on intake (ALI) values are presented in Table I of Appendix B and may be used to determine the individual's dose and to demonstrate compliance with the occupational dose limits.
- E. Notwithstanding the annual dose limits, the licensee shall limit the soluble Uranium intake by an individual to 10 milligrams in a week in consideration of chemical toxicity. See footnote 3 of Appendix B.
- F. The licensee or registrant shall reduce the dose that an individual may receive in the current year by the amount of occupational dose received while employed occupationally as a radiation worker by all previous employers. See R9-7-412.

**Historical Note**

New Section R9-7-408 recodified from R12-1-408, at 24 A.A.R. 813, effective March 22, 2018 (Supp. 18-1).  
Amended by final expedited rulemaking at 24 A.A.R. 2151, effective July 12, 2018 (Supp. 18-3).

**R9-7-409. Summation of External and Internal Doses**

- A. If a licensee or registrant is required to monitor according to both R9-7-419(B) and (C), the licensee or registrant shall add external and internal doses, and use the sum to demonstrate compliance with dose limits. If the licensee or registrant is required to monitor only according to R9-7-419(B) or only according to R9-7-419(C), summation is not required to demonstrate compliance with dose limits. The licensee or registrant may demonstrate compliance with the requirements for summation of external and internal doses according to subsections (B), (C), and (D). The dose equivalents for the lens of the eye, the skin, and the extremities are not included in the summation but are subject to separate limits (See R9-7-408(A)(2)).
- B. If the only intake of radionuclides is by inhalation, the total effective dose equivalent limit is not exceeded if the sum of the deep-dose equivalent divided by the total effective dose equivalent limit, and one of the following, does not exceed unity (1):
  - 1. The sum of the fractions of the inhalation ALI for each radionuclide, or
  - 2. The total number of derived air concentration-hours (DAC-hours) for all radionuclides divided by 2,000, or
  - 3. The sum of the calculated committed effective dose equivalents to all significantly irradiated organs or tissues (T) calculated from bioassay data using applicable biological models and expressed as a fraction of the annual limit. For purposes of this requirement, an organ or tissue is deemed to be significantly irradiated if, for that organ or tissue, the product of the weighting factors,  $W_T$ , and the committed dose equivalent,  $H_{T,50}$ , per unit intake is greater than 10% of the maximum weighted value of  $H_{T,50}$ , that is,  $W_T H_{T,50}$ , per unit intake for any organ or tissue.
- C. If the occupationally exposed individual also receives an intake of radionuclides by oral ingestion greater than 10% of the applicable oral ALI, the licensee or registrant shall account for this intake and include it in demonstrating compliance with the limits.
- D. The licensee or registrant shall evaluate and, to the extent practical, account for intakes through wounds or skin absorption. The intake through intact skin has been included in the calculation of DAC for Hydrogen-3 and does not need to be evaluated or accounted for according to this subsection.

**Historical Note**

New Section R9-7-409 recodified from R12-1-409, at 24 A.A.R. 813, effective March 22, 2018 (Supp. 18-1).

**R9-7-410. Determination of External Dose from Airborne Radioactive Material**

- A. Each licensee shall, when determining the dose from airborne radioactive material, include the contribution to the deep-dose equivalent, lens dose equivalent, and shallow dose equivalent from external exposure to the radioactive cloud. See Appendix B, footnotes 1 and 2.
- B. Airborne radioactivity measurements and DAC values shall not be used as the primary means to assess the deep-dose equivalent when the airborne radioactive material includes radionuclides other than noble gases or if the cloud of airborne radioactive material is not relatively uniform. The determination of the deep-dose equivalent to an individual shall be based upon measurements using instruments or individual monitoring devices.

**Historical Note**

New Section R9-7-410 recodified from R12-1-410, at 24 A.A.R. 813, effective March 22, 2018 (Supp. 18-1).

**R9-7-411. Determination of Internal Exposure**

- A. For purposes of assessing dose used to determine compliance with occupational dose equivalent limits, each licensee or registrant shall, when required according to R9-7-419, take suitable and timely measurements of:
  - 1. Concentrations of radioactive materials in air in work areas,
  - 2. Quantities of radionuclides in the body,
  - 3. Quantities of radionuclides excreted from the body, or
  - 4. Combinations of these measurements,
- B. Unless respiratory protective equipment is used, as provided in R9-7-425, or the assessment of intake is based on bioassays, the licensee or registrant shall assume that an individual inhales radioactive material at the airborne concentration in which the individual is present.
- C. When specific information on the physical and biochemical properties of the radionuclides taken into the body or the behavior of the material in an individual is known, the licensee or registrant may:
  - 1. Use that information to calculate the committed effective dose equivalent, and, if used, the licensee or registrant shall document that information in the individual's record;
  - 2. Upon prior approval of the Department, adjust the DAC or ALI values to reflect the actual physical and chemical characteristics of airborne radioactive material, for example, aerosol size distribution or density; and
  - 3. Separately assess the contribution of fractional intakes of Class D, W, or Y compounds of a given radionuclide to the committed effective dose equivalent. See Appendix B.
- D. If the licensee or registrant chooses to assess intakes of Class Y material using the measurements given in subsection (A)(2) or (3), the licensee or registrant may delay the recording and reporting of the assessments for periods up to seven months, unless otherwise required by R9-7-444 or R9-7-445. This delay permits the licensee or registrant to make additional measurements basic to the assessments.
- E. If the identity and concentration of each radionuclide in a mixture are known, the fraction of the DAC applicable to the mixture for use in calculating DAC-hours is either:
  - 1. The sum of the ratios of the concentration to the appropriate DAC value, that is, D, W, or Y from Appendix B for each radionuclide in the mixture; or



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2. The ratio of the total concentration for all radionuclides in the mixture to the most restrictive DAC value for any radionuclide in the mixture.
- F. If the identity of each radionuclide in a mixture is known, but the concentration of one or more of the radionuclides in the mixture is not known, the DAC for the mixture is the most restrictive DAC of any radionuclide in the mixture.
- G. If a mixture of radionuclides in air exists, a licensee may disregard certain radionuclides in the mixture if:
  1. The licensee uses the total activity of the mixture to demonstrate compliance with the dose limits in R9-7-408 and complies with the monitoring requirements in R9-7-419;
  2. The concentration of any radionuclide disregarded is less than 10% of its DAC; and
  3. The sum of these percentages for all of the radionuclides disregarded in the mixture does not exceed 30%.
- H. When determining the committed effective dose equivalent, the following information may be considered:
  1. In order to calculate the committed effective dose equivalent, the licensee may assume that the inhalation of 1 ALI, or an exposure of 2,000 DAC-hours, results in a committed effective dose equivalent of 0.05 Sv (5 rem) for radionuclides that have their ALIs or DACs based on the committed effective dose equivalent.
  2. For an ALI and the associated DAC determined by the nonstochastic organ dose limit of 0.5 Sv (50 rem), the intake of radionuclides that would result in a committed effective dose equivalent of 0.05 Sv (5 rem), that is, the stochastic ALI, is listed in parentheses in Table I of Appendix B. The licensee may, as a simplifying assumption, use the stochastic ALI to determine committed effective dose equivalent. However, if the licensee or registrant uses the stochastic ALI, the licensee shall also demonstrate that the limit in R9-7-408(A)(1)(b) is met.

**Historical Note**

New Section R9-7-411 recodified from R12-1-411, at 24 A.A.R. 813, effective March 22, 2018 (Supp. 18-1).

**R9-7-412. Determination of Prior Occupational Dose**

- A. For each individual who is likely to receive in a year an occupational dose that requires monitoring according to R9-7-419 the licensee shall:
  1. Determine the occupational radiation dose received during the current year, and
  2. Attempt to obtain the records of lifetime cumulative occupational radiation dose.
- B. Before permitting an individual to participate in a planned special exposure, the licensee or registrant shall determine:
  1. The internal and external doses from all previous planned special exposures; and
  2. All doses in excess of the limits received during the lifetime of the individual, including doses received during accidents and emergencies; and
  3. All lifetime, cumulative, occupational radiation doses.
- C. In complying with the requirements of subsection (A), a licensee or registrant shall:
  1. Accept, as a record of the occupational dose that the individual received during the current year, a written and signed statement from the individual, or from the individual's most recent employer for work involving radiation exposure, that discloses the nature and the amount of any occupational dose that the individual received during the current year; and
  2. Accept, as the record of lifetime cumulative radiation dose, an up-to-date Department Form Y (available from

the Department) or equivalent, signed by the individual and countersigned by an appropriate official of the most recent employer for work involving radiation exposure, or the individual's current employer, if the individual is not employed by the licensee or registrant; and

3. Obtain reports of the individual's dose equivalent from the most recent employer for work involving radiation exposure, or the individual's current employer, if the individual is not employed by the licensee or registrant, by telephone, telegram, facsimile, or letter. The licensee or registrant shall request a written verification of the dose data if the authenticity of the transmitted report cannot be established.

**D. Records.**

1. The licensee or registrant shall record the exposure history, as required by subsection (A), on Department Form Y (available from the Department) or a similar clear and legible record of all the information required by this subsection. The form or record shall show each period in which the individual received occupational exposure to radiation or radioactive material and shall be signed by the individual who received the exposure. For each period for which the licensee or registrant obtains reports, the licensee or registrant shall use the dose shown in the report for preparing Department Form Y or its equivalent. For any period in which the licensee or registrant does not obtain a report, the licensee or registrant shall place a notation on Department Form Y or its equivalent indicating each period of time for which there is no data.
2. The licensee or registrant is not required to reevaluate the separate external dose equivalents and internal committed dose equivalents or intakes of radionuclides assessed according to the rules in Article 4 in effect before January 1, 1994. Occupational exposure histories obtained and recorded on Department Form Y or its equivalent before January 1, 1994, would not have included effective dose equivalent but may be used in the absence of specific information on the intake of radionuclides by the individual.
3. If the licensee or registrant is unable to obtain a complete record of an individual's current and previously accumulated occupational dose, the licensee or registrant shall:
  - a. In establishing administrative controls under R9-7-408(F) for the current year, reduce the allowable dose limit for the individual by 12.5 mSv (1.25 rem) for each quarter for which records were unavailable and the individual was engaged in activities that could have resulted in occupational radiation exposure; and
  - b. Not subject the individual to planned special exposures.
4. The licensee or registrant shall retain current and prior records on Department Form Y or its equivalent for three years after the Department terminates each pertinent license or registration requiring this record. The licensee or registrant shall retain records used in preparing Department Form Y or its equivalent for three years after the record is made.

**Historical Note**

New Section R9-7-412 recodified from R12-1-412, at 24 A.A.R. 813, effective March 22, 2018 (Supp. 18-1).

**R9-7-413. Planned Special Exposures**

- A. A licensee or registrant may authorize an adult worker to receive doses in addition to and accounted for separately from

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the doses received under the limits specified in R9-7-408, provided that each of the following conditions is satisfied:

1. The licensee or registrant authorizes a planned special exposure only in an exceptional situation when alternatives that might avoid the dose estimated from the planned special exposure are unavailable or impractical.
2. The licensee or registrant, and employer if the employer is not the licensee or registrant, specifically authorizes the planned special exposure, in writing, before the exposure occurs.
3. Before a planned special exposure, the licensee or registrant ensures that each individual involved is:
  - a. Informed in writing of the purpose of the planned special exposure;
  - b. Informed in writing of the estimated doses, associated potential risks, and specific radiation levels or other conditions that might be involved in performing the task; and
  - c. Instructed in the measures to be taken to keep the dose ALARA, considering other risks that may be present.
4. Before permitting an individual to participate in a planned special exposure, the licensee or registrant shall ascertain prior doses as required by R9-7-412(B) for each individual involved.
5. Subject to R9-7-408(B), the licensee or registrant shall not authorize a planned special exposure that would cause an individual to receive a dose from all planned special exposures and all doses that exceed:
  - a. The numerical value of any of the dose limits in R9-7-408(A) in any year, and
  - b. Five times the annual dose limits in R9-7-408(A) during the individual's lifetime.
6. The licensee or registrant shall maintain records of a planned special exposure in accordance with subsections (B) and (C) and submit a written report to the Department within 30 days after the date of any planned special exposure conducted in accordance with this Section, informing the Department that a planned special exposure was conducted and indicating the date the planned special exposure occurred and the information required by subsection (B).
7. The licensee or registrant shall record the best estimate of the dose resulting from the planned special exposure in the individual's record and inform the individual, in writing, of the dose within 30 days after the date of the planned special exposure. The dose from a planned special exposure shall not be considered in controlling future occupational dose of the individual according to R9-7-408(A) but shall be included in evaluations required by subsections (A)(4) and (A)(5).

**B. Records.**

1. For each planned special exposure, the licensee or registrant shall maintain records that describe:
  - a. The exceptional circumstances requiring the use of a planned special exposure,
  - b. The name of the management official who authorized the planned special exposure and a copy of the signed authorization,
  - c. What actions were necessary,
  - d. Why the actions were necessary,
  - e. What precautions were taken to assure that doses were minimized in accordance with R9-7-407(B),
  - f. What individual and collective doses were expected,
  - g. The doses actually received in the planned special exposure, and

- h. The process through which the employee involved in the planned special exposure has been informed in writing of the information contained in subsection (A)(3).
  2. The licensee or registrant shall retain the records for three years after the Department terminates each pertinent license or registration.
- C.** A licensee shall submit a report to the Department no later than 30 days after a planned special exposure conducted in accordance with subsection (A). The report shall contain the date of the planned exposure and the information required by subsection (B).

**Historical Note**

New Section R9-7-413 recodified from R12-1-413, at 24 A.A.R. 813, effective March 22, 2018 (Supp. 18-1).

**R9-7-414. Occupational Dose Limits for Minors**

The annual occupational dose limits for minors are 10% of the annual occupational dose limits specified for adult workers in R9-7-408.

**Historical Note**

New Section R9-7-414 recodified from R12-1-414, at 24 A.A.R. 813, effective March 22, 2018 (Supp. 18-1).

**R9-7-415. Dose Equivalent to an Embryo or Fetus**

- A.** A licensee or registrant shall ensure that the dose equivalent to an embryo or fetus during the entire pregnancy, due to occupational exposure of a declared pregnant woman, does not exceed 5 mSv (0.5 rem). Records shall be maintained according to R9-7-419(E)(4) and (5).
- B.** The licensee or registrant shall make efforts to avoid substantial variation above a uniform monthly exposure rate to a declared pregnant woman to satisfy the limit in subsection (A).
- C.** For purposes of this Section, the dose equivalent to the embryo or fetus is the sum of:
1. The deep-dose equivalent to the declared pregnant woman; and
  2. The dose equivalent to the embryo or fetus resulting from radionuclides in the embryo or fetus and radionuclides in the declared pregnant woman.
- D.** If the dose equivalent to the embryo or fetus is found to have exceeded 5 mSv (0.5 rem) or is within 0.5 mSv (0.05 rem) of this dose by the time the woman declares the pregnancy to the licensee or registrant, the licensee or registrant shall be deemed to be in compliance with subsection (A) if the additional dose equivalent to the embryo or fetus does not exceed 0.5 mSv (0.05 rem) during the remainder of the pregnancy.

**Historical Note**

New Section R9-7-415 recodified from R12-1-415, at 24 A.A.R. 813, effective March 22, 2018 (Supp. 18-1).  
Amended by final expedited rulemaking at 24 A.A.R. 2151, effective July 12, 2018 (Supp. 18-3).

**R9-7-416. Dose Limits for Individual Members of the Public**

- A.** Each licensee or registrant shall conduct operations so that:
1. The total effective dose equivalent to any individual member of the public from the licensed or registered operation does not exceed 1 mSv (0.1 rem) in a year, excluding the dose contribution from background radiation, medical administration of radiation, exposure to an individual who has been administered radioactive material and released in accordance with R9-7-719, voluntary participation in a medical research program, and the licensee's or registrant's disposal of radioactive material into sanitary sewerage in accordance with R9-7-436; and

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2. The dose in any unrestricted area from an external source excluding the dose contribution from an individual who has been administered radioactive material and released in accordance with R9-7-719, does not exceed 0.02 mSv (0.002 rem) in any one hour.
  - B. Registrants possessing radiation machines in operation before August 10, 1994, are exempt from the requirement in subsection (A)(1). Operation of these machines shall be conducted so that the total effective dose equivalent to any individual member of the public does not exceed 5 mSv (0.5 rem) in a year.
  - C. A licensee, registrant, or an applicant for a license or registration may apply for Department authorization to operate with an annual dose limit of 5 mSv (0.5 rem) for an individual member of the public. The application shall include the following information:
    1. An explanation of the need for and the expected duration of operations in excess of the limit in subsection (A), and
    2. The licensee's or registrant's program to assess and control dose within the 5 mSv (0.5 rem) annual limit; and
    3. The procedures to be followed to maintain the dose in accordance with R9-7-407(B).
  - D. A licensee or registrant shall comply with the U.S. Environmental Protection Agency's applicable environmental radiation standards in 40 CFR 190, 2003 edition, published July 1, 2003, by the Office of the Federal Register, National Archives and Records Administration, Washington, D.C. 20408, which are incorporated by reference, on file with the Department and contain no future editions or amendments.
  - E. The Department may impose additional restrictions on radiation levels in unrestricted areas and on the total quantity of radionuclides that a licensee or registrant may release in effluents in order to restrict the collective dose.
  - F. Each licensee or registrant shall make or cause to be made surveys of radiation levels in unrestricted areas and radioactive materials contained in effluents released to unrestricted areas.
  - G. Each licensee or registrant shall:
    1. Demonstrate by measurement or calculation that the total effective dose equivalent to the individual likely to receive the highest dose from the licensed or registered operation does not exceed the annual dose limit; or
    2. Demonstrate that:
      - a. The annual average concentrations of radioactive material released in gaseous and liquid effluents at the boundary of the unrestricted area do not exceed the values specified in Appendix B, Table II; and
      - b. If an individual were continually present in an unrestricted area, the dose from external sources would not exceed 0.02 mSv (0.002 rem) in an hour and 0.5 mSv (0.05 rem) in a year.
  - H. Upon approval from the Department, the licensee or registrant may adjust the effluent concentration values in Appendix B, Table II for members of the public, to take into account the actual physical and chemical characteristics of the effluents, such as aerosol size distribution, solubility, density, radioactive decay equilibrium, and chemical form.
  - I. Each licensee or registrant shall maintain records sufficient to demonstrate compliance with the dose limit for individual members of the public and shall retain the records for three years after the Department terminates each pertinent license or registration.
- Historical Note**
- New Section R9-7-416 recodified from R12-1-416, at 24 A.A.R. 813, effective March 22, 2018 (Supp. 18-1).
- R9-7-417. Testing for Leakage or Contamination of Sealed Sources**
- A. A licensee in possession of any sealed source shall ensure that:
    1. Each sealed source, except as specified in subsection (B), is tested for leakage or contamination and the test results are received before the sealed source is put into use unless the licensee has a certificate from the transferor indicating that the sealed source was tested within six months before transfer to the licensee or registrant.
    2. Each sealed source that is not designed to emit alpha particles is tested for leakage or contamination at intervals not to exceed six months or at alternative intervals approved by the Department, after evaluation of information specified by R9-7-311(D)(2) or equivalent information specified by an Agreement State, a Licensing State, or the U.S. Nuclear Regulatory Commission.
    3. Each sealed source that is designed to emit alpha particles is tested for leakage or contamination at intervals not to exceed three months or at alternative intervals approved by the Department, after evaluation of information specified by R9-7-311(D)(2) or equivalent information specified by an Agreement State, a Licensing State, or the Nuclear Regulatory Commission.
    4. Each sealed source suspected of damage or leakage is tested for leakage or contamination before further use.
    5. Tests for leakage for all sealed sources, except brachytherapy sources manufactured to contain radium, are capable of detecting the presence of 185 Bq (0.005  $\mu$ Ci) of radioactive material on a test sample. The person conducting the test shall take test samples from the sealed source or from the surfaces of the container in which the sealed source is stored or mounted on which contamination could accumulate. For a sealed source contained in a device, the person conducting the test shall obtain test samples when the source is in the "off" position.
    6. The test for leakage from brachytherapy sources containing radium is capable of detecting an absolute leakage rate of 37 Bq (0.001  $\mu$ Ci) of Radon-222 in a 24-hour period when the collection efficiency for Radon-222 and its daughters has been determined with respect to collection method, volume, and time.
    7. Tests for contamination from radium daughters are taken on the interior surface of brachytherapy source storage containers and are capable of detecting the presence of 185 Bq (0.005  $\mu$ Ci) of a radium daughter which has a half-life greater than four days.
  - B. A licensee need not perform tests for leakage or contamination on the following sealed sources:
    1. Sealed sources containing only radioactive material with a half-life of less than 30 days;
    2. Sealed sources containing only radioactive material as a gas;
    3. Sealed sources containing 3.7 MBq (100  $\mu$ Ci) or less of beta or photon-emitting material or 370 kBq (10  $\mu$ Ci) or less of alpha-emitting material;
    4. Sealed sources containing only Hydrogen-3;
    5. Seeds of Iridium-192 encased in nylon ribbon; and
    6. Sealed sources, except teletherapy and brachytherapy sources, which are stored, not being used, and identified as in storage. The licensee shall test each sealed source for leakage or contamination and receive the test results before any use or transfer unless it has been tested for leakage or contamination within six months before the date of use or transfer.
  - C. Persons specifically authorized by the Department, an Agreement State, a Licensing State, or the U.S. Nuclear Regulatory Commission shall perform tests for leakage or contamination from sealed sources.

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- D. A licensee shall maintain for Department inspection test results in units of becquerel or microcurie.
- E. The following is considered evidence that a sealed source is leaking:
  1. The presence of 185 Bq (0.005  $\mu$ Ci) or more of removable contamination on any test sample.
  2. Leakage of 37 Bq (0.001  $\mu$ Ci) of Radon-222 per 24 hours for brachytherapy sources manufactured to contain radium.
  3. The presence of removable contamination resulting from the decay of 185 Bq (0.005  $\mu$ Ci) or more of radium.
- F. A licensee shall immediately withdraw a leaking sealed source from use and shall take action to prevent the spread of contamination. The leaking sealed source shall be repaired or disposed of in accordance with this Article.
- G. A licensee shall file a report with the Department within five days if the test for leakage or contamination indicates a sealed source is leaking or contaminated. The report shall include the equipment involved, the test results, and the corrective action taken.
- H. A licensee shall maintain records of the tests for leakage required in subsection (A) for three years after the records are made.

**Historical Note**

New Section R9-7-417 recodified from R12-1-417, at 24 A.A.R. 813, effective March 22, 2018 (Supp. 18-1).  
Amended by final expedited rulemaking at 24 A.A.R. 2151, effective July 12, 2018 (Supp. 18-3).

**R9-7-418. Surveys and Monitoring**

- A. Each licensee or registrant shall make, or cause to be made, surveys if surveys are:
  1. Necessary for the licensee or registrant to comply with Article 4, and
  2. Reasonable under the circumstances to evaluate:
    - a. The magnitude and extent of radiation levels, and
    - b. Concentrations or quantities of residual radioactivity, and
    - c. The potential radiological hazards of the radiation levels and residual radioactivity detected.
- B. All personnel dosimeters, except for direct and indirect reading pocket ionization chambers and those dosimeters used to measure the dose to any extremity, that require processing to determine the radiation dose and that are used by licensees and registrants to comply with R9-7-408, with other applicable provisions of these rules, or with conditions specified in a license or registration shall be processed and evaluated by a dosimetry processor:
  1. Holding current personnel dosimetry accreditation from the National Voluntary Laboratory Accreditation Program (NVLAP) of the National Institute of Standards and Technology, according to NVLAP procedures published March 1994 as NIST Handbook 150, and NIST Handbook 150-4, published August 1994, which is incorporated by reference, published by the U.S. Government Printing Office, Washington D.C. 20402-9325, and on file with the Department. The material incorporated by reference contains no future editions or amendments;
  2. Approved in this accreditation process for the type of radiation or radiations included in the NVLAP program that most closely approximates the type of radiation or radiations for which the individual wearing the dosimeter is monitored; and
  3. Film badges must be replaced at periods not to exceed one month; other personnel dosimeters processed and

evaluated by an accredited NVLAP processor must be replaced at periods not to exceed three months.

- C. The licensee or registrant shall ensure that adequate precautions are taken to prevent a deceptive exposure of an individual monitoring device and that personnel monitoring devices are issued to, and used by only the individual to whom the monitoring device has been first issued during any reporting period.
- D. A licensee shall ensure that survey instruments and personnel dosimeters that are used to make quantitative measurements are calibrated in accordance with R9-7-449.
- E. Records.
  1. Each licensee or registrant shall maintain records showing the results of surveys required by this Section and R9-7-433(B). The licensee or registrant shall retain these records for three years after the record is made.
  2. The licensee or registrant shall retain each of the following records for three years after the Department terminates the license or registration:
    - a. Records of the survey results used to determine the dose from external sources of radiation, in the absence of or in combination with individual monitoring data, and provide an assessment of individual dose equivalents;
    - b. Records of the results of measurements and calculations used to determine individual intakes of radioactive material and to assess an internal dose;
    - c. Records showing the results of air sampling, surveys, and bioassays required according to R9-7-425(A)(3)(a) and (b);
    - d. Records of the measurement and calculation results used to evaluate the release of radioactive effluents to the environment; and
    - e. Notwithstanding subsection (A) of this part, records from surveys describing the location and amount of subsurface residual radioactivity identified at the site must be kept with records important for decommissioning, and such records must be retained in accordance with R9-7-323, as applicable.

**Historical Note**

New Section R9-7-418 recodified from R12-1-418, at 24 A.A.R. 813, effective March 22, 2018 (Supp. 18-1).  
Amended by final expedited rulemaking at 24 A.A.R. 2151, effective July 12, 2018 (Supp. 18-3).

**R9-7-419. Conditions Requiring Individual Monitoring of External and Internal Occupational Dose**

- A. Each licensee or registrant shall monitor exposures from sources of radiation at levels sufficient to demonstrate compliance with the occupational dose limits of this Article.
- B. At minimum each licensee or registrant shall supply and require the use of individual monitoring devices by the following personnel:
  1. Adults likely to receive, in one year, an intake in excess of 10% of the applicable ALI in Table I, Columns 1 and 2, of Appendix B;
  2. Minors and declared pregnant women likely to receive, in one year, a committed effective dose equivalent in excess of 0.5 mSv (0.05 rem);
  3. Adults likely to receive, in one year from radiation sources external to the body, a dose in excess of 10 percent of the limits in R9-7-408(A);
  4. Minors likely to receive, in one year, from radiation sources external to the body, a deep dose equivalent in excess of 1 mSv (0.1 rem), a lens dose equivalent in excess of 1.5 mSv (0.15 rem), or a shallow dose equivalent

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- lent to the skin or to the extremities in excess of 5 mSv (0.5 rem);
5. Declared pregnant women likely to receive during the entire pregnancy, from radiation sources external to the body, a deep dose equivalent in excess of 1 mSv (0.1 rem) (Note: All of the occupational doses in R9-7-408 continue to be applicable to the declared pregnant worker as long as the embryo/fetus dose limit is not exceeded.);
  6. Individuals entering a high or very high radiation area;
  7. Individuals operating mobile x-ray equipment as described in R9-7-608;
  8. Individuals holding animals for diagnostic x-ray procedures, as described in R9-7-613;
  9. Individuals servicing enclosed beam x-ray systems with bypassed interlocks, as described in R9-7-803;
  10. Individuals operating open beam fluoroscopic systems and ancillary personnel working in the room when the fluoroscopic system is in use, except when relieved of this requirement by registration condition;
  11. Individuals performing well logging, as described in Article 17;
  12. Individuals, wearing a finger or wrist individual monitoring device, during the operation of an open-beam or hand held analytical x-ray system or equipment with no safety devices as described in R9-7-806(C) and (F); and
  13. Individuals, wearing a finger or wrist individual monitoring device, performing repairs that require the presence of a primary beam of the analytical x-ray system or equipment, as described in R9-7-806(C) and (F).
- C. Each licensee shall monitor the occupational intake of radioactive material by and assess the committed effective dose equivalent to:
1. Adults likely to receive, in one year, an intake in excess of 10 percent of the applicable ALI in Table 1, Columns 1 and 2, of Appendix B;
  2. Minors likely to receive, in one year, a committed effective dose equivalent in excess of 1 mSv (0.1 rem); and
  3. Declared pregnant women likely to receive, during the entire pregnancy, a committed effective dose equivalent in excess of 1 mSv (0.1 rem).
- D. Each licensee or registrant shall require that all individual monitoring devices be located on individuals according to the following requirements:
1. An individual monitoring device, used to obtain the dose equivalent to an embryo or fetus of a declared pregnant woman according to R9-7-415, shall be located under the protective apron at the waist. A qualified expert shall be consulted to determine the dose equivalent to the embryo or fetus if this individual monitoring device has a monthly reported dose equivalent value that exceeds 0.5 millisieverts (50 millirem). For purposes of this subsection, the value for determining the dose equivalent to an embryo or fetus under R9-7-415(C), for occupational exposure to radiation from medical fluoroscopic equipment, is the value reported by the individual monitoring device worn at the waist underneath the protective apron, which has been corrected for the particular individual and the work environment by a qualified expert.
  2. An individual monitoring device used for lens dose equivalent shall be located at the neck or an unshielded location closer to the eye, outside the protective apron.
  3. If only one individual monitoring device is used to determine the effective dose equivalent for external radiation, according to R9-7-408(C)(2)(a), the device shall be located at the neck outside the protective apron. If a second individual monitoring device is used for the same purpose, it shall be located under the protective apron at the waist. A second individual monitoring device is required for a declared pregnant woman.
  4. An individual, wearing an extremity personnel monitoring device, during the operation of an open-beam or hand-held analytical x-ray system with no safety devices or an individual performing repairs in the presence of a primary beam of the analytical x-ray system or equipment, as described in R9-7-806(C) and (F), shall wear the device on the individual's finger or wrist.
- E. Records.
1. Each licensee or registrant shall maintain records of doses received by all individuals for whom monitoring is required according to this Section, and records of doses received during planned special exposures, accidents, and emergency conditions. Assessments of dose equivalent and records made using units in effect before January 1, 1994, need not be changed. These records shall include, when applicable:
    - a. The deep-dose equivalent to the whole body, lens dose equivalent, shallow-dose equivalent to the skin, and shallow-dose equivalent to the extremities;
    - b. The estimated intake of radionuclides;
    - c. The committed effective dose equivalent assigned to the intake of radionuclides;
    - d. The specific information used to assess the committed effective dose equivalent according to R9-7-411(A) and (C), and when required R9-7-419;
    - e. The total effective dose equivalent when required by R9-7-409; and
    - f. The total of the deep-dose equivalent and the committed dose to the organ receiving the highest total dose;
  2. The licensee or registrant shall make entries of the records specified in subsection (D)(1), at intervals not to exceed one year;
  3. The licensee or registrant shall maintain at the inspection site the records specified in subsection (D)(1) in a clear and legible method that contains all the information required by this subsection;
  4. The licensee or registrant shall maintain the records of dose to an embryo or fetus with the records of dose to the declared pregnant woman. The declaration of pregnancy, including the estimated date of conception, shall also be kept on file but may be maintained separately from the dose records; and
  5. The licensee or registrant shall retain each required form or record for three years after the Department terminates each pertinent license or registration requiring the record.

**Historical Note**

New Section R9-7-419 recodified from R12-1-419, at 24

A.A.R. 813, effective March 22, 2018 (Supp. 18-1).

Amended by final expedited rulemaking at 24 A.A.R.

2151, effective July 12, 2018 (Supp. 18-3).

**R9-7-420. Control of Access to High Radiation Areas**

- A. A licensee or registrant shall ensure that each entrance or access point to a high radiation area has one or more of the following features:
1. A control device that, upon entry into the area, causes the level of radiation to be reduced below the level at which an individual might receive a deep-dose equivalent of 1 mSv (0.1 rem) in one hour at 30 centimeters from the source from any surface that the radiation penetrates;
  2. A control device that energizes a conspicuous visible or audible alarm signal so that the individual entering the

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high radiation area and the supervisor of the activity are made aware of the entry; or

3. Entryways that are locked, except during periods when access to the areas is required, with positive control over each individual entity.
- B. In place of the controls required by subsection (A) for a high radiation area, the licensee or registrant may substitute continuous direct or electronic surveillance that is capable of preventing unauthorized entry.
- C. The licensee or registrant may apply to the Department for approval of alternative methods for controlling access to high radiation areas.
- D. The licensee or registrant shall establish the controls required by subsections (A) and (C) in a way that does not prevent individuals from leaving a high radiation area.
- E. The licensee or registrant is not required to control each entrance or access point to a room or other area that is a high radiation area solely because of the presence of radioactive materials prepared for transport and packaged and labeled in accordance with the regulations of the U.S. Department of Transportation, provided that:
  1. The packages do not remain in the area longer than three days, and
  2. The dose rate at 1 meter from the external surface of any package does not exceed 0.1 mSv (0.01 rem) per hour.
- F. The licensee or registrant is not required to control entrance or access to rooms or other areas in hospitals solely because of the presence of patients containing radioactive material, provided that there are personnel in attendance who are taking the necessary precautions to prevent the exposure of individuals to radiation or radioactive material in excess of the established limits in Article 4 and operate in accordance with R9-7-407(B) and the provisions of the licensee's or registrant's radiation protection program.
- G. The registrant is not required to control entrance or access to rooms or other areas containing sources of radiation capable of producing a high radiation area if the registrant has met all the specific requirements for access and control specified in other applicable Articles, such as Article 5 for industrial radiography, Article 6 for x-rays in the healing arts, and Article 9 for particle accelerators.

**Historical Note**

New Section R9-7-420 recodified from R12-1-420, at 24 A.A.R. 813, effective March 22, 2018 (Supp. 18-1).

**R9-7-421. Control of Access to Very-high Radiation Areas**

- A. In addition to the requirements in R9-7-420, a licensee or registrant shall institute measures to ensure that an individual is not able to gain unauthorized or inadvertent access to areas in which radiation levels could be encountered at 5 Gy (500 rad) or more in one hour at 1 meter from a source or from any surface that the radiation penetrates. This requirement does not apply to rooms or areas in which diagnostic x-ray systems are the only source of radiation or non-self-shielded irradiators.
- B. The registrant is not required to control entrance or access to rooms or other areas containing sources of radiation capable of producing a very high radiation area, described in subsection (A), if the registrant has met all requirements for access and control specified in other applicable Articles, such as Article 5 for industrial radiography, Article 6 for x-rays in the healing arts, and Article 9 for particle accelerators.
- C. Each licensee or registrant shall maintain records of tests made according to R9-7-422(B)(9) on entry control devices for very-high radiation areas. These records shall include the date, time, and results of each test of function.

- D. The licensee or registrant shall retain the records required by this Section for three years after the record is made.

**Historical Note**

New Section R9-7-421 recodified from R12-1-421, at 24 A.A.R. 813, effective March 22, 2018 (Supp. 18-1).

**R9-7-422. Control of Access to Irradiators (Very-high Radiation Areas)**

- A. This Section applies to licensees or registrants with sources of radiation in non-self-shielded irradiators. This Section does not apply to sources of radiation that are used in teletherapy, industrial radiography, or completely self-shielded irradiators in which the source of radiation is both stored and operated within the same shielding radiation barrier and, in the designed configuration of the irradiator, is always physically inaccessible to any individual and cannot create high levels of radiation in an area that is accessible to any individual.
- B. A licensee or registrant shall ensure that each area in which radiation levels may exceed 5 Gy (500 rad) in one hour at 1 meter from a source that is used to irradiate materials meets the following requirements:
  1. Each entrance or access point shall be equipped with entry control devices that:
    - a. Function automatically to prevent any individual from inadvertently entering a very high radiation area;
    - b. Permit deliberate entry into the area only after a control device is actuated that causes the radiation level within the area, from the source of radiation, to be reduced below that at which it would be possible for an individual to receive a deep-dose equivalent in excess of 1 mSv (0.1 rem) in one hour; and
    - c. Prevent operation of the source of radiation if it would produce radiation levels in the area that could result in a deep-dose equivalent to an individual in excess of 1 mSv (0.1 rem) in one hour.
  2. If the control devices required in subsection (B)(1) fail to function, additional control devices shall be provided so that:
    - a. The radiation level within the area, from the source of radiation, is reduced below that at which it would be possible for an individual to receive a deep-dose equivalent in excess of 1 mSv (0.1 rem) in one hour; and
    - b. Conspicuous visible and audible alarm signals are generated so that an individual entering the area is aware of the hazard. The individual who enters the very-high radiation area after an alarm signals shall be familiar with the process and equipment. Before entering, the individual shall ensure that a second individual is present and aware of the first person's actions.
  3. The licensee or registrant shall provide control devices so that, upon failure or removal of physical radiation barriers other than the sealed source's shielded storage container:
    - a. The radiation level from the source of radiation is reduced below that at which it would be possible for an individual to receive a deep-dose equivalent in excess of 1 mSv (0.1 rem) in one hour, and
    - b. Conspicuous visible and audible alarm signals are generated so that potentially affected individuals are aware of the hazard. Potentially affected individuals shall notify the licensee or registrant of the failure or removal of the physical barriers.

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4. When the shield for stored sealed sources is a liquid, the licensee or registrant shall provide means to monitor the integrity of the shield and to signal, automatically, loss of adequate shielding.
  5. Physical radiation barriers that comprise permanent structural components, such as walls, that have no credible probability of failure or removal in ordinary circumstances need not meet the requirements of subsections (B)(3) and (4).
  6. The licensee or registrant shall equip each area with devices that will automatically generate conspicuous visible and audible alarm signals to alert personnel in the area before the source of radiation can be put into operation and in time for any individual in the area to operate a clearly identified control device, installed in the area, and which can prevent the source of radiation from being put into operation.
  7. The licensee or registrant shall control each area by use of administrative procedures and devices necessary to ensure that the area is cleared of personnel before each use of the source of radiation.
  8. The licensee or registrant shall check each area by radiation measurement to ensure that, before the first individual's entry into the area after any use of the source of radiation, the radiation level from the source of radiation in the area will not expose an individual to a deep-dose equivalent in excess of 1 millisievert (0.1 rem) in one hour.
  9. The licensee or registrant shall test the entry control devices required in subsection (B)(1) for proper functioning and keep records according to R9-7-421.
    - a. Testing shall be conducted before initial operation with the source of radiation on any day, unless operations were continued uninterrupted from the previous day;
    - b. Testing shall be conducted before resumption of operation of the source of radiation after any unintentional interruption;
    - c. The licensee or registrant shall submit to the Department a schedule of testing; and
    - d. The licensee or registrant shall include in the schedule a listing of the periodic testing that will be followed.
  10. The licensee or registrant shall not conduct operations, other than those necessary to place the source of radiation in a safe condition or effect repairs on controls, unless control devices are functioning properly.
  11. The licensee or registrant shall control entry and exit portals that are used in transporting materials to and from the irradiation area, and that are not intended for use by personnel, with devices and administrative procedures necessary to physically protect and warn against inadvertent entry by an individual through one of the portals. Exit portals for irradiated materials shall be equipped to detect and signal the presence of any uncontained radioactive material that is carried toward an exit and automatically prevent contained radioactive material from being carried out of the area.
- C. A licensee, registrant, or applicant seeking a license or registration for a source of radiation within the purview of subsection (B) that will be used in a variety of positions or in locations, such as open fields or forests, that make it impractical to comply with certain requirements of subsection (B) may apply to the Department for approval of alternative safety measures. Alternative safety measures shall provide personnel protection at least equivalent to that specified in subsection (B). At least one of the alternative measures shall be an entry-preventing interlock control, based on a measurement of the radiation that ensures the absence of high radiation levels before an individual can gain access to the area where the sources of radiation are used.
- D. A licensee or registrant shall provide the entry control devices required by subsections (B) and (C) in such a way that no individual will be prevented from leaving the area.
- E. Records.
1. Each licensee or registrant shall maintain records of tests made according to subsection (B)(9) on entry control devices for very-high radiation areas. These records shall include the date and results of each test of function.
  2. The licensee or registrant shall retain the records for three years from the date the record is made.
- Historical Note**  
New Section R9-7-422 recodified from R12-1-422, at 24 A.A.R. 813, effective March 22, 2018 (Supp. 18-1).
- R9-7-423. Use of Process or Other Engineering Controls**  
A licensee shall use, to the extent practicable, process or other engineering controls, such as containment, decontamination, or ventilation, to control the concentration of radioactive material in air.
- Historical Note**  
New Section R9-7-423 recodified from R12-1-423, at 24 A.A.R. 813, effective March 22, 2018 (Supp. 18-1).
- R9-7-424. Use of Other Controls**
- A. If it is not practical to apply process or other engineering controls to control concentrations of radioactive material in the air to values below those that define an airborne radioactivity area, the licensee shall, consistent with maintaining the total effective dose equivalent according to R9-7-407(B), increase monitoring and limit intakes by one or more of the following means:
1. Control access,
  2. Limit exposure times,
  3. Use respiratory protection equipment, or
  4. Use other controls.
- B. If the licensee performs an ALARA analysis to determine whether or not respirators should be used, the licensee may consider safety factors other than radiological factors. The licensee shall also consider the impact of respirator use on workers' industrial health and safety.
- Historical Note**  
New Section R9-7-424 recodified from R12-1-424, at 24 A.A.R. 813, effective March 22, 2018 (Supp. 18-1).
- R9-7-425. Use of Individual Respiratory Protection Equipment**
- A. If a licensee assigns or permits the use of respiratory protection equipment to limit the intake of radioactive material,
1. Except as provided in subsection (A)(2), the licensee shall use only respiratory protection equipment that is tested and certified by the National Institute for Occupational Safety and Health (NIOSH).
  2. If the licensee wishes to use equipment that has not been tested or certified by NIOSH, or for which there is no schedule for testing or certification, the licensee shall submit an application to the Department and request authorization for use of this equipment, except as otherwise provided in this Section. The licensee shall provide evidence with the application that the material and performance characteristics of the equipment provide the asserted degree of protection under anticipated conditions

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- of use. The licensee shall demonstrate the degree of protection by providing reliable test information.
3. The licensee shall implement and maintain a respiratory protection program that includes:
    - a. Air sampling sufficient to identify the potential hazard, permit proper equipment selection, and estimate doses;
    - b. Surveys and bioassays, as necessary, to evaluate actual intakes;
    - c. Testing of respirators for operability (user seal check for face sealing devices and functional check for other devices) immediately before each use;
    - d. Written procedures regarding:
      - i. Monitoring, including air sampling and bioassays;
      - ii. Supervision and training of respirator users;
      - iii. Fit testing;
      - iv. Respirator selection;
      - v. Breathing air quality;
      - vi. Inventory and control;
      - vii. Storage, issuance, maintenance, repair, testing, and quality assurance of respiratory protection equipment;
      - viii. Recordkeeping; and
      - ix. Limitations on periods of respirator use and relief from respirator use;
    - e. Determination by a physician that each individual user is able to use respiratory protection equipment:
      - i. Before the initial fitting of a face-sealing respirator;
      - ii. Before the first field use of a non-face-sealing respirator, and
      - iii. Every 12 months after initial fitting or first use, or periodically at a frequency determined by a physician; and
    - f. Fit testing, with a fit factor  $\geq 10$  times the APF for a negative pressure device and a fit factor  $\geq 500$  for any positive pressure, continuous flow, and pressure-demand device, before the first field use of tight-fitting, face-sealing respirators and periodically after first use at least yearly. The licensee shall perform fit testing with the face piece operating in the negative pressure mode.
  4. The licensee shall advise each respirator user that the user may leave the area at any time for relief from respirator use, in the event of equipment malfunction, physical or psychological distress, procedural or communication failure, significant deterioration of operating conditions, or any other condition that might require relief.
  5. The licensee shall consider manufacturer limitations regarding respirator type and mode of use. When selecting a respiratory device, the licensee shall provide for vision correction, adequate communication, low temperature work environments, and the concurrent use of other safety or radiological protection equipment. The licensee shall use equipment in a manner that does not interfere with the proper operation of the respirator.
  6. The licensee shall provide standby rescue persons whenever one-piece atmosphere-supplying suits, or any combination of supplied air respiratory protection device and personnel protective equipment are used from which an unaided individual would have difficulty extricating himself or herself. The licensee shall equip standby rescue persons with respiratory protection devices or other apparatus designed for potential hazards and anticipated conditions of use. The standby rescue persons shall observe or otherwise maintain continuous communication with the workers (visual, voice, signal line, telephone, radio, or other suitable means), and be immediately available to assist them in case of a failure of the air supply or for any other reason that requires relief from distress. The licensee shall provide at least one standby rescue person for every five workers, who is immediately available to assist any worker using this type of equipment and provide effective emergency rescue if needed.
  7. The licensee shall supply atmosphere-supplying respirators with respirable air of grade D quality or better as defined by the Compressed Gas Association in publication G-7.1, "Commodity Specification for Air," 1997 and included in the regulations of OSHA (29 CFR 1910.134(i)(1)(ii)(A) through (E), July 1, 2003, incorporated by reference and on file with the Department, containing no future editions or amendments). Grade D quality air criteria include:
    - a. Oxygen content (v/v) of 19.5-23.5%;
    - b. Hydrocarbon (condensed) content of 5 milligrams per cubic meter of air or less;
    - c. Carbon monoxide (CO) content of 10 ppm or less;
    - d. Carbon dioxide content of 1,000 ppm or less; and
    - e. Lack of noticeable odor.
  8. The licensee shall ensure that no objects, materials, or substances, such as facial hair, or any conditions that interfere with the face-to-face piece seal or valve function, and that are under the control of the respirator wearer, are present between the skin of the wearer's face and the sealing surface of a tight-fitting respirator face piece.
  9. In estimating the dose to individuals from intake of airborne radioactive materials, the licensee shall use the concentration of radioactive material in the air that is inhaled when respirators are worn, which is determined by dividing the ambient concentration in air without respiratory protection by the assigned protection factor. If the dose is later found to be greater than the estimated dose, the licensee shall modify the calculation using the corrected value. If the dose is later found to be less than the estimated dose, the licensee may modify the calculation using the corrected value.
  - B. The licensee shall use Appendix A to select equipment and associated assigned protection factors.
  - C. A licensee shall apply to the Department for authorization to use assigned protection factors in excess of those specified in Appendix A. To apply for authorization the licensee shall:
    1. State the reason for the higher protection factors; and
    2. Demonstrate that the requested respiratory protective equipment provides the higher protection factors under the proposed conditions of use.
  - D. The licensee shall notify the Department in writing at least 30 days before the date that respiratory protective equipment is first used according to subsection (A) or (C).

**Historical Note**

New Section R9-7-425 recodified from R12-1-425, at 24 A.A.R. 813, effective March 22, 2018 (Supp. 18-1).

**R9-7-426. Security of Stored Sources of Radiation**

A licensee or registrant shall secure from unauthorized removal or access licensed or registered sources of radiation that are stored in unrestricted areas.



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**Historical Note**

New Section R9-7-426 recodified from R12-1-426, at 24  
A.A.R. 813, effective March 22, 2018 (Supp. 18-1).

**R9-7-427. Control of Sources of Radiation Not in Storage**

- A. A licensee shall control and maintain constant surveillance of licensed radioactive material that is in an unrestricted area and is not in storage or in a patient.
- B. A registrant shall maintain control of radiation machines that are in an unrestricted area and not in storage.

**Historical Note**

New Section R9-7-427 recodified from R12-1-427, at 24  
A.A.R. 813, effective March 22, 2018 (Supp. 18-1).

**R9-7-428. Caution Signs**

- A. Unless otherwise authorized by the Department, a licensee or registrant shall use the symbol prescribed by this Section with the colors magenta, or purple, or black on yellow background as the standard radiation symbol. The symbol prescribed is the three-bladed design as follows:

**RADIATION SYMBOL**

1. Cross-hatched area is to be magenta, purple, or black; and
2. The background is to be yellow.



- B. Notwithstanding the requirements of subsection (A), licensees or registrants are authorized to label sources of radiation, source holders, or device components containing sources of radiation that are subjected to high temperatures, with conspicuously etched or stamped radiation caution symbols that lack the color scheme required in subsection A.
- C. In addition to the contents of signs and labels prescribed in this Article, the licensee or registrant shall provide, on or near the required signs and labels, additional information to make individuals aware of potential radiation exposures and to minimize the exposures.

**Historical Note**

New Section R9-7-428 recodified from R12-1-428, at 24  
A.A.R. 813, effective March 22, 2018 (Supp. 18-1).

**R9-7-429. Posting**

- A. A licensee or registrant shall post each radiation area with a conspicuous sign or signs bearing the radiation symbol and the words "CAUTION, RADIATION AREA."
- B. The licensee or registrant shall post each high radiation area with a conspicuous sign or signs bearing the radiation symbol and the words "CAUTION, HIGH RADIATION AREA" or "DANGER, HIGH RADIATION AREA."
- C. The licensee or registrant shall post each very-high radiation area with a conspicuous sign or signs bearing the radiation symbol and the words "GRAVE DANGER, VERY HIGH RADIATION AREA."
- D. The licensee shall post each airborne radioactivity area with a conspicuous sign or signs bearing the radiation symbol and the words "CAUTION, AIRBORNE RADIOACTIVITY AREA" or "DANGER, AIRBORNE RADIOACTIVITY AREA."

- E. The licensee shall post each area or room in which there is used or stored an amount of licensed material exceeding 10 times the quantity of licensed material specified in Appendix C with a conspicuous sign or signs bearing the radiation symbol and the words "CAUTION, RADIOACTIVE MATERIAL(S)" or "DANGER, RADIOACTIVE MATERIAL(S)."

**Historical Note**

New Section R9-7-429 recodified from R12-1-429, at 24  
A.A.R. 813, effective March 22, 2018 (Supp. 18-1).

**R9-7-430. Exceptions to Posting Requirements**

- A. A licensee or registrant is not required to post caution signs in areas or rooms containing sources of radiation for periods of less than eight hours, if each of the following conditions is met:
  1. The sources of radiation are constantly attended during these periods by an individual who takes precautions necessary to prevent exposure of individuals to sources of radiation in excess of limits established in this Article; and
  2. The area or room is subject to the licensee's or registrant's control.
- B. A licensee or registrant is not required to post a caution sign in a room or other area in a hospital that is occupied by an individual who has been administered radioactive material, if the individual meets the criteria for release in R9-7-719.
- C. A licensee or registrant is not required to post a caution sign in a room or area because of the presence of a sealed source, provided the radiation level at 30 centimeters from the surface of the sealed source container or housing does not exceed 0.05 mSv (0.005 rem) per hour.
- D. A hospital or clinic licensee is exempt from the posting requirements in R9-7-429 for a teletherapy room if:
  1. Access to the room is controlled according to R9-7-731; and
  2. Personnel in attendance take necessary precautions to prevent the inadvertent exposure of workers, other patients, and members of the public to radiation that exceeds the limits established in this Chapter.
- E. A registrant is not required to post a caution sign in a room or area because of the presence of radiation machines used solely for diagnosis in the healing arts.

**Historical Note**

New Section R9-7-430 recodified from R12-1-430, at 24  
A.A.R. 813, effective March 22, 2018 (Supp. 18-1).

**R9-7-431. Labeling Containers and Radiation Machines**

- A. A licensee shall ensure that each container of licensed material is labeled with a durable, clearly visible radiation symbol and the words "CAUTION, RADIOACTIVE MATERIAL" or "DANGER, RADIOACTIVE MATERIAL." The label shall also provide information, such as the radionuclides present, an estimate of the quantity of radioactivity, the date for which the radioactivity is estimated, radiation level, kind of material, and mass enrichment, to permit an individual handling or using a container, or working in the vicinity of a container, to take precautions to avoid or minimize exposure.
- B. Before removal or disposal of an empty, uncontaminated container to an unrestricted area, each licensee shall remove or deface the radioactive material label or otherwise clearly indicate that the container no longer contains radioactive materials.
- C. Each registrant shall ensure that each radiation machine is labeled in a conspicuous manner to caution an individual that radiation is produced when it is energized.

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- D. A licensee shall label each syringe and vial that contains a radiopharmaceutical used in the practice of medicine with the radiopharmaceutical content. Each syringe shield and vial shield shall be labeled, unless the label on the syringe or vial is visible when shielded. The label shall contain the radiopharmaceutical name or its abbreviation, the clinical procedure to be performed, or the name of the person being administered the radiopharmaceutical. Color-coding syringe shields and vial shields does not meet the labeling requirement.

**Historical Note**

New Section R9-7-431 recodified from R12-1-431, at 24 A.A.R. 813, effective March 22, 2018 (Supp. 18-1).

**R9-7-432. Labeling Exemptions**

A licensee is not required to label:

1. Containers holding licensed material in quantities less than the quantities listed in Appendix C;
2. Containers holding licensed material in concentrations less than those specified in Table III of Appendix B;
3. Containers attended by an individual who takes precautions necessary to prevent exposure of individuals to radiation in excess of the limits established in this Article;
4. Containers holding radioactive material that do not exceed the limits for excepted quantity or article as defined and limited in 49 CFR 173.403, and 173.421 through 173.424, and are transported, packaged, and labeled in accordance with 49 CFR 172.436 through 172.440 (Revised October 1, 2007, incorporated by reference, and available under R9-7-101. This incorporated material contains no future editions or amendments.);
5. Containers that are accessible only to individuals authorized to handle, use, or work in the vicinity of the containers, if the contents are identified to these individuals by a readily available written record, retained as long as the container is in use for the purpose indicated on the record. (Examples of containers of this type are containers in locations such as water-filled canals, storage vaults, or hot cells.); or
6. Installed manufacturing or process equipment, such as piping and tanks.

**Historical Note**

New Section R9-7-432 recodified from R12-1-432, at 24 A.A.R. 813, effective March 22, 2018 (Supp. 18-1).

**R9-7-433. Procedures for Receiving and Opening Packages**

- A. Each licensee who expects to receive a package containing quantities of radioactive material in excess of a Type A quantity, as defined in 10 CFR 71.4, January 1, 2005, which is incorporated by reference, published by the Office of the Federal Register, National Archives and Records Administration, Washington, D.C. 20408, and on file with the Department. The material incorporated by reference contains no future editions or amendments. The licensee shall make arrangements to receive:
1. The package when the carrier offers it for delivery; or
  2. The notification of the arrival of the package at the carrier's terminal and to take possession of the package expeditiously.
- B. Each licensee shall:
1. Monitor the external surfaces of a package, labeled with a Radioactive White I, Yellow II, or Yellow III as specified in 49 CFR 172.403 and 172.436 through 172.440, October 1, 2004, which are incorporated by reference, published by the Office of Federal Register, National Archives and Records Administration, Washington, D.C. 20408, and on file with the Department. The material

incorporated by reference contains no future editions or amendments. The licensee shall test the package for radioactive contamination, unless the package contains only radioactive material in the form of gas or in special form, as defined in R9-7-102; and

2. Monitor the external surfaces of a package, labeled with a Radioactive White I, Yellow II, or Yellow III as specified in subsection (B)(1), for radiation levels unless the package contains quantities of radioactive material that are less than or equal to the Type A quantity, defined in 10 CFR 71, and referenced in subsection (A); and
  3. Monitor all packages known to contain radioactive material for radioactive contamination and radiation levels if there is evidence of degradation of package integrity, such as packages that are crushed, wet, or damaged.
- C. The licensee shall perform the monitoring required by subsection (B) as soon as practical after receipt of the package, but not later than three hours after the package is received at the licensee's facility if it is received during the licensee's normal working hours, or not later than three hours from the beginning of the next working day if it is received after working hours.
- D. The licensee shall immediately notify the final delivery carrier and the Department by telephone when:
1. Removable radioactive surface contamination exceeds 22 dpm/cm<sup>2</sup> for beta-gamma emitting radionuclides or 2.2 dpm/cm<sup>2</sup> for alpha-emitting radionuclides, wiping a minimum surface area of 300 square centimeters (46 square inches), or the entire surface if less than 300 square centimeters (46 square inches); or
  2. External radiation levels exceed the limits of 2 millisieverts (200 millirem) per hour.
- E. Each licensee shall:
1. Establish, maintain, and retain written procedures for safely opening packages that contain radioactive material, and
  2. Ensure that the procedures are followed and that due consideration is given to special instructions for the type of package being opened.
- F. Licensees transferring special form sources in vehicles owned or operated by the licensee to and from a work site are exempt from the contamination monitoring requirements of subsection (B) but are not exempt from the monitoring requirement in subsection (B) for measuring radiation levels that ensures that the source of radiation is still properly lodged in its shield.

**Historical Note**

New Section R9-7-433 recodified from R12-1-433, at 24 A.A.R. 813, effective March 22, 2018 (Supp. 18-1).

**R9-7-434. General Requirements for Waste Disposal**

- A. A licensee shall dispose of licensed material only:
1. By transfer to an authorized recipient as provided in R9-7-439 or in Article 3, or to the U.S. Department of Energy;
  2. By decay in storage, according to R9-7-438(C);
  3. By release in effluents within the limits in R9-7-416; or
  4. As authorized according to R9-7-435, R9-7-436, R9-7-437, R9-7-438, or R9-7-438.01;
- B. To receive waste that contains licensed material from other persons, a person shall be specifically licensed for:
1. Treatment prior to disposal,
  2. Treatment or disposal by incineration,
  3. Decay in storage,
  4. Disposal at a land disposal facility licensed according to Article 3, or

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5. Storage until transferred to a storage or disposal facility authorized to receive the waste.

**Historical Note**

New Section R9-7-434 recodified from R12-1-434, at 24 A.A.R. 813, effective March 22, 2018 (Supp. 18-1).

**R9-7-435. Method for Obtaining Approval of Proposed Disposal Procedures**

For disposal of licensed material generated in the licensee's operations, a licensee or applicant for a license may apply to the Department for approval of proposed disposal procedures, not otherwise authorized in this Chapter. Each application shall include:

1. A description of the waste containing licensed material to be disposed of, including the physical and chemical properties that have an impact on risk evaluation;
2. The proposed manner and conditions of waste disposal;
3. An analysis and evaluation of pertinent information on the nature of the environment;
4. The nature and location of other potentially affected facilities; and
5. An analysis and procedure to ensure that doses comply with R9-7-407(B), and are within the dose limits in this Article.

**Historical Note**

New Section R9-7-435 recodified from R12-1-435, at 24 A.A.R. 813, effective March 22, 2018 (Supp. 18-1).

**R9-7-436. Disposal by Release into Sanitary Sewerage System**

- A. A licensee may discharge licensed material into sanitary sewerage if each of the following conditions is satisfied:
  1. The material is readily soluble or is readily dispersible biological material, in water;
  2. The quantity of licensed radioactive material that the licensee releases into the sewer in one month divided by the average monthly volume of water released into the sewer by the licensee or registrant does not exceed the concentration listed in Appendix B, Table III; and
  3. If more than one radionuclide is released, the following conditions shall also be satisfied:
    - a. The licensee shall determine the fraction of the limit in Appendix B, Table III represented by discharges into sanitary sewerage by dividing the actual monthly average concentration of each radionuclide released by the licensee or registrant into the sewer by the concentration of that radionuclide listed in Appendix B, Table III;
    - b. The sum of the fractions for each radionuclide required by subsection (A)(3)(a) does not exceed unity; and
    - c. The total quantity of licensed radioactive material that the licensee releases into the sanitary sewerage in a year does not exceed 185 GBq (5 Ci) of Hydrogen-3, 37 GBq (1 Ci) of Carbon-14, and 37 GBq (1 Ci) of all other radioactive materials combined.
- B. Excreta from individuals undergoing medical diagnosis or therapy with radioactive material are not subject to the limitations contained in subsection (A).

**Historical Note**

New Section R9-7-436 recodified from R12-1-436, at 24 A.A.R. 813, effective March 22, 2018 (Supp. 18-1).

**R9-7-437. Treatment or Disposal by Incineration**

A licensee shall treat or dispose of licensed material by incineration only in the amounts and forms specified in R9-7-438 or as specifically approved by the Department according to R9-7-435.

**Historical Note**

New Section R9-7-436 recodified from R12-1-436, at 24 A.A.R. 813, effective March 22, 2018 (Supp. 18-1).

**R9-7-438. Disposal of Specific Wastes**

- A. A licensee may dispose of the following licensed material as if it were not radioactive:
  1. 1.85 kBq (0.05  $\mu$ Ci), or less, of Hydrogen-3 or Carbon-14 per gram of medium used for liquid scintillation counting; and
  2. 1.85 kBq (0.05  $\mu$ Ci), or less, of Hydrogen-3 or Carbon-14 per gram of animal tissue, averaged over the weight of the entire animal.
  3. 1.85 kBq (0.05  $\mu$ Ci), or less, of Iodine-125 per gram of medium used in analyzing in vitro laboratory samples and associated sample holders contaminated during the laboratory procedure.
- B. A licensee shall not dispose of tissue, contaminated with radioactive material, according to subsection (A)(2) in a manner that would permit its use either as food for humans or as animal feed.
- C. A licensee may hold radioactive material with a physical half-life of less than or equal to 120 days for decay in storage before disposal without regard to its radioactivity, and is exempt from the requirements of R9-7-434, provided:
  1. The licensee monitors the radioactive material at the surface before disposal and determines that its radioactivity cannot be distinguished from the background radiation level with an appropriate radiation detection survey meter set on its most sensitive scale and with no interposed shielding; and
  2. The licensee removes or obliterates all radiation labels, except for radiation labels on materials that are within containers and that will be managed as biomedical waste after they have been released from the licensee.
- D. The licensee shall maintain records in accordance with R9-7-441.

**Historical Note**

New Section R9-7-438 recodified from R12-1-438, at 24 A.A.R. 813, effective March 22, 2018 (Supp. 18-1).

**R9-7-438.01. Disposal of Certain Radioactive Material**

- A. Licensed material as defined in the definition of radioactive material in R9-7-102 may be disposed of in accordance with this Article, even though it is not defined as low-level radioactive waste. Therefore, any licensed radioactive material being disposed of at a facility, or transferred for ultimate disposal at a facility licensed by the Department, must meet the requirements of R9-7-439.
- B. A licensee may dispose of radioactive material, as defined in the definition of radioactive material in R9-7-102, at a disposal facility authorized to dispose of such material in accordance with any federal or state solid or hazardous waste law, including the Solid Waste Disposal Act, as authorized under the Energy Policy Act of 2005.

**Historical Note**

New Section R9-7-438.01 recodified from R12-1-438.01, at 24 A.A.R. 813, effective March 22, 2018 (Supp. 18-1).

**R9-7-439. Transfer for Disposal and Manifests**

- A. Any licensee shipping radioactive waste intended for ultimate disposal at a licensed land disposal facility (for purposes of this rule "land disposal facility" means the land, buildings, structures, and equipment that are intended to be used for the disposal of radioactive waste. A geologic repository is not a land disposal facility) shall comply with 10 CFR 20.2006 and

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10 CFR 20 Appendix G, published January 1, 2013, incorporated by reference, and available under R9-7-101. This incorporated material contains no future editions or amendments.

- B.** An authorized representative of the waste generator shall provide the certification required in 10 CFR 20, Appendix G, Section II, which is incorporated by reference in subsection (A).

**Historical Note**

New Section R9-7-439 recodified from R12-1-439, at 24 A.A.R. 813, effective March 22, 2018 (Supp. 18-1).

**R9-7-440. Compliance with Environmental and Health Protection Regulations**

Nothing in R9-7-434, R9-7-435, R9-7-436, R9-7-437, R9-7-438, or R9-7-439 relieves the licensee from complying with other applicable federal, state, and local rules or regulations governing any other toxic or hazardous properties of materials that may be disposed of according to the rules listed in Article 4 of this Chapter.

**Historical Note**

New Section R9-7-440 recodified from R12-1-440, at 24 A.A.R. 813, effective March 22, 2018 (Supp. 18-1).

**R9-7-441. Records of Waste Disposal**

- A.** Each licensee shall maintain records of the disposal of licensed materials made in accordance with R9-7-435, R9-7-436, R9-7-437, R9-7-438, and disposal by burial in soil, including burials authorized before February 25, 1985.
- B.** The licensee shall retain the records required by subsection (A) until the Department terminates each pertinent license requiring the record. The licensee shall provide for the disposition of these records prior to license termination.

**Historical Note**

New Section R9-7-441 recodified from R12-1-441, at 24 A.A.R. 813, effective March 22, 2018 (Supp. 18-1).

**R9-7-442. Department Inspection of Shipments of Waste**

Each shipment of waste to a disposal facility, licensed under R9-7-1302(D)(11), is subject to inspection by the Department before shipment or transportation. The waste shipper shall notify the Department not less than five working days before the scheduled shipment or transportation of waste to a licensed disposal facility.

**Historical Note**

New Section R9-7-442 recodified from R12-1-442, at 24 A.A.R. 813, effective March 22, 2018 (Supp. 18-1).

**R9-7-443. Reports of Stolen, Lost, or Missing Licensed or Registered Sources of Radiation**

- A.** Each licensee or registrant shall report to the Department by telephone as follows:
1. Immediately after it becomes known to the licensee that licensed radioactive material in an aggregate quantity equal to or greater than 1,000 times the quantity specified in Appendix C is stolen, lost, or missing under circumstances that indicate to the licensee that an exposure could result to individuals in unrestricted areas;
  2. Within 30 days after it becomes known to the licensee that licensed radioactive material in an aggregate quantity greater than 10 times the quantity specified in Appendix C is stolen, lost, or missing, and is still missing; and
  3. Immediately after it becomes known to the registrant that a radiation machine is stolen, lost, or missing.
- B.** Each licensee or registrant required to make a report according to subsection (A) shall, within 30 days after making the telephone report, make a written report to the Department that contains the following information:
1. A description of the licensed or registered source of radiation involved, including, for radioactive material, the

kind, quantity, and chemical and physical form; and, for radiation machines, the manufacturer, model, serial number, type, and maximum energy of radiation emitted;

2. A description of the circumstances under which the loss or theft occurred;
  3. A statement of disposition, or probable disposition, of the licensed or registered source of radiation;
  4. Exposures of individuals to radiation, circumstances under which the exposures occurred, and the possible total effective dose equivalent to persons in unrestricted areas;
  5. Actions that have been taken, or will be taken, to recover the source of radiation; and
  6. Procedures or measures that have been, or will be, adopted to ensure against a recurrence of the loss or theft of licensed or registered sources of radiation.
- C.** After filing the written report, the licensee or registrant shall also report additional substantive information on the loss or theft within 30 days after the licensee or registrant learns of the information.
- D.** The licensee or registrant shall provide the Department with the names of individuals who may have received an exposure to radiation as a result of an incident reported to the Department under subsection (B).

**Historical Note**

New Section R9-7-443 recodified from R12-1-443, at 24 A.A.R. 813, effective March 22, 2018 (Supp. 18-1).

**R9-7-444. Reports of Exposures, Radiation Levels, and Concentrations of Radioactive Material Exceeding the Limits**

- A.** In addition to the notification required by R9-7-445, each licensee or registrant shall submit a written report within 30 days after learning of any of the following:
1. Incidents for which notification is required by R9-7-445;
  2. Doses in excess of any of the following:
    - a. The occupational dose limits for adults in R9-7-408;
    - b. The occupational dose limits for a minor in R9-7-414;
    - c. The limits for an embryo or fetus of a declared pregnant woman in R9-7-415;
    - d. The limits for an individual member of the public in R9-7-416;
    - e. Any applicable limit in the license or registration; or
    - f. The ALARA limit on air emissions in R9-7-407;
  3. Levels of radiation or concentrations of radioactive material in:
    - a. A restricted area in excess of applicable limits in the license or registration, or
    - b. An unrestricted area in excess of 10 times the applicable limit in this Article or in the license or registration, whether or not this involves an exposure of any individual to a dose in excess of the limits in R9-7-416;
  4. Radiation levels or concentrations of radioactive material in excess of the standards in 40 CFR 190, 2003 edition, published July 1, 2003, by the Office of the Federal Register, National Archives and Records Administration, Washington, D.C. 20408 which is incorporated by reference and on file with the Department, if the licensee is subject to these federal standards, or there is a license condition referencing the 40 CFR 190 standards. This incorporation by reference contains no future editions or amendments.
- B.** Contents of reports.

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1. Each report shall contain a description of each individual's exposure to radiation and radioactive material, including as applicable:
    - a. Estimates of each individual's dose;
    - b. The levels of radiation and concentrations of radioactive material involved;
    - c. The cause of the elevated exposures, dose rates, or concentrations; and
    - d. Corrective steps taken or planned to ensure against a recurrence, including the schedule for achieving conformance with applicable limits, generally applicable environmental standards, and associated license or registration conditions.
  2. Each report filed according to subsection (A) shall include for each occupationally overexposed individual: name, Social Security number, and date of birth. With respect to the limit for an embryo or fetus in R9-7-415, the identifiers in the report should be those of the declared pregnant woman. The report shall be prepared so that information regarding each overexposed individual is stated in a separate and detachable part of the report.
- C. All licensees or registrants who make reports according to subsection (A) shall submit the report in writing to the Department.

**Historical Note**

New Section R9-7-444 recodified from R12-1-444, at 24 A.A.R. 813, effective March 22, 2018 (Supp. 18-1).

**R9-7-445. Notification of Incidents**

- A. Immediate notification: Each licensee or registrant shall immediately report to the Department any event involving a radiation source that may have caused or threatens to cause any of the following conditions:
1. An individual to receive:
    - a. A total effective dose equivalent of 0.25 Sv (25 rem) or more;
    - b. A lens dose equivalent of 0.75 Sv (75 rem) or more; or
    - c. A shallow-dose equivalent to the skin or extremities of 2.5 Gy (250 rads) or more; or
  2. The release of radioactive material, inside or outside of a restricted area, so if an individual had been present for 24 hours, the individual could have received five times the annual limit on intake (this subsection do not apply to a location where personnel are not normally stationed during routine operations, such as a hot-cell or process enclosure).
- B. Twenty-four hour notification: Each licensee or registrant shall, within 24 hours of discovery of the event, report to the Department any event involving loss of control of a radiation source possessed by the licensee or registrant that may have caused, or threatens to cause, any of the following conditions:
1. An individual to receive, in a period of 24 hours
    - a. A total effective dose equivalent exceeding 0.05 Sv (5 rem);
    - b. A lens dose equivalent exceeding 0.15 Sv (15 rem); or
    - c. A shallow-dose equivalent to the skin or extremities exceeding 0.5 Gy (50 rads); or
  2. The release of radioactive material, inside or outside of a restricted area, so, if an individual had been present for 24 hours, the individual could have received an intake in excess of one occupational annual limit of intake (this subsection does not apply to a location where personnel are not normally stationed during routine operations, such as a hot-cell or process enclosure).
- C. A licensee or registrant shall prepare any report filed with the Department according to this Section so that names of individuals who have received exposure to radiation or radioactive material are stated in a separate and detachable part of the report.
- D. A licensee or registrant shall report to the Department by telephone in response to the requirements of this Section.
- E. If the Department does not respond to the initial telephone call, the licensee or registrant shall report to the Department of Public Safety and continue with reasonable efforts to contact the Department Duty Officer until contact is made.
- F. The provisions of this Section do not apply to a dose that results from a planned special exposure, if the dose is within the limits for planned special exposures and reported according to R9-7-413(C).

**Historical Note**

New Section R9-7-445 recodified from R12-1-445, at 24 A.A.R. 813, effective March 22, 2018 (Supp. 18-1).

**R9-7-446. Notifications and Reports to Individuals**

- A. Requirements for notification and reports to individuals of exposure to radiation or radioactive material are specified in R9-7-1004.
- B. In addition to the reporting requirements in R9-7-444 and R9-7-445, each licensee or registrant shall notify the individual exposed to radiation or radioactive material. The notice to the exposed individual shall be provided no later than the date the report is submitted to the Department and shall comply with R9-7-1004(A).

**Historical Note**

New Section R9-7-446 recodified from R12-1-446, at 24 A.A.R. 813, effective March 22, 2018 (Supp. 18-1).

**R9-7-447. Vacating Premises**

- A. If a facility has been used for activities involving radioactive material a licensee shall notify the Department in writing of the intent to vacate the facility no less than 45 days before relinquishing possession or control of the facility.
- B. If a facility is contaminated with radioactive material, a licensee vacating the facility shall decontaminate it using Department-approved procedures.
- C. The Department shall inspect a vacated facility to determine whether it is contaminated with radioactive material.

**Historical Note**

New Section R9-7-447 recodified from R12-1-447, at 24 A.A.R. 813, effective March 22, 2018 (Supp. 18-1).

**R9-7-448. Additional Reporting**

- A. Each licensee shall notify the Department as soon as possible, but not later than four hours after the discovery of an event, and take immediate protective actions necessary to avoid exposures to radiation or radioactive materials that could exceed the limits specified in this Chapter or releases of licensed material that could exceed the limits specified in this Chapter. For purposes of this Section, event means a radiation accident involving a fire, explosion, gas release, or similar occurrence.
- B. Each licensee shall notify the Department within 24 hours after discovering any of the following events involving licensed material:
1. A contamination event that:
    - a. Requires that anyone having access to the contaminated area be restricted for more than 24 hours by

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the imposition of additional radiological controls to prohibit entry into the area;

- b. Involves a quantity of radioactive material greater than five times the lowest annual limit on intake specified in Appendix B of this Article; and
  - c. Results in access to the contaminated area being restricted for a reason other than to allow radionuclides with a half-life of less than 24 hours to decay prior to decontamination.
2. An event in which equipment is disabled or fails to function as designed when:
- a. The equipment is part of a system designed to prevent releases exceeding the limits specified in this Chapter, to prevent exposures to radiation and radioactive materials exceeding limits specified in this Chapter, or to mitigate the consequences of an accident;
  - b. The equipment performs a safety function; and
  - c. No redundant equipment is available and operable to perform the required safety function.
3. An event that requires urgent medical treatment of an individual with radioactive contamination on the individual's clothing or body.
4. A fire or explosion damaging any licensed material or any device, container, or equipment containing licensed material when:
- a. The quantity of material involved is greater than five times the lowest annual limit on intake specified in Appendix B of this Article, and
  - b. The damage affects the integrity of the licensed material or its container.
- C. Each licensee shall make reports required by subsections (A) and (B) above by telephone to the Department. To the extent that the information is available at the time of notification, the information provided in these reports shall include:
- 1. The callers's name, official title, and call back telephone number;
  - 2. A description of the event, including date and time;
  - 3. The exact location of the event;
  - 4. The isotopes, quantities, and chemical and physical form of the licensed material involved; and
  - 5. Any personnel radiation exposure data available.
- D. Each licensee who makes a report required by subsection (A) or (B) shall submit to the Department a written follow-up report within 30 days of the initial report. Written reports prepared as required by other rules may be submitted to fulfill this requirement if the reports contain all of the required information in this subsection. The report shall include the following:
- 1. A description of the event, including the probable cause and the manufacturer and model number (if applicable) of any equipment that failed or malfunctioned;
  - 2. The exact location of the event;
  - 3. The isotopes, quantities, and chemical and physical form of the licensed material involved;
  - 4. Date and time of the event;
  - 5. Corrective actions taken or planned and the results of any evaluations or assessments; and
  - 6. The extent of personnel exposure to radiation or to radioactive materials without identification of each exposed individual by name.
- E. Each licensee that makes a report required by subsection (A) or (B) shall submit a written follow-up report to the Department within 30 days after the initial report.

**Historical Note**

New Section R9-7-448 recodified from R12-1-448, at 24 A.A.R. 813, effective March 22, 2018 (Supp. 18-1).

Amended by final expedited rulemaking at 24 A.A.R. 2151, effective July 12, 2018 (Supp. 18-3). Amended by final expedited rulemaking at 26 A.A.R. 1067, with an immediate effective date of May 6, 2020 (Supp. 20-2).

**R9-7-449. Survey Instruments and Pocket Dosimeters**

- A. Each licensee or registrant shall ensure that survey instruments used to show compliance with this Article have been calibrated before first use, annually, and following repair, unless otherwise specified in this Chapter.
- B. To satisfy the requirements of subsection (A), the licensee or registrant shall:
  - 1. For each scale to be calibrated, calibrate two readings separated by at least 50 percent of scale rating; and
  - 2. Conspicuously note on the instrument the apparent radiation level, in appropriate units for the type of survey instrument being used and the date of calibration.
- C. Each licensee or registrant shall check each survey instrument for proper operation with the dedicated check source after calibration and before each use.
- D. The licensee or registrant shall retain a record of each calibration required in subsection (A) for three years. The record shall include:
  - 1. A description of the calibration procedure; and
  - 2. A description of the source used, the certified dose rates from the source, the rates indicated by the instrument being calibrated, the correction factors deduced from the calibration data, the signature of the individual who performed the calibration, and the date of calibration.
- E. To meet the requirements of subsections (A), (B), and (C), the licensee or registrant may obtain the services of persons licensed or registered by the Department, the NRC, an Agreement State, or a Licensing State to perform calibrations of survey instruments. Licensing records of the service person authorization shall be maintained for three years by the licensee or registrant obtaining the service.
- F. Each licensee or registrant shall ensure that pocket dosimeters used to show compliance with this Article:
  - 1. Have been evaluated for proper operation annually and following repair, using a procedure acceptable to the Department, unless a more frequent evaluation is required by license condition (Unless the dosimeter is electronic, the evaluation of the dosimeter shall include a drift test over a 24-hour period.); and
  - 2. Meet the performance criteria listed in R9-7-523(C) and R9-7-1130(C).
- G. Records of personnel dosimeter operational checks shall be maintained for three years.

**Historical Note**

New Section R9-7-449 recodified from R12-1-449, at 24 A.A.R. 813, effective March 22, 2018 (Supp. 18-1).

**R9-7-450. Sealed Sources**

- A. A licensee shall only receive, possess, and use radioactive materials contained in a sealed source that has been manufactured, labeled, packaged, and distributed in accordance with a specific license for its manufacture and distribution. The license to manufacture and distribute a sealed source shall be issued by the Department, the U.S. Nuclear Regulatory Commission, a Licensing State, or another Agreement State.
- B. A licensee who possesses and uses a sealed source, or any device or equipment that contains a sealed source, shall follow the radiation safety and handling instructions approved by the Department or follow the radiation safety and handling instructions furnished by the manufacturer on the label attached to the source, on the permanent container of the source, or in a leaflet or brochure that accompanies the source,

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and maintain the instructions in a legible and conveniently available form. If the handling instructions, leaflet, or brochure is no longer available and a copy cannot be obtained from the manufacturer, the licensee shall notify the Department that the source handling information is no longer available.

**C. Inventories:**

1. An inventory shall be conducted at intervals not to exceed six months, unless a shorter interval is specified by license condition.
2. The records of the inventory shall be maintained for three years from the date of the inventory, and shall be available for inspection by the Department.
3. The information recorded shall include:
  - a. The kind and quantity of radioactive material,
  - b. The model and serial number of the source or the device in which it is mounted,
  - c. The location of the sealed source,
  - d. The date of the inventory, and
  - e. The signature of the person performing the inventory.

**D. Any licensee who possesses and uses sealed sources in the practice of medicine shall conduct a physical inventory according to the requirements in 9 A.A.C. 7, Article 7.**

**E. Sealed sources, containing radioactive material, shall not be opened unless authorized by license condition.**

**F. Sealed sources and machines, devices, or equipment containing sealed sources shall be used in accordance with procedures described in the manufacturer's instructions and the safety precautions described in the Nuclear Regulatory Commission Sealed Sources and Device Registry, unless the instructions or precautions conflict with these rules or license condition.**

**Historical Note**

New Section R9-7-450 recodified from R12-1-450, at 24 A.A.R. 813, effective March 22, 2018 (Supp. 18-1).

**R9-7-451. Termination of a Radioactive Material License or a Licensed Activity**

**A. As the final step before terminating a radioactive material use program licensed under R9-7-312, the licensee shall:**

1. Certify to the Department the disposition of all licensed material, including accumulated wastes, by submitting a complete description of a disposal plan with signed receipts from all licensed persons receiving the licensed material; and
2. Conduct a radiation survey of the premises where the licensed activities were carried out to demonstrate that the premises are suitable for release in accordance with the criteria for decommissioning in R9-7-452 and submit to the Department a report of the results of this survey, unless the licensee demonstrates in some other manner acceptable to the Department that the premises are suitable for release in accordance with the criteria for decommissioning in R9-7-452.

**B. Before terminating a licensed program, each licensee authorized to possess radioactive material with a half-life greater than 120 days, in any unsealed form, shall forward the following records to the Department:**

1. Records of disposal of the licensed material required by R9-7-435, R9-7-436, R9-7-437, and R9-7-438; and
2. Records required by R9-7-418.

**C. If a licensed activity is transferred or assigned in accordance with subsection (E), each licensee authorized to possess radioactive material with a half-life greater than 120 days, in any unsealed form, shall transfer the following records to the new**

licensee and the new licensee shall maintain these records until the license is terminated:

1. Records of disposal of licensed material required by R9-7-435, R9-7-436, R9-7-437, and R9-7-438; and
2. Records required by R9-7-418.

**D. Before the Department terminates a license, each licensee shall forward the records required by subsection (E) to the Department.**

**E. A person licensed under R9-7-312 shall maintain required records regarding decommissioning of a facility in a location identified on the license until the Department releases the site for unrestricted use. Before transfer or assignment of licensed activities, a licensee shall transfer all records required by this Section to the transferee. If records relating to facility decommissioning are kept for other purposes, the transferee shall refer to these records and provide their location on the transferee's application for a license. The transferee shall maintain the records until the Department terminates the transferee's new license. The new licensee shall maintain the following decommissioning records for Department review:**

1. Records of spills or other occurrences involving the spread of contamination in and around the facility, equipment, or site. The licensee shall maintain a record of any instance when contamination remains after cleanup procedures or there is a reasonable likelihood that a contaminant has spread to an inaccessible area, as in the case of possible seepage into porous material such as concrete. These records shall include any known information that identifies any radionuclide involved and its quantity, form, and concentration.
2. As-built drawings showing modifications of structures and equipment in restricted areas where radioactive materials are used or stored, and locations of possible inaccessible contamination, such as buried pipes. If as-built drawings are referenced, the licensee need not index each relevant document individually. If drawings are not available, the licensee shall provide records with known information concerning these areas and locations, as prescribed in subsection (E)(1).
3. Except for areas that contain depleted uranium used only for shielding or as penetrators in unused munitions, a list, contained in a single document and updated every two years, of the following:
  - a. Any area designated or formerly designated as a restricted area as defined under R9-7-102;
  - b. Any area outside of a restricted area for which documentation is required under subsection (B)(1);
  - c. Any area outside of a restricted area where wastes have been buried;
  - d. Any area outside of a restricted area that contains regulated radioactive material that will require the licensee to either decontaminate the area for decommissioning under R9-7-452 or obtain disposal approval under R9-7-435; and
  - e. Any restricted area where wastes have been buried.
4. Records of the cost estimate performed for the decommissioning funding plan or the amount certified by the Department for decommissioning and the method for assuring funding, if either a funding plan or certification is used.

**Historical Note**

New Section R9-7-451 recodified from R12-1-451, at 24 A.A.R. 813, effective March 22, 2018 (Supp. 18-1).

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Amended by final expedited rulemaking at 24 A.A.R.  
2151, effective July 12, 2018 (Supp. 18-3).

**R9-7-452. Radiological Criteria for License Termination****A. General provisions and scope:**

1. The criteria in this Section apply to the decommissioning of facilities licensed under Article 3 of this Chapter. The criteria do not apply to uranium and thorium recovery facilities already subject to 10 CFR 40, Appendix A, or to uranium solution extraction facilities.
2. The criteria in this Section do not apply to sites that:
  - a. Have been decommissioned before the effective date of this Section; or
  - b. Have previously submitted and received Department approval of a license termination plan (LTP) or decommissioning plan.
3. If a site has been decommissioned and the license terminated in accordance with the criteria in this Section, the Department shall not require additional cleanup unless, based on new information, the Department determines that the criteria of this Section were not met and residual radioactivity at the site is a threat to public health and safety.
4. When calculating the TEDE for the average member of the critical group, a licensee shall use the peak annual dose expected within the first 1000 years after decommissioning.

**B. Radiological criteria for unrestricted use.** The Department considers a site acceptable for unrestricted use if the licensee reduces residual radioactivity, distinguishable from background radiation, to a TEDE for an average member of the critical group that does not exceed 0.15 mSv (15 mrem) per year, including radiation from groundwater sources of drinking water, and the residual radioactivity is as low as reasonably achievable (ALARA). To determine the level that is ALARA, the Department and the licensee shall take into account any detriment, such as deaths from transportation accidents, that is likely to result from decontamination and waste disposal.**C. Criteria for license termination under restrictive conditions.** The Department considers a site acceptable for license termination if the licensee meets all of the following restrictive conditions:

1. The licensee demonstrates that a reduction in residual radioactivity, necessary to comply with subsection (B), will result in net public or environmental harm or is not being made because the residual level of radioactivity is ALARA. To determine the level that is ALARA, the Department and the licensee shall take into account any detriment, such as deaths from transportation accidents, that is likely to result from decontamination and waste disposal;
2. The licensee establishes one or more legally enforceable institutional controls that reduce residual radioactivity, distinguishable from background radiation, to a TEDE for the average member of the critical group that does not exceed (0.15 mSv) 15 mrem per year, including radiation from groundwater sources of drinking water;
3. The licensee demonstrates financial assurance that complies with R9-7-323(C), which enables an independent third party, including a governmental custodian of the site, to assume and carry out responsibilities for control and maintenance of the site and funds placed into a trust segregated from the licensee's assets and outside the licensee's administrative control, and in which the adequacy of the trust funds is to be assessed based on an assumed annual 1 percent real rate of return on investment;

4. The licensee submits a decommissioning plan or License Termination Plan (LTP) to the Department, indicating the licensee's intent to decommission in accordance with R9-7-323 and specifying that the licensee intends to decommission by restricting use of the site. The licensee shall document in the LTP or decommissioning plan how comments from individuals and institutions in the community, who may be affected by the decommissioning, have been sought and addressed after analysis.

- a. If a licensee is restricting use of the site, the licensee shall seek comments from the public concerning the proposed decommissioning, regarding all of the following matters:

- i. Whether the institutional controls proposed by the licensee will reduce residual radioactivity, distinguishable from background radiation, to a TEDE for the average member of the critical group that does not exceed 0.15 mSv (15 mrem) per year; are enforceable; and do not impose an unreasonable burden on the local community or other affected parties; and
- ii. Whether the licensee has provided financial assurance that complies with R9-7-323(C), which enables an independent third party, including a governmental custodian of the site, to assume and carry out responsibilities for control and maintenance of the site;

- b. In seeking comments on the issues identified in subsection (C)(4)(a), the licensee shall provide for:

- i. Participation by representatives of a broad cross section of community interests that may be affected by the decommissioning;
- ii. An opportunity for a comprehensive discussion of the issues by all of the community representatives; and
- iii. A publicly available document that contains or access to each oral and written comment that reflects the viewpoints of community representatives on each issue and the extent of agreement or disagreement among representatives on each issue; and

5. The licensee reduces residual radioactivity, distinguishable from background radiation, at the site so that if the institutional controls are no longer in effect, the TEDE for the average member of the critical group is as low as reasonably achievable and does not exceed 1 mSv (100 mrem) per year; unless the licensee:

- a. Demonstrates that a further reduction in residual radioactivity necessary to comply with subsection (C)(5) is not technically achievable or economically feasible, or will result in net public or environmental harm;
- b. Provides for durable institutional controls; and
- c. Provides financial assurance that complies with R9-7-323(C), which enables an independent third party, including a governmental custodian of the site, to carry out periodic rechecks of the site, no less frequently than every five years; assures that each institutional control remains in place according to subsection (C)(3); and assumes and carries out responsibilities for maintenance of the institutional control.

**D. Alternate criteria for license termination:**

1. Based on circumstances that relate to a specific license, the Department may terminate the license using the following alternate criteria for subsections (B) or (C)(2), if



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the licensee demonstrates that the TEDE from residual radioactivity, distinguishable from background radiation, for an average member of the critical group does not exceed 0.15 mSv (15 mrem) per year, and if the licensee:

- a. Ensures that public health and safety is protected by submitting an analysis of possible sources of exposure, prepared by a independent qualified expert, which indicates whether it is likely that the dose from all human-made sources combined, other than medical sources, is more than the 1 mSv/y (100 mrem/y) limit in R9-7-416;
  - b. Employs to the extent practicable, restrictions on site use, according to the provisions of subsection (C) to minimize exposures at the site;
  - c. Reduces doses to ALARA levels, taking into consideration any detriments such as traffic accidents expected to potentially result from decontamination and waste disposal; d.Submits a decommissioning plan or License Termination Plan (LTP) to the Department that indicates the licensee's intent to decommission in accordance with R9-7-323, and specifies that the licensee proposes to decommission by use of alternate criteria. The licensee shall document in the decommissioning plan or LTP how comments from individuals and institutions in the community, who may be affected by the decommissioning, have been sought and addressed after analysis. In seeking comments, the licensee shall provide for:
    - i. Participation by representatives of a broad cross section of community interests that may be affected by the decommissioning;
    - ii. An opportunity for a comprehensive discussion of the issues by all of the community representatives; and
    - iii. A publicly available document that contains or access to each oral and written comment that reflects viewpoints of community representatives on each issue and the extent of agreement and disagreement among the representatives on each issue; and
  - e. Has provided sufficient financial assurance in the form of a trust fund to enable an independent third party, including a governmental custodian of a site, to assume and carry out responsibilities for any necessary control and maintenance of the site.
2. The use of alternate criteria to terminate a license requires approval by the Department after consideration of any comments provided by the U.S. Environmental Protection Agency and any public comments submitted under subsection (E).

**E. Public notification and public participation:**

1. Upon the receipt of an LTP or decommissioning plan from a licensee, or a proposal by a licensee for release of a site under subsection (C) or (D), or whenever the Department determines that notice will serve the public interest, the Department shall notify and solicit comments from:
  - a. Local and state governments in the vicinity of the site and any Indian Nation or other indigenous people that have treaty or statutory rights that could be affected by the decommissioning; and
  - b. The U.S. Environmental Protection Agency.
2. To comply with subsection(E)(1) the Department shall publish a notice in a local newspaper, send letters to state or local organizations on its mailing list, hold a public

hearing that is readily accessible to individuals in the vicinity of the site, and solicit comments from the public.

- F. Minimization of contamination.** After the effective date of this Section, an applicant for a license, other than a renewal, shall describe in the application how facility design and procedures for operation will facilitate eventual decommissioning and minimize, to the extent practicable, the generation of radioactive waste and contamination of the facility and the environment.
1. Applicants for standard design certifications, standard design approvals, and manufacturing licenses shall describe in the application how facility design will minimize, to the extent practicable, contamination of the facility and the environment, facilitate eventual decommissioning, and minimize, to the extent practicable, the generation of radioactive waste.
  2. Licensees shall, to the extent practical, conduct operations to minimize the introduction of residual radioactivity into the site, including the subsurface, in accordance with the existing radiation protection requirements in this Article and radiological criteria for license termination in this Article.
- G.** The Department considers a site acceptable for unrestricted use if the residual radioactivity, distinguishable from background radiation, is equal to or less than the values in Table 1.

**Historical Note**

New Section R9-7-452 recodified from R12-1-452, at 24 A.A.R. 813, effective March 22, 2018 (Supp. 18-1).

**Table 1. Acceptable Surface Contamination Levels**

Radionuclide <sup>1</sup>	Average <sup>2,3</sup>	Maximum <sup>2,4</sup>	Removable <sup>2,5</sup>
U-nat, U-235, U-238, and associated decay products	5,000 dpm/ 100 cm <sup>2</sup>	15,000 dpm/ 100cm <sup>2</sup>	1,000 dpm/ 100 cm <sup>2</sup>
Transuranics, Ra-226, Ra-228, Th-230, Pa-231, Ac-227, I-125, I-129	100dpm/ 100cm <sup>2</sup>	300 dpm/ 100cm <sup>2</sup>	20dpm/ 100cm <sup>2</sup>
Th-nat, Th-232, Sr-90, Ra-223, Ra-224, U-232, I-126, I-131, I-133	1000 dpm/ 100cm <sup>2</sup>	3000 dpm/ 100cm <sup>2</sup>	200 dpm/ 100cm <sup>2</sup>
Beta-gamma (Exceptions noted above)	5,000 dpm/ 100 cm <sup>2</sup>	15,000 dpm/ 100cm <sup>2</sup>	1,000 dpm/ 100 cm <sup>2</sup>

<sup>1</sup> Where surface contamination by both alpha-and beta-gamma-emitting radionuclides exists, the limits established for alpha-and beta-gamma-emitting radionuclides apply independently.

<sup>2</sup> As used in this table, dpm (disintegrations per minute) means the rate of emission by radioactive material as determined by correcting the counts per minute observed on an instrument calibrated for background, efficiency, and geometric factors associated with the instrumentation, in accordance with R9-7-449.

<sup>3</sup> Measurements of average contamination level shall not be averaged over more than one square meter. For objects of less surface area, the average shall be derived for each object.

<sup>4</sup> The maximum contamination level applies to an area of not more than 100 cm<sup>2</sup>.

<sup>5</sup> The amount of removable radioactive material per 100 cm<sup>2</sup> of surface area shall be determined by wiping that area with dry filter or soft absorbent paper, applying moderate pressure, and assessing

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the amount of radioactive material on the wipe with an instrument calibrated in accordance with R9-7-449. When removable contamination on objects of surface area A (where A is less than 100 sq. cm) is determined, the entire surface shall be wiped and the contamination level multiplied by 100/A to convert to a "per 100 sq. cm" basis.

**Historical Note**

New Article 4, Table 1 recodified from 12 A.A.C. 1, Article 4, Table 1, at 24 A.A.R. 813, effective March 22, 2018 (Supp. 18-1).

**R9-7-453. Reports to Individuals of Exceeding Dose Limits**

Any licensee or registrant that reports a personnel exposure to the Department in accordance with R9-7-413(A)(6), R9-7-444, or R9-7-452 shall:

1. Notify the exposed individual of the exposure addressed in the report; and
2. Transmit the report to the exposed individual at the same time the Department is notified of the exposure.

**Historical Note**

New Section R9-7-453 recodified from R12-1-453, at 24 A.A.R. 813, effective March 22, 2018 (Supp. 18-1).

**R9-7-454. Nationally Tracked Sources**

- A. A licensee who manufactures, receives, transfers, disassembles, or disposes of a nationally tracked source shall complete and submit to the Nuclear Regulatory Commission's National Source Tracking System and the Department, a National Source Tracking Transaction Report that contains the information required in 10 CFR 20.2207(a) through (e), revised January 1, 2008, incorporated by reference, and available under R9-7-101. This incorporated material contains no future editions or amendments. The report shall be submitted by the close of the next business day after the transaction using a reporting method specified in 10 CFR 20.2207(f), revised January 1, 2008, incorporated by reference, and available under

R9-7-101. This incorporated material contains no future editions or amendments.

- B. The initial National Source Tracking Transaction Report shall contain the information required in subsection (A), be submitted using a method specified in 10 CFR 20.2207(f) and include the additional information required by 10 CFR 20.2207(h)(1) through (6), revised January 1, 2008, incorporated by reference, and available under R9-7-101. This incorporated material contains no future editions or amendments.
- C. A licensee shall correct any error in previously filed National Source Tracking Transaction Reports or file a new report for any missed transaction within five business days of the discovery of the error or missed transaction in accordance with 10 CFR 20.2207(g), revised January 1, 2008, incorporated by reference, and available under R9-7-101. This incorporated material contains no future editions or amendments.
- D. A licensee who receives a nationally tracked sealed source shall not disassemble the source unless specifically authorized to do so by the Department.

**Historical Note**

New Section R9-7-454 recodified from R12-1-454, at 24 A.A.R. 813, effective March 22, 2018 (Supp. 18-1).

**R9-7-455. Security Requirements for Portable Gauges**

- A. A licensee that uses a portable gauge shall use a minimum of two independent controls to maintain security while:
1. Transporting a portable gauge; and
  2. Storing a portable gauge.
- B. Each control shall form a tangible barrier that will prevent unauthorized removal whenever a portable gauge is not under the control and constant surveillance of the licensee.
- C. A licensee shall employ controls approved by the Department.

**Historical Note**

New Section R9-7-455 recodified from R12-1-455, at 24 A.A.R. 813, effective March 22, 2018 (Supp. 18-1).

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**Appendix A. Assigned Protection Factors for Respirators<sup>a</sup>**

	Operating mode	Assigned Protection Factors
<b>I. Air Purifying Respirators [Particulate<sup>b</sup> only]<sup>c</sup>:</b>		
Filtering face piece disposable <sup>d</sup>	Negative	( <sup>d</sup> )
Face piece, half <sup>e</sup>	Negative Pressure	10
Face piece, full	Negative Pressure	100
Face piece, half	Powered Air-purifying Respirators	50
Face piece, full	Powered Air-purifying Respirators	1000
Helmet/hood	Powered Air-purifying Respirators	1000
Face piece, loose-fitting	Powered Air-purifying Respirators	25
<b>II. Atmosphere supplying respirators [particulate, gases and vapors<sup>f</sup>]:</b>		
<b>1. Air-line respirator:</b>		
Face piece, half	Demand	10
Face piece, half	Continuous Flow	50
Face piece, half	Pressure Demand	50
Face piece, full	Demand	100
Face piece, full	Continuous Flow	1000
Face piece, full	Pressure Demand	1000
Helmet/hood	Continuous Flow	1000
Face piece, loose-fitting	Continuous Flow	25
Suit	Continuous Flow	( <sup>g</sup> )
<b>2. Self-contained breathing Apparatus (SCBA):</b>		
Face piece, full	Demand	<sup>h</sup> 100
Face piece, full	Pressure Demand	<sup>1</sup> 10,000
Face piece, full	Demand, Recirculating	<sup>h</sup> 100
Face piece, full	Positive Pressure Recirculating	<sup>1</sup> 10,000
<b>III. Combination Respirators:</b>		
Any combination of air-purifying and atmosphere-supplying respirators	Assigned protection factor for type and mode of operation as listed above	

<sup>a</sup> These assigned protection factors apply only in a respiratory protection program that meets the requirements of this Article. They are applicable only to airborne radiological hazards and may not be appropriate if chemical or other respiratory hazards exist instead of, or in addition to, radioactive hazards. A licensee shall comply with Department of Labor regulations, regarding selection and use of respirators for those circumstances.

Radioactive contaminants for which the concentration values in Table 1, Column 3 of Appendix B are based on internal dose due to inhalation may, in addition, present external exposure hazards at higher concentrations. Under these circumstances, limitations on occupancy may have to be governed by external dose limits.

<sup>b</sup> A licensee shall equip air purifying respirators of APF<100 with particulate filters that are at least 95 percent efficient. The licensee shall equip air purifying respirators of APF=100 with particulate filters that are at least 99 percent efficient. The licensee shall equip air purifying respirators of APF>100 with particulate filters that are at least 99.97 percent efficient.

<sup>c</sup> A licensee may apply to the Commission for the use of an APF greater than 1 for sorbent cartridges as protection against airborne radioactive gases and vapors, similar to radioiodine.

<sup>d</sup> A Licensee may permit an individual to use this type of respirator if the individual has not been medically screened or fit tested on the device, provided that no credit is taken for use of these respirators in estimation of intake or dose. It is also recognized that it is difficult to perform an effective positive or negative pressure pre-use seal check on this type of device. All other respiratory protection program requirements listed in 10 CFR 20.1703, January 2000 Edition, and published January 1, 2000, apply and are incorporated by reference and available for review at the Department and Secretary of State. This incorporation by reference contains no future editions or amendments. There is no assigned protection factor for these devices. However, a licensee may use an APF equal to 10 if the licensee can demonstrate a fit factor of at least 100 by use of a validated or evaluated, qualitative or quantitative fit test.

<sup>e</sup> Under-chin type only. No distinction is made in this appendix between elastomeric half-masks with replaceable cartridges and those designed with the filter medium as an integral part of the face piece (disposable or reusable disposable). Both types are acceptable as long as the seal area of the latter contains some substantial type of seal-enhancing material, such as rubber or plastic, two or more suspension straps are adjustable, the filter medium is at least 95 percent efficient, and all other requirements of this Article are met.

<sup>f</sup> The assigned protection factors for gases and vapors are not applicable to radioactive contaminants that present an absorption or submersion hazard. For tritium oxide vapor, approximately one-third of the intake occurs by absorption through the skin so that an overall pro-

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tection factor of 3 is appropriate when atmosphere-supplying respirators are used to protect against tritium oxide. Exposure to radioactive noble gases is not considered a significant respiratory hazard and protective actions for these contaminants should be based on external (submersion) dose considerations.

<sup>g</sup> No NIOSH approval schedule is currently available for atmosphere supplying suits. This equipment may be used in an acceptable respiratory protection program as long as all the other minimum program requirements, with the exception of fit testing, are met. The minimum program requirements are provided in 10 CFR 20.1703.

<sup>h</sup> The licensee shall implement institutional controls to assure that these devices are not used in areas immediately dangerous to life or health (IDLH).

<sup>i</sup> This type of respirator may be used as an emergency device in unknown concentrations for protection against inhalation hazards. External radiation hazards and other limitations to permitted exposure such as skin absorption shall be taken into account in these circumstances. This device may not be used by any individual who experiences perceptible outward leakage of breathing gas while wearing the device.

**Historical Note**

New Appendix A recodified from 12 A.A.C. 1, Article 4, Appendix A, effective March 22, 2018 (Supp. 18-1).

**Appendix B. Annual Limits on Intake (ALI) and Derived Air Concentrations (DAC) of Radionuclides for Occupational Exposure; Effluent Concentrations; Concentrations for Release to Sanitary Sewerage****Introduction**

For each radionuclide, Table I indicates the chemical form which is to be used for selecting the appropriate ALI or DAC value. The ALIs and DACs for inhalation are given for an aerosol with an activity median aerodynamic diameter (AMAD) of 1  $\mu\text{m}$ , micron, and for three classes (D,W,Y) of radioactive material, which refer to their retention (approximately days, weeks, or years) in the pulmonary region of the lung. This classification applies to a range of clearance half-times for D if less than 10 days, for W from 10 to 100 days, and for Y greater than 100 days. Table II provides concentration limits for airborne and liquid effluents released to the general environment. Table III provides concentration limits for discharges to sanitary sewerage.

**Note:**

The values in Tables I, II, and III are presented in the computer "E" notation. In this notation a value of 6E-02 represents a value of  $6 \times 10^{-2}$  or 0.06, 6E+2 represents  $6 \times 10^2$  or 600, and 6E+0 represents  $6 \times 10^0$  or 6.

**Table I "Occupational Values"**

Note that the columns in Table I of this Appendix captioned "Oral Ingestion ALI," "Inhalation ALI," and "DAC" are applicable to occupational exposure to radioactive material.

The ALIs in this Appendix are the annual intakes of given radionuclide by "Reference Man" which would result in either (1) a committed effective dose equivalent of 0.05 Sv (5 rem), stochastic ALI, or (2) a committed dose equivalent of 0.5 Sv (50 rem) to an organ or tissue, nonstochastic ALI. The stochastic ALIs were derived to result in a risk, due to irradiation of organs and tissues, comparable to the risk associated with deep-dose equivalent to the whole body of 0.05 Sv (5 rem). The derivation includes multiplying the committed dose equivalent to an organ or tissue by a weighting factor,  $W_T$ . This weighting factor is the proportion of the risk of stochastic effects resulting from irradiation of the organ or tissue, T, to the total risk of stochastic effects when the whole body is irradiated uniformly. The values of  $W_T$  are listed under the definition of weighting factor in R9-7-403. The nonstochastic ALIs were derived to avoid nonstochastic effects, such as prompt damage to tissue or reduction in organ function.

A value of  $W_T = 0.06$  is applicable to each of the five organs or tissues in the "remainder" category receiving the highest dose equivalents, and the dose equivalents of all other remaining tissues may be disregarded. The following portions of the GI tract -- stomach, small intestine, upper large intestine, and lower large intestine -- are to be treated as four separate organs.

Note that the dose equivalents for an extremity, skin, and lens of the eye are not considered in computing the committed effective dose equivalent but are subject to limits that shall be met separately.

When an ALI is defined by the stochastic dose limit, this value alone is given. When an ALI is determined by the nonstochastic dose limit to an organ, the organ or tissue to which the limit applies is shown, and the ALI for the stochastic limit is shown in parentheses. Abbreviated organ or tissue designations are used:

LLI wall	=	lower large intestine wall,
St. wall	=	stomach wall,
Blad wall	=	bladder wall, and
Bone surf	=	Bone surface.

The use of the ALIs listed first, the more limiting of the stochastic and nonstochastic ALIs, will ensure that nonstochastic effects are avoided and that the risk of stochastic effects is limited to an acceptably low value. If, in a particular situation involving a radionuclide for which the nonstochastic ALI is limiting, use of that nonstochastic ALI is considered unduly conservative, the licensee may use the stochastic ALI to determine the committed effective dose equivalent. However, the licensee shall also ensure that the 0.5 Sv (50 rem) dose equivalent limit for any organ or tissue is not exceeded by the sum of the external deep-dose equivalent plus the internal committed dose equivalent to that organ, not the effective dose. For the case where there is no external dose contribution, this would be demonstrated if the sum of the fractions of the nonstochastic ALIs ( $ALI_{ns}$ ) that contribute to the committed dose equivalent to the organ receiving the highest dose does not exceed unity, that is,  $\Sigma (\text{intake (in } \mu\text{Ci)}) / ALI_{ns} \leq 1.0$ . If there is an external deep dose equivalent contribution of  $H_d$ , then this sum must be less than  $1 - (H_d/50)$ , instead of  $\leq 1.0$ .

Note that the dose equivalents for an extremity, skin, and lens of the eye are not considered in computing the committed effective dose equivalent but are subject to limits that must be met separately.

The derived air concentration (DAC) values are derived limits intended to control chronic occupational exposures. The relationship between the DAC and the ALI is given by:

$$DAC = ALI(\text{in } \mu\text{Ci}) / (2000 \text{ hours per working year} \times 60 \text{ minutes/hour} \times 2 \times 10^4 \text{ ml per minute}) = [ALI / 2.4 \times 10^9] \mu\text{Ci/ml},$$

where  $2 \times 10^4$  ml is the volume of air breathed per minute at work by Reference Man under working conditions of light work.

The DAC values relate to one of two modes of exposure: either external submersion or the internal committed dose equivalents resulting from inhalation of radioactive materials. DACs based

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upon submersion are for immersion in a semi-infinite cloud of uniform concentration and apply to each radionuclide separately.

The ALI and DAC values include contributions to exposure by the single radionuclide named and any in-growth of daughter radionuclides produced in the body by decay of the parent. However, intakes that include both the parent and daughter radionuclides shall be treated by the general method appropriate for mixtures.

The values of ALI and DAC do not apply directly when the individual both ingests and inhales a radionuclide, when the individual is exposed to a mixture of radionuclides by either inhalation or ingestion or both, or when the individual is exposed to both internal and external irradiation. See R9-7-407. When an individual is exposed to radioactive materials which fall under several of the translocation classifications of the same radionuclide, such as Class D, Class W, or Class Y, the exposure may be evaluated as if it were a mixture of different radionuclides.

It should be noted that the classification of a compound as Class D, W, or Y is based on the chemical form of the compound and does not take into account the radiological half-life of different radionuclides. For this reason, values are given for Class D, W, and Y compounds, even for very short-lived radionuclides.

**Table II "Effluent Concentrations"**

The columns in Table II of this Appendix captioned "Effluents," "Air," and "Water" are applicable to the assessment and control of dose to the public, particularly in the implementation of the provisions of R9-7-415. The concentration values given in Columns 1 and 2 of Table II are equivalent to the radionuclide concentrations which, if inhaled or ingested continuously over the course of a year, would produce a total effective dose equivalent of 0.5 mSv (0.05 rem).

Consideration of nonstochastic limits has not been included in deriving the air and water effluent concentration limits because nonstochastic effects are presumed not to occur at or below the dose levels established for individual members of the public. For radionuclides, where the nonstochastic limit was governing in deriving the occupational DAC, the stochastic ALI was used in deriving the corresponding airborne effluent limit in Table II. For this reason, the DAC and airborne effluent limits are not always proportional as they were in earlier versions of Appendix A of Article 4.

The air concentration values listed in Table II, Column 1 were derived by one of two methods. For those radionuclides for which the stochastic limit is governing, the occupational stochastic inhalation ALI was divided by  $2.4 \times 10^9$ , relating the inhalation ALI to the DAC, as explained above, and then divided by a factor of 300. The factor of 300 includes the following components: a factor of 50 to relate the 0.05 Sv (5 rem) annual occupational dose limit to the 0.1 rem limit for members of the public, a factor of 3 to adjust for the difference in exposure time and the inhalation rate for a worker and that for members of the public; and a factor of 2 to adjust the occupational values, derived for adults, so that they are applicable to other age groups.

For those radionuclides for which submersion, that is external dose, is limiting, the occupational DAC in Table I, Column 3 was divided by 219. The factor of 219 is composed of a factor of 50, as described above, and a factor of 4.38 relating occupational exposure for 2,000 hours per year to full-time exposure (8,760 hours per year). Note that an additional factor of 2 for age considerations is not warranted in the submersion case.

The water concentrations were derived by taking the most restrictive occupational stochastic oral ingestion ALI and dividing by  $7.3 \times 10^7$ . The factor of  $7.3 \times 10^7$  (ml) includes the following components: the factors of 50 and 2 described above and a factor of  $7.3 \times 10^5$  (ml) which is the annual water intake of Reference Man.

Note 2 of this Appendix provides groupings of radionuclides which are applicable to unknown mixtures of radionuclides. These groupings, including occupational inhalation ALIs and DACs, air and water effluent concentrations, and releases to sewer, require demonstrating that the most limiting radionuclides in successive classes are absent. The limit for the unknown mixture is defined when the presence of one of the listed radionuclides cannot be definitely excluded as being present either from knowledge of the radionuclide composition of the source or from actual measurements.

**Table III "Releases to Sewers"**

The monthly average concentrations for release to sanitary sewerage are applicable to the provisions in R9-7-435. The concentration values were derived by taking the most restrictive occupational stochastic oral ingestion ALI and dividing by  $7.3 \times 10^6$  (ml). The factor of  $7.3 \times 10^6$  (ml) is composed of a factor of  $7.3 \times 10^5$  (ml), the annual water intake by Reference Man, and a factor of 10, such that the concentrations, if the sewage released by the licensee were the only source of water ingested by a Reference Man during a year, would result in a committed effective dose equivalent of 0.5 rem.

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## LIST OF ELEMENTS

<u>Name</u>	<u>Symbol</u>	<u>Atomic Number</u>	<u>Name</u>	<u>Symbol</u>	<u>Atomic Number</u>
Actinium	Ac	89	Molybdenum	Mo	42
Aluminum	Al	13	Neodymium	Nd	60
Americium	Am	95	Neptunium	Np	93
Antimony	Sb	51	Nickel	Ni	28
Argon	Ar	18	Niobium	Nb	41
Arsenic	As	33	Nitrogen	N	7
Astatine	At	85	Osmium	Os	76
Barium	Ba	56	Oxygen	O	8
Berkelium	Bk	97	Palladium	Pd	46
Beryllium	Be	4	Phosphorus	P	15
Bismuth	Bi	83	Platinum	Pt	78
Bromine	Br	35	Plutonium	Pu	94
Cadmium	Cd	48	Polonium	Po	84
Calcium	Ca	20	Potassium	K	19
Californium	Cf	98	Praseodymium	Pr	59
Carbon	C	6	Promethium	Pm	61
Cerium	Ce	58	Protactinium	Pa	91
Cesium	Cs	55	Radium	Ra	88
Chlorine	Cl	17	Radon	Rn	86
Chromium	Cr	24	Rhenium	Re	75
Cobalt	Co	27	Rhodium	Rh	45
Copper	Cu	29	Rubidium	Rb	37
Curium	Cm	96	Ruthenium	Ru	44
Dysprosium	Dy	66	Samarium	Sm	62
Einsteinium	Es	99	Scandium	Sc	21
Erbium	Er	68	Selenium	Se	34
Europium	Eu	63	Silicon	Si	14
Fermium	Fm	100	Silver	Ag	47
Fluorine	F	9	Sodium	Na	11
Francium	Fr	87	Strontium	Sr	38
Gadolinium	Gd	64	Sulfur	S	16
Gallium	Ga	31	Tantalum	Ta	73
Germanium	Ge	32	Technetium	Tc	43
Gold	Au	79	Tellurium	Te	52
Hafnium	Hf	72	Terbium	Tb	65
Holmium	Ho	67	Thallium	Tl	81
Hydrogen	H	1	Thorium	Th	90
Indium	In	49	Thulium	Tm	69
Iodine	I	53	Tin	Sn	50
Iridium	Ir	77	Titanium	Ti	22
Iron	Fe	26	Tungsten	W	74
Krypton	Kr	36	Uranium	U	92
Lanthanum	La	57	Vanadium	V	23
Lead	Pb	82	Xenon	Xe	54
Lutetium	Lu	71	Ytterbium	Yb	70
Magnesium	Mg	12	Yttrium	Y	39
Manganese	Mn	25	Zinc	Zn	30
Mendelevium	Md	101	Zirconium	Zr	40
Mercury	Hg	80			

## CHAPTER 7. DEPARTMENT OF HEALTH SERVICES - RADIATION CONTROL

Atomic No.	Radionuclide	Class	Table I Occupational Values			Table II Effluent Concentrations		Table III Releases to Sewers Monthly Average Concentration ( $\mu\text{Ci/ml}$ )
			Col. 1 Oral Ingestion ALI ( $\mu\text{Ci}$ )	Col. 2 Inhalation ALI ( $\mu\text{Ci}$ )	Col. 3 DAC ( $\mu\text{Ci/ml}$ )	Col. 1 Air ( $\mu\text{Ci/ml}$ )	Col. 2 Water ( $\mu\text{Ci/ml}$ )	
1	Hydrogen-3	Water, DAC includes skin absorption	8E+4	8E+4	2E-5	1E-7	1E-3	1E-2
		Gas (HT or T <sub>2</sub> ) Submersion <sup>1</sup> : Use above values as HT and T <sub>2</sub> oxidize in air and in the body to HTO.						
4	Beryllium-7	W, all compounds except those given for Y	4E+4	2E+4	9E-6	3E-8	6E-4	6E-3
		Y, oxides, halides, and nitrates	-	2E+4	8E-6	3E-8	-	-
4	Beryllium-10	W, see <sup>7</sup> Be	1E+3	2E+2	6E-8	2E-10	-	--
		LLI wall (1E+3)	-	-	-	-	2E-5	2E-4
		Y, see <sup>7</sup> Be	-	1E+1	6E-9	2E-11	-	-
6	Carbon-11 <sup>2</sup>	Monoxide	-	1E+6	5E-4	2E-6	-	-
		Dioxide	-	6E+5	3E-4	9E-7	-	-
		Compounds	4E+5	4E+5	2E-4	6E-7	6E-3	6E-2
6	Carbon-14	Monoxide	-	2E+6	7E-4	2E-6	-	-
		Dioxide	-	2E+5	9E-5	3E-7	-	-
		Compounds	2E+3	2E+3	1E-6	3E-9	3E-5	3E-4
7	Nitrogen-13 <sup>2</sup>	Submersion <sup>1</sup>	-	-	4E-6	2E-8	-	-
8	Oxygen-15 <sup>2</sup>	Submersion <sup>1</sup>	-	-	4E-6	2E-8	-	-
9	Fluorine-18 <sup>2</sup>	D, fluorides of H, Li, Na, K, Rb, Cs, and Fr	5E+4	7E+4	3E-5	1E-7	-	-
		St wall (5E+4)	-	-	-	-	7E-4	7E-3
		W, fluorides of Be, Mg, Ca, Sr, Ba, Ra, Al, Ga, In, Tl, As, Sb, Bi, Fe, Ru, Os, Co, Ni, Pd, Pt, Cu, Ag, Au, Zn, Cd, Hg, Sc, Y, Ti, Zr, V, Nb, Ta, Mn, Tc, and Re	-	9E+4	4E-5	1E-7	-	-
		Y, Lanthanum fluoride	-	8E+4	3E-5	1E-7	-	-
11	Sodium-22	D, all compounds	4E+2	6E+2	3E-7	9E-10	6E-6	6E-5
11	Sodium-24	D, all compounds	4E+3	5E+3	2E-6	7E-9	5E-5	5E-4
12	Magnesium-28	D, all compounds except those given for W	7E+2	2E+3	7E-7	2E-9	9E-6	9E-5
		W, oxides, hydroxides, carbides, halides, and nitrates	-	1E+3	5E-7	2E-9	-	-
13	Aluminum-26	D, all compounds except those given for W	4E+2	6E+1	3E-8	9E-11	6E-6	6E-5
		W, oxides, hydroxides, carbides, halides, and nitrates	-	9E+1	4E-8	1E-10	-	-
14	Silicon-31	D, all compounds except those given for W and Y	9E+3	3E+4	1E-5	4E-8	1E-4	1E-3
		W, oxides, hydroxides, carbides, and nitrates	-	3E+4	1E-5	5E-8	-	-
		Y, aluminosilicate glass	-	3E+4	1E-5	4E-8	-	-
14	Silicon-32	D, see <sup>31</sup> Si	2E+3	2E+2	1E-7	3E-10	-	-
		LLI wall (3E+3)	-	-	-	-	4E-5	4E-4
		W, see <sup>31</sup> Si	-	1E+2	5E-8	2E-10	-	-
		Y, see <sup>31</sup> Si	-	5E+0	2E-9	7E-12	-	-

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Atomic No.	Radionuclide	Class	Table I Occupational Values			Table II Effluent Concentrations		Table III Releases to Sewers Monthly Average Concentration ( $\mu\text{Ci/ml}$ )
			Col. 1 Oral Ingestion ALI ( $\mu\text{Ci}$ )	Col. 2 Inhalation ALI ( $\mu\text{Ci}$ )	Col. 3 DAC ( $\mu\text{Ci/ml}$ )	Col. 1 Air ( $\mu\text{Ci/ml}$ )	Col. 2 Water ( $\mu\text{Ci/ml}$ )	
15	Phosphorus-32	D, all compounds except phosphates given for W	6E+2	9E+2	4E-7	1E-9	9E-6	9E-5
		W, phosphates of $\text{Zn}^{2+}$ , $\text{S}^{3+}$ , $\text{Mg}^{2+}$ , $\text{Fe}^{3+}$ , $\text{Bi}^{3+}$ , and Lanthanides	-	4E+2	2E-7	5E-10	-	-
15	Phosphorus-33	D, see $^{32}\text{P}$	6E+3	8E+3	4E-6	1E-8	8E-5	8E-4
		W, see $^{32}\text{P}$	-	3E+3	1E-6	4E-9	-	-
16	Sulfur-35	Vapor	1E+4	6E-6	2E-8	-	-	-
		D, sulfides and sulfates except those given for W	1E+4	2E+4	7E-6	2E-8	-	-
		LLI wall (8E+3)	6E+3	-	-	-	1E-4	1E-3
		W, elemental sulfur, sulfides of Sr, Ba, Ge, Sn, Pb, As, Sb, Bi, Cu, Ag, Au, Zn, Cd, Hg, W, and Mo. Sulfates of Ca, Sr, Ba, Ra, As, Sb, and Bi	-	2E+3	9E-7	3E-9	-	-
17	Chlorine-36	D, chlorides of H, Li, Na, K, Rb, Cs, and Fr	2E+3	2E+3	1E-6	3E-9	2E-5	2E-4
		W, chlorides of Lanthanides, Be, Mg, Ca, Sr, Ba, Ra, Al, Ga, In, Tl, Ge, Sn, Pb, As, Sb, Bi, Fe, Ru, Os, Co, Rh, Ir, Ni, Pd, Pt, Cu, Ag, Au, Zn, Cd, Hg, Sc, Y, Ti, Zr, Hf, V, Nb, Ta, Cr, Mo, W, Mn, Tc, and Re	-	2E+2	1E-7	3E-10	-	-
17	Chlorine-38 <sup>2</sup>	D, see $^{36}\text{Cl}$	2E+4	4E+4	2E-5	6E-8	-	-
		St wall (3E+4)	-	-	-	-3E-4	3E-3	-
		W, see $^{36}\text{Cl}$	-	5E+4	2E-5	6E-8	-	-
17	Chlorine-39 <sup>2</sup>	D, see $^{36}\text{Cl}$	2E+4	5E+4	2E-5	7E-8	-	-
		St wall (4E+4)	-	-	-	-5E-4	5E-3	-
		W, see $^{36}\text{Cl}$	-	6E+4	2E-5	8E-8	-	-
18	Argon-37	Submersion <sup>1</sup>	-	-	1E+0	6E-3	-	-
18	Argon-39	Submersion <sup>1</sup>	-	-	2E-4	8E-7	-	-
18	Argon-41	Submersion <sup>1</sup>	-	-	3E-6	1E-8	-	-
19	Potassium-40	D, all compounds	3E+2	4E+2	2E-7	6E-10	4E-6	4E-5
19	Potassium-42	D, all compounds	5E+3	5E+3	2E-6	7E-9	6E-5	6E-4
19	Potassium-43	D, all compounds	6E+3	9E+3	4E-6	1E-8	9E-5	9E-4
19	Potassium-44 <sup>2</sup>	D, all compounds	2E+4	7E+4	3E-5	9E-8	-	-
		St wall (4E+4)	-	-	-	-	5E-4	5E-3
19	Potassium-45 <sup>2</sup>	D, all compounds	3E+4	1E+5	5E-5	2E-7	-	-
		St wall (5E+4)	-	-	-	-	7E-4	7E-3



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Atomic No.	Radionuclide	Class	Table I Occupational Values			Table II Effluent Concentrations		Table III Releases to Sewers Monthly Average Concentration ( $\mu\text{Ci/ml}$ )
			Col. 1 Oral Ingestion ALI ( $\mu\text{Ci}$ )	Col. 2 Inhalation ALI ( $\mu\text{Ci}$ )	Col. 3 DAC ( $\mu\text{Ci/ml}$ )	Col. 1 Air ( $\mu\text{Ci/ml}$ )	Col. 2 Water ( $\mu\text{Ci/ml}$ )	
20	Calcium-41	W, all compounds	3E+3	4E+3	2E-6	-	-	-
			Bone surf (4E+3)	Bone surf (4E+3)	-	5E-9	6E-5	6E-4
20	Calcium-45	W, all compounds	2E+3	8E+2	4E-7	1E-9	2E-5	2E-4
20	Calcium-47	W, all compounds	8E+2	9E+2	4E-7	1E-9	1E-5	1E-4
21	Scandium-43	Y, all compounds	7E+3	2E+4	9E-6	3E-8	1E-4	1E-3
21	Scandium-44m	Y, all compounds	5E+2	7E+2	3E-7	1E-9	7E-6	7E-5
21	Scandium-44	Y, all compounds	4E+3	1E+4	5E-6	2E-8	5E-5	5E-4
21	Scandium-46	Y, all compounds	9E+2	2E+2	1E-7	3E-10	1E-5	1E-4
21	Scandium-47	Y, all compounds	2E+3	3E+3	1E-6	4E-9	-	-
			LLI wall (3E+3)	-	-	-	4E-5	4E-4
21	Scandium-48	Y, all compounds	8E+2	1E+3	6E-7	2E-9	1E-5	1E-4
21	Scandium-49 <sup>2</sup>	Y, all compounds	2E+4	5E+4	2E-5	8E-8	3E-4	3E-3
22	Titanium-44	D, all compounds except those given for W and Y	3E+2	1E+1	5E-9	2E-11	4E-6	4E-5
		W, oxides, hydroxides, carbides, halides, and nitrates	-	3E+1	1E-8	4E-11	-	-
		Y, SrTiO	-	6E+0	2E-9	8E-12	-	-
22	Titanium-45	D, see <sup>44</sup> Ti	9E+3	3E+4	1E-5	3E-8	1E-4	1E-3
		W, see <sup>44</sup> Ti	-	4E+4	1E-5	5E-8	-	-
		Y, see <sup>44</sup> Ti	-	3E+4	1E-5	4E-8	-	-
23	Vanadium-47 <sup>2</sup>	D, all compounds except those given for W	3E+4	8E+4	3E-5	1E-7	-	-
			St wall (3E+4)	-	-	-	4E-4	4E-3
		W, oxides, hydroxides, carbides, and halides	-	1E+5	4E-5	1E-7	-	-
23	Vanadium-48	D, see <sup>47</sup> V	6E+2	1E+3	5E-7	2E-9	9E-6	9E-5
		W, see <sup>47</sup> V	-	6E+2	3E-7	9E-10	-	-
23	Vanadium-49	D, see <sup>47</sup> V	7E+4	3E+4	1E-5	-	-	-
			LLI wall (9E+4)	Bone surf (3E+4)	-	5E-8	1E-3	1E-2
		W, see <sup>47</sup> V	-	2E+4	8E-6	2E-8	-	-
24	Chromium-48	D, all compounds except those given for W and Y	6E+3	1E+4	5E-6	2E-8	8E-5	8E-4
		W, halides and nitrates	-	7E+3	3E-6	1E-8	-	-
		Y, oxides and hydroxides	-	7E+3	3E-6	1E-8	-	-
24	Chromium-49 <sup>2</sup>	D, see <sup>48</sup> Cr	3E+4	8E+4	4E-5	1E-7	4E-4	4E-3
		W, see <sup>48</sup> Cr	-	1E+5	4E-5	1E-7	-	-
		Y, see <sup>48</sup> Cr	-	9E+4	4E-5	1E-7	-	-
24	Chromium-51	D, see <sup>48</sup> Cr	4E+4	5E+4	2E-5	6E-8	5E-4	5E-3
		W, see <sup>48</sup> Cr	-	2E+4	1E-5	3E-8	-	-
		Y, see <sup>48</sup> Cr	-	2E+4	8E-6	3E-8	-	-
25	Manganese-51 <sup>2</sup>	D, all compounds except those given for W	2E+4	5E+4	2E-5	7E-8	3E-4	3E-3
		W, oxides, hydroxides, halides, and nitrates	-	6E+4	3E-5	8E-8	-	-

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			Col. 1 Oral Ingestion ALI ( $\mu\text{Ci}$ )	Col. 2 Inhalation ALI ( $\mu\text{Ci}$ )	Col. 3 DAC ( $\mu\text{Ci/ml}$ )	Col. 1 Air ( $\mu\text{Ci/ml}$ )	Col. 2 Water ( $\mu\text{Ci/ml}$ )	
25	Manganese-52m <sup>2</sup>	D, see <sup>51</sup> Mn	3E+4	9E+4	4E-5	1E-7	-	-
			St wall (4E+4)	-	-	-	5E-4	5E-3
		W, see <sup>51</sup> Mn	-	1E+5	4E-5	1E-7	-	-
25	Manganese-52	D, see <sup>51</sup> Mn	7E+2	1E+3	5E-7	2E-9	1E-5	1E-4
		W, see <sup>51</sup> Mn	-	9E+2	4E-7	1E-9	-	-
25	Manganese-53	D, see <sup>51</sup> Mn	5E+4	1E+4	5E-6	-	7E-4	7E-3
				Bone surf (2E+4)	-	3E-8	-	-
		W, see <sup>51</sup> Mn	-	1E+4	5E-6	2E-8	-	-
25	Manganese-54	D, see <sup>51</sup> Mn	2E+3	9E+2	4E-7	1E-9	3E-5	3E-4
		W, see <sup>51</sup> Mn	-	8E+2	3E-7	1E-9	-	-
25	Manganese-56	D, see <sup>51</sup> Mn	5E+3	2E+4	6E-6	2E-8	7E-5	7E-4
		W, see <sup>51</sup> Mn	-	2E+4	9E-6	3E-8	-	-
26	Iron-52	D, all compounds except those given for W	9E+2	3E+3	1E-6	4E-9	1E-5	1E-4
		W, oxides, hydroxides, and halides	-	2E+3	1E-6	3E-9	-	-
26	Iron-55	D, see <sup>52</sup> Fe	9E+3	2E+3	8E-7	3E-9	1E-4	1E-3
		W, see <sup>52</sup> Fe	-	4E+3	2E-6	6E-9	-	-
26	Iron-59	D, see <sup>52</sup> Fe	8E+2	3E+2	1E-7	5E-10	1E-5	1E-4
		W, see <sup>52</sup> Fe	-	5E+2	2E-7	7E-10	-	-
26	Iron-60	D, see <sup>52</sup> Fe	3E+1	6E+0	3E-9	9E-12	4E-7	4E-6
		W, see <sup>52</sup> Fe	-	2E+1	8E-9	3E-11	-	-
27	Cobalt-55	W, all compounds except those given for Y	1E+3	3E+3	1E-6	4E-9	2E-5	2E-4
		Y, oxides, hydroxides, halides, and nitrates	-	3E+3	1E-6	4E-9	-	-
27	Cobalt-56	W, see <sup>55</sup> Co	5E+2	3E+2	1E-7	4E-10	6E-6	6E-5
		Y, see <sup>55</sup> Co	4E+2	2E+2	8E-8	3E-10	-	-
27	Cobalt-57	W, see <sup>55</sup> Co	8E+3	3E+3	1E-6	4E-9	6E-5	6E-4
		Y, see <sup>55</sup> Co	4E+3	7E+2	3E-7	9E-10	-	-
27	Cobalt-58m	W, see <sup>55</sup> Co	6E+4	9E+4	4E-5	1E-7	8E-4	8E-3
		Y, see <sup>55</sup> Co	-	6E+4	3E-5	9E-8	-	-
27	Cobalt-58	W, see <sup>55</sup> Co	2E+3	1E+3	5E-7	2E-9	2E-5	2E-4
		Y, see <sup>55</sup> Co	1E+3	7E+2	3E-7	1E-9	-	-
27	Cobalt-60m <sup>2</sup>	W, see <sup>55</sup> Co	1E+6	4E+6	2E-3	6E-6	-	-
			St wall (1E+6)	-	-	-	2E-2	2E-1
		Y, see <sup>55</sup> Co	-	3E+6	1E-3	4E-6	-	-
27	Cobalt-60	W, see <sup>55</sup> Co	5E+2	2E+2	7E-8	2E-10	3E-6	3E-5
		Y, see <sup>55</sup> Co	2E+2	3E+1	1E-8	5E-11	-	-
27	Cobalt-61 <sup>2</sup>	W, see <sup>55</sup> Co	2E+4	6E+4	3E-5	9E-8	3E-4	3E-3
		Y, see <sup>55</sup> Co	2E+4	6E+4	2E-5	8E-8	-	-

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			Col. 1 Oral Ingestion ALI ( $\mu\text{Ci}$ )	Col. 2 Inhalation ALI ( $\mu\text{Ci}$ )	Col. 3 DAC ( $\mu\text{Ci/ml}$ )	Col. 1 Air ( $\mu\text{Ci/ml}$ )	Col. 2 Water ( $\mu\text{Ci/ml}$ )	
27	Cobalt-62m <sup>2</sup>	W, see <sup>55</sup> Co St wall	4E+4 (5E+4)	2E+5 -	7E-5 -	2E-7 -	- 7E-4	- 7E-3
28	Nickel-56	Y, see <sup>55</sup> Co D, all compounds except those given for W W, oxides, hydroxides, and carbides Vapor	- 1E+3 - -	2E+5 2E+3 1E+3 1E+3	6E-5 8E-7 5E-7 5E-7	2E-7 3E-9 2E-9 2E-9	- 2E-5 - -	- 2E-4 - -
28	Nickel-57	D, see <sup>56</sup> Ni W, see <sup>56</sup> Ni Vapor	2E+3 - -	5E+3 3E+3 6E+3	2E-6 1E-6 3E-6	7E-9 4E-9 9E-	2E-5 - -	2E-4 - -
28	Nickel-59	D, see <sup>56</sup> Ni W, see <sup>56</sup> Ni Vapor	2E+4 - -	4E+3 7E+3 2E+3	2E-6 3E-6 8E-7	5E-9 1E-8 3E-9	3E-4 - -	3E-3 - -
28	Nickel-63	D, see <sup>56</sup> Ni W, see <sup>56</sup> Ni Vapor	9E+3 - -	2E+3 3E+3 8E+2	7E-7 1E-6 3E-7	2E-9 4E-9 1E-9	1E-4 - -	1E-3 - -
28	Nickel-65	D, see <sup>56</sup> Ni W, see <sup>56</sup> Ni Vapor	8E+3 - -	2E+4 3E+4 2E+4	1E-5 1E-5 7E-6	3E-8 4E-8 2E-8	1E-4 - -	1E-3 - -
28	Nickel-66	D, see <sup>56</sup> Ni LLI wall	4E+2 (5E+2)	2E+3 -	7E-7 -	2E-9 -	- 6E-6	- 6E-5
		W, see <sup>56</sup> Ni Vapor	- -	6E+2 3E+3	3E-7 1E-6	9E-10 4E-9	- -	- -
29	Copper-60 <sup>2</sup>	D, all compounds except those given for W and Y St wall	3E+4 (3E+4)	9E+4 -	4E-5 -	1E-7 -	- 4E-4	- 4E-3
		W, sulfides, halides, and nitrates Y, oxides and hydroxides	- -	1E+5 1E+5	5E-5 4E-5	2E-7 1E-7	- -	- -
29	Copper-61	D, see <sup>60</sup> Cu W, see <sup>60</sup> Cu Y, see <sup>60</sup> Cu	1E+4 - -	3E+4 4E+4 4E+4	1E-5 2E-5 1E-5	4E-8 6E-8 5E-8	2E-4 - -	2E-3 - -
29	Copper-64	D, see <sup>60</sup> Cu W, see <sup>60</sup> Cu Y, see <sup>60</sup> Cu	1E+4 - -	3E+4 2E+4 2E+4	1E-5 1E-5 9E-6	4E-8 3E-8 3E-8	2E-4 - -	2E-3 - -
29	Copper-67	D, see <sup>60</sup> Cu W, see <sup>60</sup> Cu Y, see <sup>60</sup> Cu	5E+3 - -	8E+3 5E+3 5E+3	3E-6 2E-6 2E-6	1E-8 7E-9 6E-9	6E-5 - -	6E-4 - -
30	Zinc-62	Y, all compounds	1E+3	3E+3	1E-6	4E-9	2E-5	2E-4
30	Zinc-63 <sup>2</sup>	Y, all compounds St wall	2E+4 (3E+4)	7E+4 -	3E-5 -	9E-8 -	- 3E-4	- 3E-3

## CHAPTER 7. DEPARTMENT OF HEALTH SERVICES - RADIATION CONTROL

Atomic No.	Radionuclide	Class	Table I Occupational Values			Table II Effluent Concentrations		Table III Releases to Sewers
			Col. 1 Oral Ingestion	Col. 2 Inhalation	Col. 3 DAC	Col. 1 Air	Col. 2 Water	Monthly Average
			ALI ( $\mu$ Ci)	ALI ( $\mu$ Ci)	DAC ( $\mu$ Ci/ml)	Air ( $\mu$ Ci/ml)	Water ( $\mu$ Ci/ml)	Concentration ( $\mu$ Ci/ml)
30	Zinc-65	Y, all compounds	4E+2	3E+2	1E-7	4E-10	5E-6	5E-5
30	Zinc-69m	Y, all compounds	4E+3	7E+3	3E-6	1E-8	6E-5	6E-4
30	Zinc-69 <sup>2</sup>	Y, all compounds	6E+4	1E+5	6E-5	2E-7	8E-4	8E-3
30	Zinc-71m	Y, all compounds	6E+3	2E+4	7E-6	2E-8	8E-5	8E-4
30	Zinc-72	Y, all compounds	1E+3	1E+3	5E-7	2E-9	1E-5	1E-4
31	Gallium-65 <sup>2</sup>	D, all compounds except those given for W	5E+4 St wall (6E+4),	2E+5	7E-5	2E-7	-	-
		W, oxides, hydroxides, carbides, halides, and nitrates	-	2E+5	8E-5	3E-7	-	-
31	Gallium-66	D, see <sup>65</sup> Ga	1E+3	4E+3	1E-6	5E-9	1E-5	1E-4
		W, see <sup>65</sup> Ga	-	3E+3	1E-6	4E-9	-	-
31	Gallium-67	D, see <sup>65</sup> Ga	7E+3	1E+4	6E-6	2E-8	1E-4	1E-3
		W, see <sup>65</sup> Ga	-	1E+4	4E-6	1E-8	-	-
31	Gallium-68 <sup>2</sup>	D, see <sup>65</sup> Ga	2E+4	4E+4	2E-5	6E-8	2E-4	2E-3
		W, see <sup>65</sup> Ga	-	5E+4	2E-5	7E-8	-	-
31	Gallium-70 <sup>2</sup>	D, see <sup>65</sup> Ga	5E+4 St wall (7E+4)	2E+5	7E-5	2E-7	-	-
		W, see <sup>65</sup> Ga	-	2E+5	8E-5	3E-7	-	-
31	Gallium-72	D, see <sup>65</sup> Ga	1E+3	4E+3	1E-6	5E-9	2E-5	2E-4
		W, see <sup>65</sup> Ga	-	3E+3	1E-6	4E-9	-	-
31	Gallium-73	D, see <sup>65</sup> Ga	5E+3	2E+4	6E-6	2E-8	7E-5	7E-4
		W, see <sup>65</sup> Ga	-	2E+4	6E-6	2E-8	-	-
32	Germanium-66	D, all compounds except those given for W	2E+4	3E+4	1E-5	4E-8	3E-4	3E-3
		W, oxides, sulfides, and halides	-	2E+4	8E-6	3E-8	-	-
32	Germanium-67 <sup>2</sup>	D, see <sup>66</sup> Ge	3E+4 St wait (4E+4)	9E+4	4E-5	1E-7	-	-
		W, see <sup>66</sup> Ge	-	1E+5	4E-5	1E-7	-	-
32	Germanium-68	D, see <sup>66</sup> Ge	5E+3	4E+3	2E-6	5E-9	6E-5	6E-4
		W, see <sup>66</sup> Ge	-	1E+2	4E-8	1E-10	-	-
32	Germanium-69	D, see <sup>66</sup> Ge	1E+4	2E+4	6E-6	2E-8	2E-4	2E-3
		W, see <sup>66</sup> Ge	-	8E+3	3E-6	1E-8	-	-
32	Germanium-71	D, see <sup>66</sup> Ge	5E+5	4E+5	2E-4	6E-7	7E-3	7E-2
		W, see <sup>66</sup> Ge	-	4E+4	2E-5	6E-8	-	-
32	Germanium-75 <sup>2</sup>	D, see <sup>66</sup> Ge	4E+4 St wall (7E+4)	8E+4	3E-5	1E-7	-	-
		W, see <sup>66</sup> Ge	-	8E+4	4E-5	1E-7	-	-
32	Germanium-77	D, see <sup>66</sup> Ge	9E+3	1E+4	4E-6	1E-8	1E-4	1E-3
		W, see <sup>66</sup> Ge	-	6E+3	2E-6	8E-9	-	-

## CHAPTER 7. DEPARTMENT OF HEALTH SERVICES - RADIATION CONTROL

Atomic No.	Radionuclide	Class	Table I Occupational Values			Table II Effluent Concentrations		Table III Releases to Sewers Monthly Average Concentration ( $\mu\text{Ci/ml}$ )
			Col. 1 Oral Ingestion ALI ( $\mu\text{Ci}$ )	Col. 2 Inhalation ALI ( $\mu\text{Ci}$ )	Col. 3 DAC ( $\mu\text{Ci/ml}$ )	Col. 1 Air ( $\mu\text{Ci/ml}$ )	Col. 2 Water ( $\mu\text{Ci/ml}$ )	
32	Germanium-78 <sup>2</sup>	D, see <sup>66</sup> Ge	2E+4 St wall (2E+4)	2E+4 -	9E-6 -	3E-8 -	- 3E-4	- 3E-3
		W, see <sup>66</sup> Ge	-	2E+4	9E-6	3E-8	-	-
33	Arsenic-69 <sup>2</sup>	W, all compounds	3E+4 St wall (4E+4)	1E+5 -	5E-5 -	2E-7 -	- 6E-4	- 6E-3
33	Arsenic-70 <sup>2</sup>	W, all compounds	1E+4	5E+4	2E-5	7E-8	2E-4	2E-3
33	Arsenic-71	W, all compounds	4E+3	5E+3	2E-6	6E-9	5E-5	5E-4
33	Arsenic-72	W, all compounds	9E+2	1E+3	6E-7	2E-9	1E-5	1E-4
33	Arsenic-73	W, all compounds	8E+3	2E+3	7E-7	2E-9	1E-4	1E-3
33	Arsenic-74	W, all compounds	1E+3	8E+2	3E-7	1E-9	2E-5	2E-4
33	Arsenic-76	W, all compounds	1E+3	1E+3	6E-7	2E-9	1E-5	1E-4
33	Arsenic-77	W, all compounds	4E+3 LLI wall (5E+3)	5E+3 -	2E-6 -	7E-9 -	- 6E-5	- 6E-4
33	Arsenic-78 <sup>2</sup>	W, all compounds	8E+3	2E+4	9E-6	3E-8	1E-4	1E-3
34	Selenium-70 <sup>2</sup>	D, all compounds except those given for W	2E+4	4E+4	2E-5	5E-8	1E-4	1E-3
		W, oxides, hydroxides, carbides, and elemental Se	1E+4	4E+4	2E-5	6E-8	-	-
34	Selenium-73m <sup>2</sup>	D, see <sup>70</sup> Se	6E+4	2E+5	6E-5	2E-7	4E-4	4E-3
		W, see <sup>70</sup> Se	3E+4	1E+5	6E-5	2E-7	-	-
34	Selenium-73	D, see <sup>70</sup> Se	3E+3	1E+4	5E-6	2E-8	4E-5	4E-4
		W, see <sup>70</sup> Se	-	2E+4	7E-6	2E-8	-	-
34	Selenium-75	D, see <sup>70</sup> Se	5E+2	7E+2	3E-7	1E-9	7E-6	7E-5
		W, see <sup>70</sup> Se	-	6E+2	3E-7	8E-10	-	-
34	Selenium-79	D, see <sup>70</sup> Se	6E+2	8E+2	3E-7	1E-9	8E-6	8E-5
		W, see <sup>70</sup> Se	-	6E+2	2E-7	8E-10	-	-
34	Selenium-81m <sup>2</sup>	D, see <sup>70</sup> Se	4E+4	7E+4	3E-5	9E-8	3E-4	3E-3
		W, see <sup>70</sup> Se	2E+4	7E+4	3E-5	1E-7	-	-
34	Selenium-81 <sup>2</sup>	D, see <sup>70</sup> Se	6E+4 St wall (8E+4)	2E+5 -	9E-5 -	3E-7 -	- 1E-3	- 1E-2
		W, see <sup>70</sup> Se	-	2E+5	1E-4	3E-7	-	-
34	Selenium-83 <sup>2</sup>	D, see <sup>70</sup> Se	4E+4	1E+5	5E-5	2E-7	4E-4	4E-3
		W, see <sup>70</sup> Se	3E+4	1E+5	5E-5	2E-7	-	-
35	Bromine-74m <sup>2</sup>	D, bromides of H, Li, Na, K, Rb, Cs, and Fr	1E+4 St wall (2E+4)	4E+4 -	2E-5 -	5E-8 -	- 3E-4	- 3E-3

## CHAPTER 7. DEPARTMENT OF HEALTH SERVICES - RADIATION CONTROL

Atomic No.	Radionuclide	Class	Table I Occupational Values			Table II Effluent Concentrations		Table III Releases to Sewers Monthly Average Concentration ( $\mu\text{Ci/ml}$ )
			Col. 1 Oral Ingestion ALI ( $\mu\text{Ci}$ )	Col. 2 Inhalation ALI ( $\mu\text{Ci}$ )	Col. 3 DAC ( $\mu\text{Ci/ml}$ )	Col. 1 Air ( $\mu\text{Ci/ml}$ )	Col. 2 Water ( $\mu\text{Ci/ml}$ )	
		W, Bromides of lanthanides, Be, Mg, Ca, Sr, Ba, Ra, Al, Ga, In, Tl, Ge, Sn, Pb, As, Sb, Bi, Fe, Ru, Os, Co, Rh, Ir, Ni, Pd, Pt, Cu, Ag, Au, Zn, Cd, Hg, Sc, Y, Ti, Zr, Hf, V, Nb, Ta, Mn, Tc, and Re	-	4E+4	2E-5	6E-8	-	-
35	Bromine-74 <sup>2</sup>	D, sec <sup>74m</sup> Br	2E+4	7E+4	3E-5	1E-7	-	-
		St wall (4E+4)	-	-	-	-	5E-4	5E-3
		W, sec <sup>74m</sup> Br	-	8E+4	4E-5	1E-7	-	-
35	Bromine-75 <sup>2</sup>	D, sec <sup>74m</sup> Br	3E+4	5E+4	2E-5	7E-8	-	-
		St wall (4E+4)	-	-	-	-	5E-4	5E-3
		W, sec <sup>74m</sup> Br	-	5E+4	2E-5	7E-8	-	-
35	Bromine-76	D, sec <sup>74m</sup> Br	4E+3	5E+3	2E-6	7E-9	5E-5	5E-4
		W, sec <sup>74m</sup> Br	-	4E+3	2E-6	6E-9	-	-
35	Bromine-77	D, sec <sup>74m</sup> Br	2E+4	2E+4	1E-5	3E-8	2E-4	2E-3
		W, sec <sup>74m</sup> Br	-	2E+4	8E-6	3E-8	-	-
35	Bromine-80m	D, sec <sup>74m</sup> Br	2E+4	2E+4	7E-6	2E-8	3E-4	3E-3
		W, sec <sup>74m</sup> Br	-	1E+4	6E-6	2E-8	-	-
35	Bromine-80 <sup>2</sup>	D, sec <sup>74m</sup> Br	5E+4	2E+5	8E-5	3E-7	-	-
		St wall (9E+4)	-	-	-	-	1E-3	1E-2
		W, sec <sup>74m</sup> Br	-	2E+5	9E-5	3E-7	-	-
35	Bromine-82	D, sec <sup>74m</sup> Br	3E+3	4E+3	2E-6	6E-9	4E-5	4E-4
		W, sec <sup>74m</sup> Br	-	4E+3	2E-6	5E-9	-	-
35	Bromine-83	D, sec <sup>74m</sup> Br	5E+4	6E+4	3E-5	9E-8	-	-
		St wall (7E+4)	-	-	-	-	9E-4	9E-3
		W, sec <sup>74m</sup> Br	-	6E+4	3E-5	9E-8	-	-
35	Bromine-84 <sup>2</sup>	D, sec <sup>74m</sup> Br	2E+4	6E+4	2E-5	8E-8	-	-
		St wall (3E+4)	-	-	-	-	4E-4	4E-3
		W, sec <sup>74m</sup> Br	-	6E+4	3E-5	9E-8	-	-
36	Krypton-74 <sup>2</sup>	Submersion <sup>1</sup>	-	-	3E-6	1E-8	-	-
36	Krypton-76	Submersion <sup>1</sup>	-	-	9E-6	4E-8	-	-
36	Krypton-77 <sup>2</sup>	Submersion <sup>1</sup>	-	-	4E-6	2E-8	-	-
36	Krypton-79	Submersion <sup>1</sup>	-	-	2E-5	7E-8	-	-
36	Krypton-81	Submersion <sup>1</sup>	-	-	7E-4	3E-6	-	-
36	Krypton-83m <sup>2</sup>	Submersion <sup>1</sup>	-	-	1E-2	5E-5	-	-
36	Krypton-85m	Submersion <sup>1</sup>	-	-	2E-5	1E-7	-	-
36	Krypton-85	Submersion <sup>1</sup>	-	-	1E-4	7E-7	-	-
36	Krypton-87 <sup>2</sup>	Submersion <sup>1</sup>	-	-	5E-6	2E-8	-	-
36	Krypton-88	Submersion <sup>1</sup>	-	-	2E-6	9E-9	-	-

## CHAPTER 7. DEPARTMENT OF HEALTH SERVICES - RADIATION CONTROL

Atomic No.	Radionuclide	Class	Table I Occupational Values			Table II Effluent Concentrations		Table III Releases to Sewers Monthly Average Concentration ( $\mu\text{Ci/ml}$ )
			Col. 1 Oral Ingestion ALI ( $\mu\text{Ci}$ )	Col. 2 Inhalation ALI ( $\mu\text{Ci}$ )	Col. 3 DAC ( $\mu\text{Ci/ml}$ )	Col. 1 Air ( $\mu\text{Ci/ml}$ )	Col. 2 Water ( $\mu\text{Ci/ml}$ )	
37	Rubidium-79 <sup>2</sup>	D, all compounds	4E+4 St wall (6E+4)	1E+5 -	5E-5 -	2E-7 -	- 8E-4	- 8E-3
37	Rubidium-81m <sup>2</sup>	D, all compounds	2E+5 St wall (3E+5)	3E+5 -	1E-4 -	5E-7 -	- 4E-3	- 4E-2
37	Rubidium-81	D, all compounds	4E+4	5E+4	2E-5	7E-8	5E-4	5E-3
37	Rubidium 82m	D, all compounds	1E+4	2E+4	7E-6	2E-8	2E-4	2E-3
37	Rubidium-83	D, all compounds	6E+2	1E+3	4E-7	1E-9	9E-6	9E-5
37	Rubidium-84	D, all compounds	5E+2	8E+2	3E-7	1E-9	7E-6	7E-5
37	Rubidium-86	D, all compounds	5E+2	8E+2	3E-7	1E-9	7E-6	7E-5
37	Rubidium-87	D, all compounds	1E+3	2E+3	6E-7	2E-9	1E-5	1E-4
37	Rubidium-88 <sup>2</sup>	D, all compounds	2E+4 St wall (3E+4)	6E+4 -	3E-5 -	9E-8 -	- 4E-4	- 4E-3
37	Rubidium-89 <sup>2</sup>	D, all compounds	4E+4 St wall (6E+4)	1E+5 -	6E-5 -	2E-7 -	- 9E-4	- 9E-3
38	Strontium-80 <sup>2</sup>	D, all soluble compounds except SrTiO Y, all insoluble compounds and SrTiO	4E+3 -	1E+4 1E+4	5E-6 5E-6	2E-8 2E-8	6E-5 -	6E-4 -
38	Strontium-81 <sup>2</sup>	D, see <sup>80</sup> Sr Y, see <sup>80</sup> Sr	3E+4 2E+4	8E+4 8E+4	3E-5 3E-5	1E-7 1E-7	3E-4 -	3E-3 -
38	Strontium-82	D, see <sup>80</sup> Sr	3E+2 LLI wall (2E+2)	4E+2 -	2E-7 -	6E-10 -	- 3E-6	- 3E-5
38	Strontium-83	Y, see <sup>80</sup> Sr D, see <sup>80</sup> Sr Y, see <sup>80</sup> Sr	2E+2 3E+3 2E+3	9E+1 7E+3 4E+3	4E-8 3E-6 1E-6	1E-10 1E-8 5E-9	- 3E-5 -	- 3E-4 -
38	Strontium-85m <sup>2</sup>	D, see <sup>80</sup> Sr Y, see <sup>80</sup> Sr	2E+5 -	6E+5 8E+5	3E-4 4E-4	9E-7 1E-6	3E-3 -	3E-2 -
38	Strontium-85	D, see <sup>80</sup> Sr Y, see <sup>80</sup> Sr	3E+3 -	3E+3 2E+3	1E-6 6E-7	4E-9 2E-9	4E-5 -	4E-4 -
38	Strontium-87m	D, see <sup>80</sup> Sr Y, see <sup>80</sup> Sr	5E+4 4E+4	1E+5 2E+5	5E-5 6E-5	2E-7 2E-7	6E-4 -	6E-3 -
38	Strontium-89	D, see <sup>80</sup> Sr	6E+2 LLI wall (6E+2)	8E+2 -	4E-7 -	1E-9 -	- 8E-6	- 8E-5
38	Strontium-90	Y, see <sup>80</sup> Sr D, see <sup>80</sup> Sr	5E+2 3E+1 Bone surf (4E+1)	1E+2 2E+1 Bone surf (2E+1)	6E-8 8E-9 -	2E-10 -	- -	- 5E-6
38	Strontium-91	Y, see <sup>80</sup> Sr D, see <sup>80</sup> Sr Y, see <sup>80</sup> Sr	- 2E+3 -	4E+0 6E+3 4E+3	2E-9 2E-6 1E-6	6E-12 8E-9 5E-9	- 2E-5 -	- 2E-4 -

## CHAPTER 7. DEPARTMENT OF HEALTH SERVICES - RADIATION CONTROL

Atomic No.	Radionuclide	Class	Table I Occupational Values			Table II Effluent Concentrations		Table III Releases to Sewers Monthly Average Concentration ( $\mu\text{Ci/ml}$ )
			Col. 1 Oral Ingestion ALI ( $\mu\text{Ci}$ )	Col. 2 Inhalation ALI ( $\mu\text{Ci}$ )	Col. 3 DAC ( $\mu\text{Ci/ml}$ )	Col. 1 Air ( $\mu\text{Ci/ml}$ )	Col. 2 Water ( $\mu\text{Ci/ml}$ )	
38	Strontium-92	D, see $^{80}\text{Sr}$	3E+3	9E+3	4E-6	1E-8	4E-5	4E-4
		Y, see $^{80}\text{Sr}$	-	7E+3	3E-6	9E-9	-	-
39	Yttrium-86m <sup>2</sup>	W, all compounds except those given for Y	2E+4	6E+4	2E-5	8E-8	3E-4	3E-3
		Y, oxides and hydroxides	-	5E+4	2E-5	8E-8	-	-
39	Yttrium-86	W, see $^{86m}\text{Y}$	1E+3	3E+3	1E-6	5E-9	2E-5	2E-4
		Y, see $^{86m}\text{Y}$	-	3E+3	1E-6	5E-9	-	-
39	Yttrium-87	W, see $^{86m}\text{Y}$	2E+3	3E+3	1E-6	5E-9	3E-5	3E-4
		Y, see $^{86m}\text{Y}$	-	3E+3	1E-6	5E-9	-	-
39	Yttrium-88	W, see $^{86m}\text{Y}$	1E+3	3E+2	1E-7	3E-10	1E-5	1E-4
		Y, see $^{86m}\text{Y}$	-	2E+2	1E-7	3E-10	-	-
39	Yttrium-90m	W, see $^{86m}\text{Y}$	8E+3	1E+4	5E-6	2E-8	1E-4	1E-3
		Y, see $^{86m}\text{Y}$	-	1E+4	5E-6	2E-8	-	-
39	Yttrium-90	W, see $^{86m}\text{Y}$	4E+2	7E+2	3E-7	9E-10	-	-
		LLI wall (5E+2)	-	-	-	-	7E-6	7E-5
		Y, see $^{86m}\text{Y}$	-	6E+2	3E-7	9E-10	-	-
39	Yttrium-91m <sup>2</sup>	W, see $^{86m}\text{Y}$	1E+5	2E+5	1E-4	3E-7	2E-3	2E-2
		Y, see $^{86m}\text{Y}$	-	2E+5	7E-5	2E-7	-	-
39	Yttrium-91	W, see $^{86m}\text{Y}$	5E+2	2E+2	7E-8	2E-10	-	-
		LLI wall (6E+2)	-	-	-	-	8E-6	8E-5
		Y, see $^{86m}\text{Y}$	-	1E+2	5E-8	2E-10	-	-
39	Yttrium-92	W, see $^{86m}\text{Y}$	3E+3	9E+3	4E-6	1E-8	4E-5	4E-4
		Y, see $^{86m}\text{Y}$	-	8E+3	3E-6	1E-8	-	-
39	Yttrium-93	W, see $^{86m}\text{Y}$	1E+3	3E+3	1E-6	4E-9	2E-5	2E-4
		Y, see $^{86m}\text{Y}$	-	2E+3	1E-6	3E-9	-	-
39	Yttrium-94 <sup>2</sup>	W, see $^{86m}\text{Y}$	2E+4	8E+4	3E-5	1E-7	-	-
		St wall (3E+4)	-	-	-	-	4E-4	4E-3
		Y, see $^{86m}\text{Y}$	-	8E+4	3E-5	1E-7	-	-
39	Yttrium-95 <sup>2</sup>	W, see $^{86m}\text{Y}$	4E+4	2E+5	6E-5	2E-7	-	-
		St wall (5E+4)	-	-	-	-	7E-4	7E-3
		Y, see $^{86m}\text{Y}$	-	1E+5	6E-5	2E-7	-	-
40	Zirconium-86	D, all compounds except those given for W and Y	1E+3	4E+3	2E-6	6E-9	2E-5	2E-4
		W, oxides, hydroxides, halides, and nitrates	-	3E+3	1E-6	4E-9	-	-
		Y, carbide	-	2E+3	1E-6	3E-9	-	-
40	Zirconium-88	D, see $^{86}\text{Zr}$	4E+3	2E+2	9E-8	3E-10	5E-5	5E-4
		W, see $^{86}\text{Zr}$	-	5E+2	2E-7	7E-10	-	-
		Y, see $^{86}\text{Zr}$	-	3E+2	1E-7	4E-10	-	-



## CHAPTER 7. DEPARTMENT OF HEALTH SERVICES - RADIATION CONTROL

Atomic No.	Radionuclide	Class	Table I Occupational Values			Table II Effluent Concentrations		Table III Releases to Sewers Monthly Average Concentration ( $\mu\text{Ci/ml}$ )
			Col. 1 Oral Ingestion ALI ( $\mu\text{Ci}$ )	Col. 2 Inhalation ALI ( $\mu\text{Ci}$ )	Col. 3 DAC ( $\mu\text{Ci/ml}$ )	Col. 1 Air ( $\mu\text{Ci/ml}$ )	Col. 2 Water ( $\mu\text{Ci/ml}$ )	
40	Zirconium-89	D, see $^{86}\text{Zr}$	2E+3	4E+3	1E-6	5E-9	2E-5	2E-4
		W, see $^{86}\text{Zr}$	-	2E+3	1E-6	3E-9	-	-
		Y, see $^{86}\text{Zr}$	-	2E+3	1E-6	3E-9	-	-
40	Zirconium-93	D, see $^{86}\text{Zr}$	1E+3	6E+0	3E-9	-	-	-
			Bone surf (3E+3)	Bone surf (2E+1)	-	2E-11	4E-5	4E-4
		W, see $^{86}\text{Zr}$	-	2E+1	1E-8	-	-	-
			-	Bone surf (6E+1)	-	9E-11	-	-
		Y, see $^{86}\text{Zr}$	-	6E+1	2E-8	-	-	-
			-	Bone surf (7E+1)	-	9E-11	-	-
40	Zirconium-95	D, see $^{86}\text{Zr}$	1E+3	1E+2	5E-8	-	2E-5	2E-4
			-	Bone surf (3E+2)	-	4E-10	-	-
		W, see $^{86}\text{Zr}$	-	4E+2	2E-7	5E-10	-	-
		Y, see $^{86}\text{Zr}$	-	3E+2	1E-7	4E-10	-	-
40	Zirconium-97	D, see $^{86}\text{Zr}$	6E+2	2E+3	8E-7	3E-9	9E-6	9E-5
		W, see $^{86}\text{Zr}$	-	1E+3	6E-7	2E-9	-	-
		Y, see $^{86}\text{Zr}$	-	1E+3	5E-7	2E-9	-	-
41	Niobium-88 <sup>2</sup>	W, all compounds except those given for Y	5E+4	2E+5	9E-5	3E-7	-	-
			St wall (7E+4)	-	-	-	1E-3	1E-2
		Y, oxides and hydroxides	-	2E+5	9E-5	3E-7	-	-
41	Niobium-89 <sup>2</sup> (66 min)	W, see $^{88}\text{Nb}$	1E+4	4E+4	2E-5	6E-8	1E-4	1E-3
		Y, see $^{88}\text{Nb}$	-	4E+4	2E-5	5E-8	-	-
41	Niobium-89 (122 min)	W, see $^{88}\text{Nb}$	5E+3	2E+4	8E-6	3E-8	7E-5	7E-4
		Y, see $^{88}\text{Nb}$	-	2E+4	6E-6	2E-8	-	-
41	Niobium-90	W, see $^{88}\text{Nb}$	1E+3	3E+3	1E-6	4E-9	1E-5	1E-4
		Y, see $^{88}\text{Nb}$	-	2E+3	1E-6	3E-9	-	-
41	Niobium-93m	W, see $^{88}\text{Nb}$	9E+3	2E+3	8E-7	3E-9	-	-
			LLI wall (1E+4)	-	-	-	2E-4	2E-3
		Y, see $^{88}\text{Nb}$	-	2E+2	7E-8	2E-10	-	-
41	Niobium-94	W, see $^{88}\text{Nb}$	9E+2	2E+2	8E-8	3E-10	1E-5	1E-4
		Y, see $^{88}\text{Nb}$	-	2E+1	6E-9	2E-11	-	-
41	Niobium-95m	W, see $^{88}\text{Nb}$	2E+3	3E+3	1E-6	4E-9	-	-
			LLI wall (2E+3)	-	-	-	3E-5	3E-4
		Y, see $^{88}\text{Nb}$	-	2E+3	9E-7	3E-9-	-	-
41	Niobium-95	W, see $^{88}\text{Nb}$	2E+3	1E+3	5E-7	2E-9	3E-5	3E-4
		Y, see $^{88}\text{Nb}$	-	1E+3	5E-7	2E-9-	-	-

## CHAPTER 7. DEPARTMENT OF HEALTH SERVICES - RADIATION CONTROL

Atomic No.	Radionuclide	Class	Table I Occupational Values			Table II Effluent Concentrations		Table III Releases to Sewers Monthly Average Concentration ( $\mu\text{Ci/ml}$ )
			Col. 1 Oral Ingestion ALI ( $\mu\text{Ci}$ )	Col. 2 Inhalation ALI ( $\mu\text{Ci}$ )	Col. 3 DAC ( $\mu\text{Ci/ml}$ )	Col. 1 Air ( $\mu\text{Ci/ml}$ )	Col. 2 Water ( $\mu\text{Ci/ml}$ )	
41	Niobium-96	W, see $^{88}\text{Nb}$	1E+3	3E+3	1E-6	4E-9	2E-5	2E-4
		Y, see $^{88}\text{Nb}$	-	2E+3	1E-6	3E-9	-	-
41	Niobium-97 <sup>2</sup>	W, see $^{88}\text{Nb}$	2E+4	8E+4	3E-5	1E-7	3E-4	3E-3
		Y, see $^{88}\text{Nb}$	-	7E+4	3E-5	1E-7	-	-
41	Niobium-98 <sup>2</sup>	W, see $^{88}\text{Nb}$	1E+4	5E+4	2E-5	8E-8	2E-4	2E-3
		Y, see $^{88}\text{Nb}$	-	5E+4	2E-5	7E-8	-	-
42	Molybdenum-90	D, all compounds except those given for Y	4E+3	7E+3	3E-6	1E-8	3E-5	3E-4
		Y, oxides, hydroxides, and MoS	2E+3	5E+3	2E-6	6E-9	-	-
42	Molybdenum-93m	D, see $^{90}\text{Mo}$	9E+3	2E+4	7E-6	2E-8	6E-5	6E-4
		Y, see $^{90}\text{Mo}$	4E+3	1E+4	6E-6	2E-8	-	-
42	Molybdenum-93	D, see $^{90}\text{Mo}$	4E+3	5E+3	2E-6	8E-9	5E-5	5E-4
		Y, see $^{90}\text{Mo}$	2E+4	2E+2	8E-8	2E-10	-	-
42	Molybdenum-99	D, see $^{90}\text{Mo}$	2E+3	3E+3	1E-6	4E-9	-	-
		LLI wall (1E+3)	-	-	-	-	2E-5	2E-4
		Y, see $^{90}\text{Mo}$	1E+3	1E+3	6E-7	2E-9	-	-
42	Molybdenum-101 <sup>2</sup>	D, see $^{90}\text{Mo}$	4E+4	1E+5	6E-5	2E-7	-	-
		St wall (5E+4)	-	-	-	-	7E-4	7E-3
		Y, see $^{90}\text{Mo}$	-	1E+5	6E-5	2E-7	-	-
43	Technetium-93m <sup>2</sup>	D, All compounds except those given for W	7E+4	2E+5	6E-5	2E-7	1E-3	1E-2
		W, oxides, hydroxides, halides, and nitrates	-	3E+5	1E-4	4E-7	-	-
43	Technetium-93	D, see $^{93\text{m}}\text{Tc}$	3E+4	7E+4	3E-5	1E-7	4E-4	4E-3
		W, see $^{93\text{m}}\text{Tc}$	-	1E+5	4E-5	1E-7	-	-
43	Technetium-94m <sup>2</sup>	D, see $^{93\text{m}}\text{Tc}$	2E+4	4E+4	2E-5	6E-8	3E-4	3E-3
		W, see $^{93\text{m}}\text{Tc}$	-	6E+4	2E-5	8E-8	-	-
43	Technetium-94	D, see $^{93\text{m}}\text{Tc}$	9E+3	2E+4	8E-6	3E-8	1E-4	1E-3
		W, see $^{93\text{m}}\text{Tc}$	-	2E+4	1E-5	3E-8	-	-
43	Technetium-95m	D, see $^{93\text{m}}\text{Tc}$	4E+3	5E+3	2E-6	8E-9	5E-5	5E-4
		W, see $^{93\text{m}}\text{Tc}$	-	2E+3	8E-7	3E-9	-	-
43	Technetium-95	D, see $^{93\text{m}}\text{Tc}$	1E+4	2E+4	9E-6	3E-8	1E-4	1E-3
		W, see $^{93\text{m}}\text{Tc}$	-	2E+4	8E-6	3E-8	-	-
43	Technetium-96m <sup>2</sup>	D, see $^{93\text{m}}\text{Tc}$	2E+5	3E+5	1E-4	4E-7	2E-3	2E-2
		W, see $^{93\text{m}}\text{Tc}$	-	2E+5	1E-4	3E-7	-	-
43	Technetium-96	D, see $^{93\text{m}}\text{Tc}$	2E+3	3E+3	1E-6	5E-9	3E-5	3E-4
		W, see $^{93\text{m}}\text{Tc}$	-	2E+3	9E-7	3E-9	-	-
43	Technetium-97m	D, see $^{93\text{m}}\text{Tc}$	5E+3	7E+3	3E-6	-	6E-5	6E-4
		St wall (7E+3)	-	-	-	1E-8	-	-
		W, see $^{93\text{m}}\text{Tc}$	-	1E+3	5E-7	2E-9	-	-

## CHAPTER 7. DEPARTMENT OF HEALTH SERVICES - RADIATION CONTROL

Atomic No.	Radionuclide	Class	Table I Occupational Values			Table II Effluent Concentrations		Table III Releases to Sewers Monthly Average Concentration ( $\mu\text{Ci/ml}$ )
			Col. 1 Oral Ingestion ALI ( $\mu\text{Ci}$ )	Col. 2 Inhalation ALI ( $\mu\text{Ci}$ )	Col. 3 DAC ( $\mu\text{Ci/ml}$ )	Col. 1 Air ( $\mu\text{Ci/ml}$ )	Col. 2 Water ( $\mu\text{Ci/ml}$ )	
43	Technetium-97	D, see $^{93\text{m}}\text{Tc}$	4E+4	5E+4	2E-5	7E-8	5E-4	5E-3
		W, see $^{93\text{m}}\text{Tc}$	-	6E+3	2E-6	8E-9	-	-
43	Technetium-98	D, see $^{93\text{m}}\text{Tc}$	1E+3	2E+3	7E-7	2E-9	1E-5	1E-4
		W, see $^{93\text{m}}\text{Tc}$	-	3E+2	1E-7	4E-10	-	-
43	Technetium-99m	D, see $^{93\text{m}}\text{Tc}$	8E+4	2E+5	6E-5	2E-7	1E-3	1E-2
		W, see $^{93\text{m}}\text{Tc}$	-	2E+5	1E-4	3E-7	-	-
43	Technetium-99	D, see $^{93\text{m}}\text{Tc}$	4E+3	5E+3	2E-6	-	6E-5	6E-4
		St wall	-	(6E+3)	-	8E-9	-	-
43	Technetium-101 <sup>2</sup>	W, see $^{93\text{m}}\text{Tc}$	-	7E+2	3E-7	9E-10	-	-
		D, see $^{93\text{m}}\text{Tc}$	9E+4	3E+5	1E-4	5E-7	-	-
43	Technetium-104 <sup>2</sup>	St wall	(1E+5)	-	-	-	2E-3	2E-2
		W, see $^{93\text{m}}\text{Tc}$	-	4E+5	2E-4	5E-7	-	-
43	Technetium-104 <sup>2</sup>	D, see $^{93\text{m}}\text{Tc}$	2E+4	7E+4	3E-5	1E-7	-	-
		St wall	(3E+4)	-	-	-	4E-4	4E-3
44	Ruthenium-94 <sup>2</sup>	W, see $^{93\text{m}}\text{Tc}$	-	9E+4	4E-5	1E-7	-	-
		D, all compounds except those given for W and Y	2E+4	4E+4	2E-5	6E-8	2E-4	2E-3
44	Ruthenium-97	W, halides	-	6E+4	3E-5	9E-8	-	-
		Y, oxides and hydroxides	-	6E+4	2E-5	8E-8	-	-
44	Ruthenium-97	D, see $^{94}\text{Ru}$	8E+3	2E+4	8E-6	3E-8	1E-4	1E-3
		W, see $^{94}\text{Ru}$	-	1E+4	5E-6	2E-8	-	-
44	Ruthenium-103	Y, see $^{94}\text{Ru}$	-	1E+4	5E-6	2E-8	-	-
		D, see $^{94}\text{Ru}$	2E+3	2E+3	7E-7	2E-9	3E-5	3E-4
44	Ruthenium-103	W, see $^{94}\text{Ru}$	-	1E+3	4E-7	1E-9	-	-
		Y, see $^{94}\text{Ru}$	-	6E+2	3E-7	9E-10	-	-
44	Ruthenium-105	D, see $^{94}\text{Ru}$	5E+3	1E+4	6E-6	2E-8	7E-5	7E-4
		W, see $^{94}\text{Ru}$	-	1E+4	6E-6	2E-8	-	-
44	Ruthenium-105	Y, see $^{94}\text{Ru}$	-	1E+4	5E-6	2E-8	-	-
		D, see $^{94}\text{Ru}$	2E+2	9E+1	4E-8	1E-10	-	-
44	Ruthenium-106	LLI wall	(2E+2)	-	-	-	3E-6	3E-5
		W, see $^{94}\text{Ru}$	-	5E+1	2E-8	8E-11	-	-
45	Rhodium-99m	Y, see $^{94}\text{Ru}$	-	1E+1	5E-9	2E-11	-	-
		D, all compounds except those given for W and Y	2E+4	6E+4	2E-5	8E-8	2E-4	2E-3
45	Rhodium-99	W, halides	-	8E+4	3E-5	1E-7	-	-
		Y, oxides and hydroxides	-	7E+4	3E-5	9E-8	-	-
45	Rhodium-99	D, see $^{99\text{m}}\text{Rh}$	2E+3	3E+3	1E-6	4E-9	3E-5	3E-4
		W, see $^{99\text{m}}\text{Rh}$	-	2E+3	9E-7	3E-9	-	-
45	Rhodium-99	Y, see $^{99\text{m}}\text{Rh}$	-	2E+3	8E-7	3E-9	-	-

## CHAPTER 7. DEPARTMENT OF HEALTH SERVICES - RADIATION CONTROL

Atomic No.	Radionuclide	Class	Table I Occupational Values			Table II Effluent Concentrations		Table III Releases to Sewers Monthly Average Concentration ( $\mu\text{Ci/ml}$ )
			Col. 1 Oral Ingestion ALI ( $\mu\text{Ci}$ )	Col. 2 Inhalation ALI ( $\mu\text{Ci}$ )	Col. 3 DAC ( $\mu\text{Ci/ml}$ )	Col. 1 Air ( $\mu\text{Ci/ml}$ )	Col. 2 Water ( $\mu\text{Ci/ml}$ )	
45	Rhodium-100	D, see $^{99\text{m}}\text{Rh}$	2E+3	5E+3	2E-6	7E-9	2E-5	2E-4
		W, see $^{99\text{m}}\text{Rh}$	-	4E+3	2E-6	6E-9	-	-
		Y, see $^{99\text{m}}\text{Rh}$	-	4E+3	2E-6	5E-9	-	-
45	Rhodium-101m	D, see $^{99\text{m}}\text{Rh}$	6E+3	1E+4	5E-6	2E-8	8E-5	8E-4
		W, see $^{99\text{m}}\text{Rh}$	-	8E+3	4E-6	1E-8	-	-
		Y, see $^{99\text{m}}\text{Rh}$	-	8E+3	3E-6	1E-8	-	-
45	Rhodium-101	D, see $^{99\text{m}}\text{Rh}$	2E+3	5E+2	2E-7	7E-10	3E-5	3E-4
		W, see $^{99\text{m}}\text{Rh}$	-	8E+2	3E-7	1E-9	-	-
		Y, see $^{99\text{m}}\text{Rh}$	-	2E+2	6E-8	2E-10	-	-
45	Rhodium-102m	D, see $^{99\text{m}}\text{Rh}$	1E+3	5E+2	2E-7	7E-10	-	-
		LLI wall (1E+3)	-	-	-	-	2E-5	2E-4
		W, see $^{99\text{m}}\text{Rh}$	-	4E+2	2E-7	5E-10	-	-
		Y, see $^{99\text{m}}\text{Rh}$	-	1E+2	5E-8	2E-10	-	-
		D, see $^{99\text{m}}\text{Rh}$	6E+2	9E+1	4E-8	1E-10	8E-6	8E-5
45	Rhodium-102	W, see $^{99\text{m}}\text{Rh}$	-	2E+2	7E-8	2E-10	-	-
		Y, see $^{99\text{m}}\text{Rh}$	-	6E+1	2E-8	8E-11	-	-
45	Rhodium-103m <sup>2</sup>	D, see $^{99\text{m}}\text{Rh}$	4E+5	1E+6	5E-4	2E-6	6E-3	6E-2
		W, see $^{99\text{m}}\text{Rh}$	-	1E+6	5E-4	2E-6	-	-
		Y, see $^{99\text{m}}\text{Rh}$	-	1E+6	5E-4	2E-6	-	-
45	Rhodium-105	D, see $^{99\text{m}}\text{Rh}$	4E+3	1E+4	5E-6	2E-8	-	-
		LLI wall (4E+3)	-	-	-	-	5E-5	5E-4
		W, see $^{99\text{m}}\text{Rh}$	-	6E+3	3E-6	9E-9	-	-
		Y, see $^{99\text{m}}\text{Rh}$	-	6E+3	2E-6	8E-9	-	-
		D, see $^{99\text{m}}\text{Rh}$	8E+3	3E+4	1E-5	4E-8	1E-4	1E-3
45	Rhodium-106m	W, see $^{99\text{m}}\text{Rh}$	-	4E+4	2E-5	5E-8	-	-
		Y, see $^{99\text{m}}\text{Rh}$	-	4E+4	1E-5	5E-8	-	-
45	Rhodium-107 <sup>2</sup>	D, see $^{99\text{m}}\text{Rh}$	7E+4	2E+5	1E-4	3E-7	-	-
		St wall (9E+4)	-	-	-	-	1E-3	1E-2
		W, see $^{99\text{m}}\text{Rh}$	-	3E+5	1E-4	4E-7	-	-
		Y, see $^{99\text{m}}\text{Rh}$	-	3E+5	1E-4	3E-7	-	-
46	Palladium-100	D, all compounds except those given for W and Y	1E+3	1E+3	6E-7	2E-9	2E-5	2E-4
		W, nitrates	-	1E+3	5E-7	2E-9	-	-
		Y, oxides and hydroxides	-	1E+3	6E-7	2E-9	-	-
		D, see $^{100}\text{Pd}$	1E+4	3E+4	1E-5	5E-8	2E-4	2E-3
46	Palladium-101	W, see $^{100}\text{Pd}$	-	3E+4	1E-5	5E-8	-	-
		Y, see $^{100}\text{Pd}$	-	3E+4	1E-5	4E-8	-	-

## CHAPTER 7. DEPARTMENT OF HEALTH SERVICES - RADIATION CONTROL

Atomic No.	Radionuclide	Class	Table I Occupational Values			Table II Effluent Concentrations		Table III Releases to Sewers Monthly Average Concentration ( $\mu\text{Ci/ml}$ )
			Col. 1 Oral Ingestion ALI ( $\mu\text{Ci}$ )	Col. 2 Inhalation ALI ( $\mu\text{Ci}$ )	Col. 3 DAC ( $\mu\text{Ci/ml}$ )	Col. 1 Air ( $\mu\text{Ci/ml}$ )	Col. 2 Water ( $\mu\text{Ci/ml}$ )	
46	Palladium-103	D, see $^{100}\text{Pd}$	6E+3	6E+3	3E-6	9E-9	-	-
			LLI wall (7E+3)	-	-	-	1E-4	1E-3
		W, see $^{100}\text{Pd}$	-	4E+3	2E-6	6E-9	-	-
		Y, see $^{100}\text{Pd}$	-	4E+3	1E-6	5E-9	-	-
46	Palladium-107	D, see $^{100}\text{Pd}$	3E+4	2E+4	9E-6	-	-	-
			LLI wall (4E+4)	Kidneys (2E+4)	-	3E-8	5E-4	5E-3
		W, see $^{100}\text{Pd}$	-	7E+3	3E-6	1E-8	-	-
		Y, see $^{100}\text{Pd}$	-	4E+2	2E-7	6E-10	-	-
46	Palladium-109	D, see $^{100}\text{Pd}$	2E+3	6E+3	3E-6	9E-9	3E-5	3E-4
		W, see $^{100}\text{Pd}$	-	5E+3	2E-6	8E-9	-	-
		Y, see $^{100}\text{Pd}$	-	5E+3	2E-6	6E-9	-	-
47	Silver-102 <sup>2</sup>	D, all compounds except those given for W and Y	5E+4	2E+5	8E-5	2E-7	-	-
			St wall (6E+4)	-	-	-	9E-4	9E-3
		W, nitrates and sulfides	-	2E+5	9E-5	3E-7	-	-
		Y, oxides and hydroxides	-	2E+5	8E-5	3E-7	-	-
47	Silver-103 <sup>2</sup>	D, see $^{102}\text{Ag}$	4E+4	1E+5	4E-5	1E-7	5E-4	5E-3
		W, see $^{102}\text{Ag}$	-	1E+5	5E-5	2E-7	-	-
		Y, see $^{102}\text{Ag}$	-	1E+5	5E-5	2E-7	-	-
47	Silver-104m <sup>2</sup>	D, see $^{102}\text{Ag}$	3E+4	9E+4	4E-5	1E-7	4E-4	4E-3
		W, see $^{102}\text{Ag}$	-	1E+5	5E-5	2E-7	-	-
		Y, see $^{102}\text{Ag}$	-	1E+5	5E-5	2E-7	-	-
47	Silver-104 <sup>2</sup>	D, see $^{102}\text{Ag}$	2E+4	7E+4	3E-5	1E-7	3E-4	3E-3
		W, see $^{102}\text{Ag}$	-	1E+5	6E-5	2E-7	-	-
		Y, see $^{102}\text{Ag}$	-	1E+5	6E-5	2E-7	-	-
47	Silver-105	D, see $^{102}\text{Ag}$	3E+3	1E+3	4E-7	1E-9	4E-5	4E-4
		W, see $^{102}\text{Ag}$	-	2E+3	7E-7	2E-9	-	-
		Y, see $^{102}\text{Ag}$	-	2E+3	7E-7	2E-9	-	-
47	Silver-106m	D, see $^{102}\text{Ag}$	8E+2	7E+2	3E-7	1E-9	1E-5	1E-4
		W, see $^{102}\text{Ag}$	-	9E+2	4E-7	1E-9	-	-
		Y, see $^{102}\text{Ag}$	-	9E+2	4E-7	1E-9	-	-
47	Silver-106 <sup>2</sup>	D, see $^{102}\text{Ag}$	6E+4	2E+5	8E-5	3E-7	-	-
			St Wall (6E+4)	-	-	-	9E-4	9E-3
		W, see $^{102}\text{Ag}$	-	2E+5	9E-5	3E-7	-	-
		Y, see $^{102}\text{Ag}$	-	2E+5	8E-5	3E-7	-	-
47	Silver-108m	D, see $^{102}\text{Ag}$	6E+2	2E+2	8E-8	3E-10	9E-6	9E-5
		W, see $^{102}\text{Ag}$	-	3E+2	1E-7	4E-10	-	-
		Y, see $^{102}\text{Ag}$	-	2E+1	1E-8	3E-11	-	-

## CHAPTER 7. DEPARTMENT OF HEALTH SERVICES - RADIATION CONTROL

Atomic No.	Radionuclide	Class	Table I Occupational Values			Table II Effluent Concentrations		Table III Releases to Sewers Monthly Average Concentration ( $\mu\text{Ci/ml}$ )
			Col. 1 Oral Ingestion ALI ( $\mu\text{Ci}$ )	Col. 2 Inhalation ALI ( $\mu\text{Ci}$ )	Col. 3 DAC ( $\mu\text{Ci/ml}$ )	Col. 1 Air ( $\mu\text{Ci/ml}$ )	Col. 2 Water ( $\mu\text{Ci/ml}$ )	
47	Silver-110m	D, see $^{102}\text{Ag}$	5E+2	1E+2	5E-8	2E-10	6E-6	6E-5
		W, see $^{102}\text{Ag}$	-	2E+2	8E-8	3E-10	-	-
		Y, see $^{102}\text{Ag}$	-	9E+1	4E-8	1E-10	-	-
47	Silver-111	D, see $^{102}\text{Ag}$	9E+2	2E+3	6E-7	-	-	-
		LLI wall (1E+3)		Liver (2E+3)	-	2E-9	2E-5	2E-4
		W, see $^{102}\text{Ag}$	-	9E+2	4E-7	1E-9	-	-
47	Silver-112	Y, see $^{102}\text{Ag}$	-	9E+2	4E-7	1E-9	-	-
		D, see $^{102}\text{Ag}$	3E+3	8E+3	3E-6	1E-8	4E-5	4E-4
		W, see $^{102}\text{Ag}$	-	1E+4	4E-6	1E-8	-	-
47	Silver-115 <sup>2</sup>	Y, see $^{102}\text{Ag}$	-	9E+3	4E-6	1E-8	-	-
		D, see $^{102}\text{Ag}$	3E+4	9E+4	4E-5	1E-7	-	-
		St wall (3E+4)		-	-	-	4E-4	4E-3
48	Cadmium-104 <sup>2</sup>	W, see $^{102}\text{Ag}$	-	9E+4	4E-5	1E-7	-	-
		Y, see $^{102}\text{Ag}$	-	8E+4	3E-5	1E-7	-	-
		D, all compounds except those given for W and Y	2E+4	7E+4	3E-5	9E-8	3E-4	3E-3
48	Cadmium-107	W, sulfides, halides, and nitrates	-	1E+5	5E-5	2E-7	-	-
		Y, oxides and hydroxides	-	1E+5	5E-5	2E-7	-	-
		D, see $^{104}\text{Cd}$	2E+4	5E+4	2E-5	8E-8	3E-4	3E-3
48	Cadmium-109	W, see $^{104}\text{Cd}$	-	6E+4	2E-5	8E-8	-	-
		Y, see $^{104}\text{Cd}$	-	5E+4	2E-5	7E-8	-	-
		D, see $^{104}\text{Cd}$	3E+2	4E+1	1E-8	-	-	-
48	Cadmium-113m	Kidneys (4E+2)		Kidneys (5E+1)	-	7E-11	6E-6	6E-5
		W, see $^{104}\text{Cd}$	-	1E+2	5E-8	-	-	-
		Kidneys (1E+2)		Kidneys (1E+2)	-	2E-10	-	-
48	Cadmium-113	Y, see $^{104}\text{Cd}$	-	1E+2	5E-8	2E-10	-	-
		D, see $^{104}\text{Cd}$	2E+1	2E+0	1E-9	-	-	-
		Kidneys (4E+1)		Kidneys (4E+0)	-	5E-12	5E-7	5E-6
48	Cadmium-113	W, see $^{104}\text{Cd}$	-	8E+0	4E-9	-	-	-
		Kidneys (1E+1)		Kidneys (1E+1)	-	2E-11	-	-
		Y, see $^{104}\text{Cd}$	-	1E+1	5E-9	2E-11	-	-
48	Cadmium-113	D, see $^{104}\text{Cd}$	2E+1	2E+0	9E-10	-	-	-
		Kidneys (3E+1)		Kidneys (3E+0)	-	5E-12	4E-7	4E-6
		W, see $^{104}\text{Cd}$	-	8E+0	3E-9	-	-	-
48	Cadmium-113	Kidneys (1E+1)		Kidneys (1E+1)	-	2E-11	-	-
		Y, see $^{104}\text{Cd}$	-	1E+1	6E-9	2E-11	-	-
		D, see $^{104}\text{Cd}$	-	1E+1	6E-9	2E-11	-	-

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Atomic No.	Radionuclide	Class	Table I Occupational Values			Table II Effluent Concentrations		Table III Releases to Sewers Monthly Average Concentration ( $\mu\text{Ci/ml}$ )
			Col. 1 Oral Ingestion ALI ( $\mu\text{Ci}$ )	Col. 2 Inhalation ALI ( $\mu\text{Ci}$ )	Col. 3 DAC ( $\mu\text{Ci/ml}$ )	Col. 1 Air ( $\mu\text{Ci/ml}$ )	Col. 2 Water ( $\mu\text{Ci/ml}$ )	
48	Cadmium-115m	D, see $^{104}\text{Cd}$	3E+2	5E+1	2E-8	-	4E-6	4E-5
				Kidneys				
			-	(8E+1)	-	1E-10	-	-
		W, see $^{104}\text{Cd}$	-	1E+2	5E-8	2E-10	-	-
		Y, see $^{104}\text{Cd}$	-	1E+2	6E-8	2E-10	-	-
48	Cadmium-115	D, see $^{104}\text{Cd}$	9E+2	1E+3	6E-7	2E-9	-	-
			LLI wall (1E+3)	-	-	-	1E-5	1E-4
		W, see $^{104}\text{Cd}$	-	1E+3	5E-7	2E-9	-	-
		Y, see $^{104}\text{Cd}$	-	1E+3	6E-7	2E-9	-	-
48	Cadmium-117m	D, see $^{104}\text{Cd}$	5E+3	1E+4	5E-6	2E-8	6E-5	6E-4
		W, see $^{104}\text{Cd}$	-	2E+4	7E-6	2E-8	-	-
		Y, see $^{104}\text{Cd}$	-	1E+4	6E-6	2E-8	-	-
48	Cadmium-117	D, see $^{104}\text{Cd}$	5E+3	1E+4	5E-6	2E-8	6E-5	6E-4
		W, see $^{104}\text{Cd}$	-	2E+4	7E-6	2E-8	-	-
		Y, see $^{104}\text{Cd}$	-	1E+4	6E-6	2E-8	-	-
49	Indium-109	D, all compounds except those given for W	2E+4	4E+4	2E-5	6E-8	3E-4	3E-3
		W, oxides, hydroxides, halides, and nitrates	-	6E+4	3E-5	9E-8	-	-
49	Indium-110 <sup>2</sup> (69.1 min)	D, see $^{109}\text{In}$	2E+4	4E+4	2E-5	6E-8	2E-4	2E-3
		W, see $^{109}\text{In}$	-	6E+4	2E-5	8E-8	-	-
49	Indium-110 (4.9 h)	D, see $^{109}\text{In}$	5E+3	2E+4	7E-6	2E-8	7E-5	7E-4
		W, see $^{109}\text{In}$	-	2E+4	8E-6	3E-8	-	-
49	Indium-111	D, see $^{109}\text{In}$	4E+3	6E+3	3E-6	9E-9	6E-5	6E-4
		W, see $^{109}\text{In}$	-	6E+3	3E-6	9E-9	-	-
49	Indium-112 <sup>2</sup>	D, see $^{109}\text{In}$	2E+5	6E+5	3E-4	9E-7	2E-3	2E-2
	-	W, see $^{109}\text{In}$	-	7E+5	3E-4	1E-6	-	-
49	Indium-113m <sup>2</sup>	D, see $^{109}\text{In}$	5E+4	1E+5	6E-5	2E-7	7E-4	7E-3
	-	W, see $^{109}\text{In}$	-	2E+5	8E-5	3E-7	-	-
49	Indium-114m	D, see $^{109}\text{In}$	3E+2	6E+1	3E-8	9E-11	-	-
			LLI wall (4E+2)	-	-	-	5E-6	5E-5
		W, see $^{109}\text{In}$	-	1E+2	4E-8	1E-10	-	-
49	Indium-115m	D, see $^{109}\text{In}$	1E+4	4E+4	2E-5	6E-8	2E-4	2E-3
	-	W, see $^{109}\text{In}$	-	5E+4	2E-5	7E-8	-	-
49	Indium-115	D, see $^{109}\text{In}$	4E+1	1E+0	6E-10	2E-12	5E-7	5E-6
	-	W, see $^{109}\text{In}$	-	5E+0	2E-9	8E-12	-	-
49	Indium-116m <sup>2</sup>	D, see $^{109}\text{In}$	2E+4	8E+4	3E-5	1E-7	3E-4	3E-3
		W, see $^{109}\text{In}$	-	1E+5	5E-5	2E-7	-	-
49	Indium-117m <sup>2</sup>	D, see $^{109}\text{In}$	1E+4	3E+4	1E-5	5E-8	2E-4	2E-3
	-	W, see $^{109}\text{In}$	-	4E+4	2E-5	6E-8	-	-
49	Indium-117 <sup>2</sup>	D, see $^{109}\text{In}$	6E+4	2E+5	7E-5	2E-7	8E-4	8E-3
		W, see $^{109}\text{In}$	-	2E+5	9E-5	3E-7	-	-

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Atomic No.	Radionuclide	Class	Table I Occupational Values			Table II Effluent Concentrations		Table III Releases to Sewers Monthly Average Concentration ( $\mu\text{Ci/ml}$ )
			Col. 1 Oral Ingestion ALI ( $\mu\text{Ci}$ )	Col. 2 Inhalation ALI ( $\mu\text{Ci}$ )	Col. 3 DAC ( $\mu\text{Ci/ml}$ )	Col. 1 Air ( $\mu\text{Ci/ml}$ )	Col. 2 Water ( $\mu\text{Ci/ml}$ )	
49	Indium-119m <sup>2</sup>	D, see <sup>109</sup> In	4E+4 St wall (5E+4)	1E+5 -	5E-5 -	2E-7 -	- 7E-4	- 7E-3
50	Tin-110	W, see <sup>109</sup> In D, all compounds except those given for W W, sulfides, oxides, hydroxides, halides, nitrates, and stannic phosphate	- 4E+3 -	1E+5 1E+4 1E+4	6E-5 5E-6 5E-6	2E-7 2E-8 2E-8	- 5E-5 -	- 5E-4 -
50	Tin-111 <sup>2</sup>	D, see <sup>110</sup> Sn	7E+4	2E+5	9E-5	3E-7	1E-3	1E-2
		W, see <sup>110</sup> Sn	-	3E+5	1E-4	4E-7	-	-
50	Tin-113	D, see <sup>110</sup> Sn	2E+3 LLI wall (2E+3)	1E+3 -	5E-7 -	2E-9 -	- 3E-5	- 3E-4
		W, see <sup>110</sup> Sn	-	5E+2	2E-7	8E-10	-	-
50	Tin-117m	D, see <sup>110</sup> Sn	2E+3 LLI wall (2E+3)	1E+3 Bone surf (2E+3)	5E-7 -	- 3E-9	- 3E-5	- 3E-4
		W, see <sup>110</sup> Sn	-	1E+3	6E-7	2E-9	-	-
50	Tin-119m	D, see <sup>110</sup> Sn	3E+3 LLI wall (4E+3)	2E+3 -	1E-6 -	3E-9 -	- 6E-5	- 6E-4
		W, see <sup>110</sup> Sn	-	1E+3	4E-7	1E-9	-	-
50	Tin-121m	D, see <sup>110</sup> Sn	3E+3 LLI wall (4E+3)	9E+2 -	4E-7 -	1E-9 -	- 5E-5	- 5E-4
		W, see <sup>110</sup> Sn	-	5E+2	2E-7	8E-10	-	-
50	Tin-121	D, see <sup>110</sup> Sn	6E+3 LLI wall (6E+3)	2E+4 -	6E-6 -	2E-8 -	- 8E-5	- 8E-4
		W, see <sup>110</sup> Sn	-	1E+4	5E-6	2E-8	-	-
50	Tin-123m <sup>2</sup>	D, see <sup>110</sup> Sn	5E+4	1E+5	5E-5	2E-7	7E-4	7E-3
		W, see <sup>110</sup> Sn	-	1E+5	6E-5	2E-7	-	-
50	Tin-123	D, see <sup>110</sup> Sn	5E+2 LLI wall (6E+2)	6E+2 -	3E-7 -	9E-10 -	- 9E-6	- 9E-5
		W, see <sup>110</sup> Sn	-	2E+2	7E-8	2E-10	-	-
50	Tin-125	D, see <sup>110</sup> Sn	4E+2 LLI wall (5E+2)	9E+2 -	4E-7 -	1E-9 -	- 6E-6	- 6E-5
		W, see <sup>110</sup> Sn	-	4E+2	1E-7	5E-10	-	-
50	Tin-126	D, see <sup>110</sup> Sn	3E+2	6E+1	2E-8	8E-11	4E-6	4E-5
		W, see <sup>110</sup> Sn	-	7E+1	3E-8	9E-11	-	-
50	Tin-127	D, see <sup>110</sup> Sn	7E+3	2E+4	8E-6	3E-8	9E-5	9E-4
		W, see <sup>110</sup> Sn	-	2E+4	8E-6	3E-8	-	-



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Atomic No.	Radionuclide	Class	Table I Occupational Values			Table II Effluent Concentrations		Table III Releases to Sewers Monthly Average Concentration ( $\mu\text{Ci/ml}$ )
			Col. 1 Oral Ingestion ALI ( $\mu\text{Ci}$ )	Col. 2 Inhalation ALI ( $\mu\text{Ci}$ )	Col. 3 DAC ( $\mu\text{Ci/ml}$ )	Col. 1 Air ( $\mu\text{Ci/ml}$ )	Col. 2 Water ( $\mu\text{Ci/ml}$ )	
50	Tin-128 <sup>2</sup>	D, see <sup>110</sup> Sn	9E+3	3E+4	1E-5	4E-8	1E-4	1E-3
		W, see <sup>110</sup> Sn	-	4E+4	1E-5	5E-8	-	-
51	Antimony-115 <sup>2</sup>	D, all compounds except those given for W W, oxides, hydroxides, halides, sulfides, sulfates, and nitrates	8E+4	2E+5	1E-4	3E-7	1E-3	1E-2
			-	3E+5	1E-4	4E-7	-	-
51	Antimony-116m <sup>2</sup>	D, see <sup>115</sup> Sb	2E+4	7E+4	3E-5	1E-7	3E-4	3E-3
		W, see <sup>115</sup> Sb	-	1E+5	6E-5	2E-7	-	-
51	Antimony-116 <sup>2</sup>	D, see <sup>115</sup> Sb	7E+4	3E+5	1E-4	4E-7	-	-
		St wall (9E+4)	-	-	-	-	1E-3	1E-2
		W, see <sup>115</sup> Sb	-	3E+5	1E-4	5E-7	-	-
51	Antimony-117	D, see <sup>115</sup> Sb	7E+4	2E+5	9E-5	3E-7	9E-4	9E-3
		W, see <sup>115</sup> Sb	-	3E+5	1E-4	4E-7	-	-
51	Antimony-118m	D, see <sup>115</sup> Sb	6E+3	2E+4	8E-6	3E-8	7E-5	7E-4
		W, see <sup>115</sup> Sb	5E+3	2E+4	9E-6	3E-8	-	-
51	Antimony-119	D, see <sup>115</sup> Sb	2E+4	5E+4	2E-5	6E-8	2E-4	2E-3
		W, see <sup>115</sup> Sb	2E+4	3E+4	1E-5	4E-8	-	-
51	Antimony-120 <sup>2</sup> (16 min)	D, see <sup>115</sup> Sb	1E+5	4E+5	2E-4	6E-7	-	-
		St wall (2E+5)	-	-	-	-	2E-3	2E-2
		W, see <sup>115</sup> Sb	-	5E+5	2E-4	7E-7	-	-
51	Antimony-120 (5.76 d)	D, see <sup>115</sup> Sb	1E+3	2E+3	9E-7	3E-9	1E-5	1E-4
		W, see <sup>115</sup> Sb	9E+2	1E+3	5E-7	2E-9	-	-
51	Antimony-122	D, see <sup>115</sup> Sb	8E+2	2E+3	1E-6	3E-9	-	-
		LLI wall (8E+2)	-	-	-	-	1E-5	1E-4
		W, see <sup>115</sup> Sb	7E+2	1E+3	4E-7	2E-9	-	-
51	Antimony-124m <sup>2</sup>	D, see <sup>115</sup> Sb	3E+5	8E+5	4E-4	1E-6	3E-3	3E-2
		W, see <sup>115</sup> Sb	2E+5	6E+5	2E-4	8E-7	-	-
51	Antimony-124	D, see <sup>115</sup> Sb	6E+2	9E+2	4E-7	1E-9	7E-6	7E-5
		W, see <sup>115</sup> Sb	5E+2	2E+2	1E-7	3E-10	-	-
51	Antimony-125	D, see <sup>115</sup> Sb	2E+3	2E+3	1E-6	3E-9	3E-5	3E-4
		W, see <sup>115</sup> Sb	-	5E+2	2E-7	7E-10	-	-
51	Antimony-126m <sup>2</sup>	D, see <sup>115</sup> Sb	5E+4	2E+5	8E-5	3E-7	-	-
		St wall (7E+4)	-	-	-	-	9E-4	9E-3
		W, see <sup>115</sup> Sb	-	2E+5	8E-5	3E-7	-	-
51	Antimony-126	D, see <sup>115</sup> Sb	6E+2	1E+3	5E-7	2E-9	7E-6	7E-5
		W, see <sup>115</sup> Sb	5E+2	5E+2	2E-7	7E-10	-	-
51	Antimony-127	D, see <sup>115</sup> Sb	8E+2	2E+3	9E-7	3E-9	-	-
		LLI wall (8E+2)	-	-	-	-	1E-5	1E-4
		W, see <sup>115</sup> Sb	7E+2	9E+2	4E-7	1E-9	-	-

## CHAPTER 7. DEPARTMENT OF HEALTH SERVICES - RADIATION CONTROL

Atomic No.	Radionuclide	Class	Table I Occupational Values			Table II Effluent Concentrations		Table III Releases to Sewers Monthly Average Concentration ( $\mu\text{Ci/ml}$ )
			Col. 1 Oral Ingestion ALI ( $\mu\text{Ci}$ )	Col. 2 Inhalation ALI ( $\mu\text{Ci}$ )	Col. 3 DAC ( $\mu\text{Ci/ml}$ )	Col. 1 Air ( $\mu\text{Ci/ml}$ )	Col. 2 Water ( $\mu\text{Ci/ml}$ )	
51	Antimony-128 <sup>2</sup> (10.4 min)	D, see <sup>115</sup> Sb	8E+4 St wall (1E+5)	4E+5 - -	2E-4 -	5E-7 -	- 1E-3	- 1E-2
		W, see <sup>115</sup> Sb	-	4E+5	2E-4	6E-7	-	-
51	Antimony-128 (9.01 h)	D, see <sup>115</sup> Sb	1E+3	4E+3	2E-6	6E-9	2E-5	2E-4
		W, see <sup>115</sup> Sb	-	3E+3	1E-6	5E-9	-	-
51	Antimony-129	D, see <sup>115</sup> Sb	3E+3	9E+3	4E-6	1E-8	4E-5	4E-4
		W, see <sup>115</sup> Sb	-	9E+3	4E-6	1E-8	-	-
51	Antimony-130 <sup>2</sup>	D, see <sup>115</sup> Sb	2E+4	6E+4	3E-5	9E-8	3E-4	3E-3
		W, see <sup>115</sup> Sb	-	8E+4	3E-5	1E-7	-	-
51	Antimony-131 <sup>2</sup>	D, see <sup>115</sup> Sb	1E+4 Thyroid (2E+4)	2E+4 Thyroid (4E+4)	1E-5 -	- 6E-8	- 2E-4	- 2E-3
		W, see <sup>115</sup> Sb	- -	2E+4 Thyroid (4E+4)	1E-5 -	- 6E-8	- -	- -
52	Tellurium-116	D, all compounds except those given for W W, oxides, hydroxides, and nitrates	8E+3 -	2E+4 3E+4	9E-6 1E-5	3E-8 4E-8	1E-4 -	1E-3 -
52	Tellurium-121m	D, see <sup>116</sup> Te	5E+2 Bone surf (7E+2)	2E+2 Bone surf (4E+2)	8E-8 -	- 5E-10	- 1E-5	- 1E-4
		W, see <sup>116</sup> Te	-	4E+2	2E-7	6E-10	-	-
52	Tellurium-121	D, see <sup>116</sup> Te	3E+3	4E+3	2E-6	6E-9	4E-5	4E-4
		W, see <sup>116</sup> Te	-	3E+3	1E-6	4E-9	-	-
52	Tellurium-123m	D, see <sup>116</sup> Te	6E+2 Bone surf (1E+3)	2E+2 Bone surf (5E+2)	9E-8 -	- 8E-10	- 1E-5	- 1E-4
		W, see <sup>116</sup> Te	-	5E+2	2E-7	8E-10	-	-
52	Tellurium-123	D, see <sup>116</sup> Te	5E+2 Bone surf (1E+3)	2E+2 Bone surf (5E+2)	8E-8 -	- 7E-10	- 2E-5	- 2E-4
		W, see <sup>116</sup> Te	-	4E+2 Bone surf (1E+3)	2E-7 -	- 2E-9	- -	- -
52	Tellurium-125m	D, see <sup>116</sup> Te	1E+3 Bone surf (1E+3)	4E+2 Bone surf (1E+3)	2E-7 -	- 1E-9	- 2E-5	- 2E-4
		W, see <sup>116</sup> Te	-	7E+2	3E-7	1E-9	-	-
52	Tellurium-127m	D, see <sup>116</sup> Te	6E+2 -	3E+2 Bone surf (4E+2)	1E-7 -	- 6E-10	9E-6 -	9E-5 -
		W, see <sup>116</sup> Te	-	3E+2	1E-7	4E-10	-	-
52	Tellurium-127	D, see <sup>116</sup> Te	7E+3	2E+4	9E-6	3E-8	1E-4	1E-3
		W, see <sup>116</sup> Te	-	2E+4	7E-6	2E-8	-	-

## CHAPTER 7. DEPARTMENT OF HEALTH SERVICES - RADIATION CONTROL

Atomic No.	Radionuclide	Class	Table I Occupational Values			Table II Effluent Concentrations		Table III Releases to Sewers Monthly Average Concentration (μCi/ml)
			Col. 1 Oral Ingestion	Col. 2 Inhalation	Col. 3	Col. 1	Col. 2	
			ALI (μCi)	ALI (μCi)	DAC (μCi/ml)	Air (μCi/ml)	Water (μCi/ml)	
52	Tellurium-129m	D, see <sup>116</sup> Te	5E+2	6E+2	3E-7	9E-10	7E-6	7E-5
		W, see <sup>116</sup> Te	-	2E+2	1E-7	3E-10	-	-
52	Tellurium-129 <sup>2</sup>	D, see <sup>116</sup> Te	3E+4	6E+4	3E-5	9E-8	4E-4	4E-3
		W, see <sup>116</sup> Te	-	7E+4	3E-5	1E-7	-	-
52	Tellurium-131m	D, see <sup>116</sup> Te	3E+2	4E+2	2E-7	-	-	-
			Thyroid (6E+2)	Thyroid (1E+3)	-	2E-9	8E-6	8E-5
		W, see <sup>116</sup> Te	-	4E+2	2E-7	-	-	-
			Thyroid (9E+2)	-	1E-9	-	-	
52	Tellurium-131 <sup>2</sup>	D, see <sup>116</sup> Te	3E+3	5E+3	2E-6	-	-	-
			Thyroid (6E+3)	Thyroid (1E+4)	-	2E-8	8E-5	8E-4
		W, see <sup>116</sup> Te	-	5E+3	2E-6	-	-	-
			Thyroid (1E+4)	-	2E-8	-	-	
52	Tellurium-132	D, see <sup>116</sup> Te	2E+2	2E+2	9E-8	-	-	-
			Thyroid (7E+2)	Thyroid (8E+2)	-	1E-9	9E-6	9E-5
		W, see <sup>116</sup> Te	-	2E+2	9E-8	-	-	-
			Thyroid (6E+2)	-	9E-10	-	-	
52	Tellurium-133m <sup>2</sup>	D, see <sup>116</sup> Te	3E+3	5E+3	2E-6	-	-	-
			Thyroid (6E+3)	Thyroid (1E+4)	-	2E-8	9E-5	9E-4
		W, see <sup>116</sup> Te	-	5E+3	2E-6	-	-	-
			Thyroid (1E+4)	-	2E-8	-	-	
52	Tellurium-133 <sup>2</sup>	D, see <sup>116</sup> Te	1E+4	2E+4	9E-6	-	-	-
			Thyroid (3E+4)	Thyroid (6E+4)	-	8E-8	4E-4	4E-3
		W, see <sup>116</sup> Te	-	2E+4	9E-6	-	-	-
			Thyroid (6E+4)	-	8E-8	-	-	
52	Tellurium-134 <sup>2</sup>	D, see <sup>116</sup> Te	2E+4	2E+4	1E-5	-	-	-
			Thyroid (2E+4)	Thyroid (5E+4)	-	7E-8	3E-4	3E-3
		W, see <sup>116</sup> Te	-	2E+4	1E-5	-	-	-
			Thyroid (5E+4)	-	7E-8	-	-	
53	Iodine-120m <sup>2</sup>	D, all compounds	1E+4	2E+4	9E-6	3E-8	-	-
			Thyroid (1E+4)	-	-	-	2E-4	2E-3
53	Iodine-120 <sup>2</sup>	D, all compounds	4E+3	9E+3	4E-6	-	-	-
			Thyroid (8E+3)	Thyroid (1E+4)	-	2E-8	1E-4	1E-3

## CHAPTER 7. DEPARTMENT OF HEALTH SERVICES - RADIATION CONTROL

Atomic No.	Radionuclide	Class	Table I Occupational Values			Table II Effluent Concentrations		Table III Releases to Sewers Monthly Average Concentration ( $\mu\text{Ci/ml}$ )
			Col. 1 Oral Ingestion ALI ( $\mu\text{Ci}$ )	Col. 2 Inhalation ALI ( $\mu\text{Ci}$ )	Col. 3 DAC ( $\mu\text{Ci/ml}$ )	Col. 1 Air ( $\mu\text{Ci/ml}$ )	Col. 2 Water ( $\mu\text{Ci/ml}$ )	
53	Iodine-121	D, all compounds	1E+4 Thyroid (3E+4)	2E+4 Thyroid (5E+4)	8E-6 - -	- 7E-8 -	- 4E-4 -	- 4E-3 -
53	Iodine-123	D, all compounds	3E+3 Thyroid (1E+4)	6E+3 Thyroid (2E+4)	3E-6 - -	- 2E-8 -	- 1E-4 -	- 1E-3 -
53	Iodine-124	D, all compounds	5E+1 Thyroid (2E+2)	8E+1 Thyroid (3E+2)	3E-8 - -	- 4E-10 -	- 2E-6 -	- 2E-5 -
53	Iodine-125	D, all compounds	4E+1 Thyroid (1E+2)	6E+1 Thyroid (2E+2)	3E-8 - -	- 3E-10 -	- 2E-6 -	- 2E-5 -
53	Iodine-126	D, all compounds	2E+1 Thyroid (7E+1)	4E+1 Thyroid (1E+2)	1E-8 - -	- 2E-10 -	- 1E-6 -	- 1E-5 -
53	Iodine-128 <sup>2</sup>	D, all compounds	4E+4 St wall (6E+4)	1E+5 - -	5E-5 - -	2E-7 - -	- 8E-4 -	- 8E-3 -
53	Iodine-129	D, all compounds	5E+0 Thyroid (2E+1)	9E+0 Thyroid (3E+1)	4E-9 - -	- 4E-11 -	- 2E-7 -	- 2E-6 -
53	Iodine-130	D, all compounds	4E+2 Thyroid (1E+3)	7E+2 Thyroid (2E+3)	3E-7 - -	- 3E-9 -	- 2E-5 -	- 2E-4 -
53	Iodine-131	D, all compounds	3E+1 Thyroid (9E+1)	5E+1 Thyroid (2E+2)	2E-8 - -	- 2E-10 -	- 1E-6 -	- 1E-5 -
53	Iodine-132m <sup>2</sup>	D, all compounds	4E+3 Thyroid (1E+4)	8E+3 Thyroid (2E+4)	4E-6 - -	- 3E-8 -	- 1E-4 -	- 1E-3 -
53	Iodine-132	D, all compounds	4E+3 Thyroid (9E+3)	8E+3 Thyroid (1E+4)	3E-6 - -	- 2E-8 -	- 1E-4 -	- 1E-3 -
53	Iodine-133	D, all compounds	1E+2 Thyroid (5E+2)	3E+2 Thyroid (9E+2)	1E-7 - -	- 1E-9 -	- 7E-6 -	- 7E-5 -
53	Iodine-134 <sup>2</sup>	D, all compounds	2E+4 Thyroid (3E+4)	5E+4 - -	2E-5 - -	6E-8 - -	- 4E-4 -	- 4E-3 -
53	Iodine-135	D, all compounds	8E+2 Thyroid (3E+3)	2E+3 Thyroid (4E+3)	7E-7 - -	- 6E-9 -	- 3E-5 -	- 3E-4 -
54	Xenon-120 <sup>2</sup>	Submersion <sup>1</sup>	-	-	1E-5	4E-8	-	-
54	Xenon-121 <sup>2</sup>	Submersion <sup>1</sup>	-	-	2E-6	1E-8	-	-
54	Xenon-122	Submersion <sup>1</sup>	-	-	7E-5	3E-7	-	-
54	Xenon-123	Submersion <sup>1</sup>	-	-	6E-6	3E-8	-	-
54	Xenon-125	Submersion <sup>1</sup>	-	-	2E-5	7E-8	-	-
54	Xenon-127	Submersion <sup>1</sup>	-	-	1E-5	6E-8	-	-
54	Xenon-129m	Submersion <sup>1</sup>	-	-	2E-4	9E-7	-	-

## CHAPTER 7. DEPARTMENT OF HEALTH SERVICES - RADIATION CONTROL

Atomic No.	Radionuclide	Class	Table I Occupational Values			Table II Effluent Concentrations		Table III Releases to Sewers Monthly Average Concentration ( $\mu\text{Ci/ml}$ )
			Col. 1 Oral Ingestion ALI ( $\mu\text{Ci}$ )	Col. 2 Inhalation ALI ( $\mu\text{Ci}$ )	Col. 3 DAC ( $\mu\text{Ci/ml}$ )	Col. 1 Air ( $\mu\text{Ci/ml}$ )	Col. 2 Water ( $\mu\text{Ci/ml}$ )	
54	Xenon-131m	Submersion <sup>1</sup>	-	-	4E-4	2E-6	-	-
54	Xenon-133m	Submersion <sup>1</sup>	-	-	1E-4	6E-7	-	-
54	Xenon-133	Submersion <sup>1</sup>	-	-	1E-4	5E-7	-	-
54	Xenon-135m <sup>2</sup>	Submersion <sup>1</sup>	-	-	9E-6	4E-8	-	-
54	Xenon-135	Submersion <sup>1</sup>	-	-	1E-5	7E-8	-	-
54	Xenon-138 <sup>2</sup>	Submersion <sup>1</sup>	-	-	4E-6	2E-8	-	-
55	Cesium-125 <sup>2</sup>	D, all compounds	5E+4	1E+5	6E-5	2E-7	-	-
		St wall	(9E+4)	-	-	-	1E-3	1E-2
55	Cesium-127	D, all compounds	6E+4	9E+4	4E-5	1E-7	9E-4	9E-3
55	Cesium-129	D, all compounds	2E+4	3E+4	1E-5	5E-8	3E-4	3E-3
55	Cesium-130 <sup>2</sup>	D, all compounds	6E+4	2E+5	8E-5	3E-7	-	-
		St wall	(1E+5)	-	-	-	1E-3	1E-2
55	Cesium-131	D, all compounds	2E+4	3E+4	1E-5	4E-8	3E-4	3E-3
55	Cesium-132	D, all compounds	3E+3	4E+3	2E-6	6E-9	4E-5	4E-4
55	Cesium-134m	D, all compounds	1E+5	1E+5	6E-5	2E-7	-	-
		St wall	(1E+5)	-	-	-	2E-3	2E-2
55	Cesium-134	D, all compounds	7E+1	1E+2	4E-8	2E-10	9E-7	9E-6
55	Cesium-135m <sup>2</sup>	D, all compounds	1E+5	2E+5	8E-5	3E-7	1E-3	1E-2
55	Cesium-135	D, all compounds	7E+2	1E+3	5E-7	2E-9	1E-5	1E-4
55	Cesium-136	D, all compounds	4E+2	7E+2	3E-7	9E-10	6E-6	6E-5
55	Cesium-137	D, all compounds	1E+2	2E+2	6E-8	2E-10	1E-6	1E-5
55	Cesium-138 <sup>2</sup>	D, all compounds	2E+4	6E+4	2E-5	8E-8	-	-
		St wall	(3E+4)	-	-	-	4E-4	4E-3
56	Barium-126 <sup>2</sup>	D, all compounds	6E+3	2E+4	6E-6	2E-8	8E-5	8E-4
56	Barium-128	D, all compounds	5E+2	2E+3	7E-7	2E-9	7E-6	7E-5
56	Barium-131m <sup>2</sup>	D, all compounds	4E+5	1E+6	6E-4	2E-6	-	-
		St wall	(5E+5)	-	-	-	7E-3	7E-2
56	Barium-131	D, all compounds	3E+3	8E+3	3E-6	1E-8	4E-5	4E-4
56	Barium-133m	D, all compounds	2E+3	9E+3	4E-6	1E-8	-	-
		LLI wall	(3E+3)	-	-	-	4E-5	4E-4
56	Barium-133	D, all compounds	2E+3	7E+2	3E-7	9E-10	2E-5	2E-4
56	Barium-135m	D, all compounds	3E+3	1E+4	5E-6	2E-8	4E-5	4E-4
56	Barium-139 <sup>2</sup>	D, all compounds	1E+4	3E+4	1E-5	4E-8	2E-4	2E-3
56	Barium-140	D, all compounds	5E+2	1E+3	6E-7	2E-9	-	-
		LLI wall	(6E+2)	-	-	-	8E-6	8E-5
56	Barium-141 <sup>2</sup>	D, all compounds	2E+4	7E+4	3E-5	1E-7	3E-4	3E-3
56	Barium-142 <sup>2</sup>	D, all compounds	5E+4	1E+5	6E-5	2E-7	7E-4	7E-3
57	Lanthanum-131 <sup>2</sup>	D, all compounds except those given for W, oxides and hydroxides	5E+4	1E+5	5E-5	2E-7	6E-4	6E-3
			-	2E+5	7E-5	2E-7	-	-

## CHAPTER 7. DEPARTMENT OF HEALTH SERVICES - RADIATION CONTROL

Atomic No.	Radionuclide	Class	Table I Occupational Values			Table II Effluent Concentrations		Table III Releases to Sewers Monthly Average Concentration ( $\mu\text{Ci/ml}$ )
			Col. 1 Oral Ingestion ALI ( $\mu\text{Ci}$ )	Col. 2 Inhalation ALI ( $\mu\text{Ci}$ )	Col. 3 DAC ( $\mu\text{Ci/ml}$ )	Col. 1 Air ( $\mu\text{Ci/ml}$ )	Col. 2 Water ( $\mu\text{Ci/ml}$ )	
57	Lanthanum-132	D, see $^{131}\text{La}$	3E+3	1E+4	4E-6	1E-8	4E-5	4E-4
		W, see $^{131}\text{La}$	-	1E+4	5E-6	2E-8	-	-
57	Lanthanum-135	D, see $^{131}\text{La}$	4E+4	1E+5	4E-5	1E-7	5E-4	5E-3
		W, see $^{131}\text{La}$	-	9E+4	4E-5	1E-7	-	-
57	Lanthanum-137	D, see $^{131}\text{La}$	1E+4	6E+1	3E-8	-	2E-4	2E-3
				Liver				
			-	(7E+1)	-	1E-10	-	-
		W, see $^{131}\text{La}$	-	3E+2	1E-7	-	-	-
57	Lanthanum-138			Liver				
			-	(3E+2)	-	4E-10	-	-
		D, see $^{131}\text{La}$	9E+2	4E+0	1E-9	5E-12	1E-5	1E-4
		W, see $^{131}\text{La}$	-	1E+1	6E-9	2E-11	-	-
57	Lanthanum-140	D, see $^{131}\text{La}$	6E+2	1E+3	6E-7	2E-9	9E-6	9E-5
		W, see $^{131}\text{La}$	-	1E+3	5E-7	2E-9	-	-
57	Lanthanum-141	D, see $^{131}\text{La}$	4E+3	9E+3	4E-6	1E-8	5E-5	5E-4
		W, see $^{131}\text{La}$	-	1E+4	5E-6	2E-8	-	-
57	Lanthanum-142 <sup>2</sup>	D, see $^{131}\text{La}$	8E+3	2E+4	9E-6	3E-8	1E-4	1E-3
		W, see $^{131}\text{La}$	-	3E+4	1E-5	5E-8	-	-
57	Lanthanum-143 <sup>2</sup>	D, see $^{131}\text{La}$	4E+4	1E+5	4E-5	1E-7	-	-
				St wall				
			(4E+4)	-	-	-	5E-4	5E-3
		W, see $^{131}\text{La}$	-	9E+4	4E-5	1E-7	-	-
58	Cerium-134	W, all compounds except those given for Y	5E+2	7E+2	3E-7	1E-9	-	-
			LLI wall					
			(6E+2)	-	-	-	8E-6	8E-5
		Y, oxides, hydroxides, and fluorides	-	7E+2	3E-7	9E-10	-	-
58	Cerium-135	W, see $^{134}\text{Ce}$	2E+3	4E+3	2E-6	5E-9	2E-5	2E-4
		Y, see $^{134}\text{Ce}$	-	4E+3	1E-6	5E-9	-	-
58	Cerium-137m	W, see $^{134}\text{Ce}$	2E+3	4E+3	2E-6	6E-9	-	-
				LLI wall				
			(2E+3)	-	-	-	3E-5	3E-4
		Y, see $^{134}\text{Ce}$	-	4E+3	2E-6	5E-9	-	-
58	Cerium-137	W, see $^{134}\text{Ce}$	5E+4	1E+5	6E-5	2E-7	7E-4	7E-3
		Y, see $^{134}\text{Ce}$	-	1E+5	5E-5	2E-7	-	-
58	Cerium-139	W, see $^{134}\text{Ce}$	5E+3	8E+2	3E-7	1E-9	7E-5	7E-4
		Y, see $^{134}\text{Ce}$	-	7E+2	3E-7	9E-10	-	-
58	Cerium-141	W, see $^{134}\text{Ce}$	2E+3	7E+2	3E-7	1E-9	-	-
				LLI wall				
			(2E+3)	-	-	-	3E-5	3E-4
		Y, see $^{134}\text{Ce}$	-	6E+2	2E-7	8E-10	-	-
58	Cerium-143	W, see $^{134}\text{Ce}$	1E+3	2E+3	8E-7	3E-9	-	-
				LLI wall				
			(1E+3)	-	-	-	2E-5	2E-4
		Y, see $^{134}\text{Ce}$	-	2E+3	7E-7	2E-9	-	-

## CHAPTER 7. DEPARTMENT OF HEALTH SERVICES - RADIATION CONTROL

Atomic No.	Radionuclide	Class	Table I Occupational Values			Table II Effluent Concentrations		Table III Releases to Sewers Monthly Average Concentration ( $\mu\text{Ci/ml}$ )
			Col. 1 Oral Ingestion ALI ( $\mu\text{Ci}$ )	Col. 2 Inhalation ALI ( $\mu\text{Ci}$ )	Col. 3 DAC ( $\mu\text{Ci/ml}$ )	Col. 1 Air ( $\mu\text{Ci/ml}$ )	Col. 2 Water ( $\mu\text{Ci/ml}$ )	
58	Cerium-144	W, see $^{134}\text{Ce}$	2E+2 LLI wall (3E+2)	3E+1 -	1E-8 -	4E-11 -	- 3E-6	- 3E-5
		Y, see $^{134}\text{Ce}$	-	1E+1	6E-9	2E-11	-	-
59	Praseodymium-136 <sup>2</sup>	W, all compounds except those given for Y	5E+4 St wall (7E+4)	2E+5 -	1E-4 -	3E-7 -	- 1E-3	- 1E-2
		Y, oxides, hydroxides, carbides, and fluorides	-	2E+5	9E-5	3E-7	-	-
59	Praseodymium-137 <sup>2</sup>	W, see $^{136}\text{Pr}$	4E+4	2E+5	6E-5	2E-7	5E-4	5E-3
		Y, see $^{136}\text{Pr}$	-	1E+5	6E-5	2E-7	-	-
59	Praseodymium-138m	W, see $^{136}\text{Pr}$	1E+4	5E+4	2E-5	8E-8	1E-4	1E-3
		Y, see $^{136}\text{Pr}$	-	4E+4	2E-5	6E-8	-	-
59	Praseodymium-139	W, see $^{136}\text{Pr}$	4E+4	1E+5	5E-5	2E-7	6E-4	6E-3
		Y, see $^{136}\text{Pr}$	-	1E+5	5E-5	2E-7	-	-
59	Praseodymium-142m <sup>2</sup>	W, see $^{136}\text{Pr}$	8E+4	2E+5	7E-5	2E-7	1E-3	1E-2
		Y, see $^{136}\text{Pr}$	-	1E+5	6E-5	2E-7	-	-
59	Praseodymium-142	W, see $^{136}\text{Pr}$	1E+3	2E+3	9E-7	3E-9	1E-5	1E-4
		Y, see $^{136}\text{Pr}$	-	2E+3	8E-7	3E-9	-	-
59	Praseodymium-143	W, see $^{136}\text{Pr}$	9E+2 LLI wall (1E+3)	8E+2 -	3E-7 -	1E-9 -	- 2E-5	- 2E-4
		Y, see $^{136}\text{Pr}$	-	7E+2	3E-7	9E-10	-	-
59	Praseodymium-144 <sup>2</sup>	W, see $^{136}\text{Pr}$	3E+4 St wall (4E+4)	1E+5 -	5E-5 -	2E-7 -	- 6E-4	- 6E-3
		Y, see $^{136}\text{Pr}$	-	1E+5	5E-5	2E-7	-	-
59	Praseodymium-145	W, see $^{136}\text{Pr}$	3E+3	9E+3	4E-6	1E-8	4E-5	4E-4
		Y, see $^{136}\text{Pr}$	-	8E+3	3E-6	1E-8	-	-
59	Praseodymium-147 <sup>2</sup>	W, see $^{136}\text{Pr}$	5E+4 St wall (8E+4)	2E+5 -	8E-5 -	3E-7 -	- 1E-3	- 1E-2
		Y, see $^{136}\text{Pr}$	-	2E+5	8E-5	3E-7	-	-
60	Neodymium-136 <sup>2</sup>	W, all compounds except those given for Y	1E+4	6E+4	2E-5	8E-8	2E-4	2E-3
		Y, oxides, hydroxides, carbides, and fluorides	-	5E+4	2E-5	8E-8	-	-
60	Neodymium-138	W, see $^{136}\text{Nd}$	2E+3	6E+3	3E-6	9E-9	3E-5	3E-4
		Y, see $^{136}\text{Nd}$	-	5E+3	2E-6	7E-9	-	-
60	Neodymium-139m	W, see $^{136}\text{Nd}$	5E+3	2E+4	7E-6	2E-8	7E-5	7E-4
		Y, see $^{136}\text{Nd}$	-	1E+4	6E-6	2E-8	-	-
60	Neodymium-139 <sup>2</sup>	W, see $^{136}\text{Nd}$	9E+4	3E+5	1E-4	5E-7	1E-3	1E-2
		Y, see $^{136}\text{Nd}$	-	3E+5	1E-4	4E-7	-	-

## CHAPTER 7. DEPARTMENT OF HEALTH SERVICES - RADIATION CONTROL

Atomic No.	Radionuclide	Class	Table I Occupational Values			Table II Effluent Concentrations		Table III Releases to Sewers Monthly Average Concentration ( $\mu\text{Ci/ml}$ )
			Col. 1 Oral Ingestion ALI ( $\mu\text{Ci}$ )	Col. 2 Inhalation ALI ( $\mu\text{Ci}$ )	Col. 3 DAC ( $\mu\text{Ci/ml}$ )	Col. 1 Air ( $\mu\text{Ci/ml}$ )	Col. 2 Water ( $\mu\text{Ci/ml}$ )	
60	Neodymium-141	W, see $^{136}\text{Nd}$	2E+5	7E+5	3E-4	1E-6	2E-3	2E-2
		Y, see $^{136}\text{Nd}$	-	6E+5	3E-4	9E-7	-	-
60	Neodymium-147	W, see $^{136}\text{Nd}$	1E+3	9E+2	4E-7	1E-9	-	-
		LLI wall (1E+3)	-	-	-	-	2E-5	2E-4
60	Neodymium-149 <sup>2</sup>	Y, see $^{136}\text{Nd}$	-	8E+2	4E-7	1E-9	-	-
		W, see $^{136}\text{Nd}$	1E+4	3E+4	1E-5	4E-8	1E-4	1E-3
60	Neodymium-151 <sup>2</sup>	Y, see $^{136}\text{Nd}$	-	2E+4	1E-5	3E-8	-	-
		W, see $^{136}\text{Nd}$	7E+4	2E+5	8E-5	3E-7	9E-4	9E-3
60	Neodymium-151 <sup>2</sup>	Y, see $^{136}\text{Nd}$	-	2E+5	8E-5	3E-7	-	-
61	Promethium-141 <sup>2</sup>	W, all compounds except those given for Y	5E+4	2E+5	8E-5	3E-7	-	-
		St wall (6E+4)	-	-	-	-	8E-4	8E-3
61	Promethium-143	Y, oxides, hydroxides, carbides, and fluorides	-	2E+5	7E-5	2E-7	-	-
		W, see $^{141}\text{Pm}$	5E+3	6E+2	2E-7	8E-10	7E-5	7E-4
61	Promethium-144	Y, see $^{141}\text{Pm}$	-	7E+2	3E-7	1E-9	-	-
		W, see $^{141}\text{Pm}$	1E+3	1E+2	5E-8	2E-10	2E-5	2E-4
61	Promethium-145	Y, see $^{141}\text{Pm}$	-	1E+2	5E-8	2E-10	-	-
		W, see $^{141}\text{Pm}$	1E+4	2E+2	7E-8	-	1E-4	1E-3
61	Promethium-146	Bone surf (2E+2)	-	-	-	3E-10	-	-
		Y, see $^{141}\text{Pm}$	-	2E+2	8E-8	3E-10	-	-
61	Promethium-147	W, see $^{141}\text{Pm}$	2E+3	5E+1	2E-8	7E-11	2E-5	2E-4
		Y see $^{141}\text{Pm}$	-	4E+1	2E-8	6E-11	-	-
61	Promethium-148m	W see $^{141}\text{Pm}$	4E+3	1E+2	5E-8	-	-	-
		LLI wall (5E+3)	-	(2E+2)	-	3E-10	7E-5	7E-4
61	Promethium-148	Y, see $^{141}\text{Pm}$	-	1E+2	6E-8	2E-10	-	-
		W, see $^{141}\text{Pm}$	7E+2	3E+2	1E-7	4E-10	1E-5	1E-4
61	Promethium-148	Y, see $^{141}\text{Pm}$	-	3E+2	1E-7	5E-10	-	-
		W, see $^{141}\text{Pm}$	4E+2	5E+2	2E-7	8E-10	-	-
0	Promethium-148m	LLI wall (5E+2)	-	-	-	-	7E-6	7E-5
		Y, see $^{141}\text{Pm}$	-	5E+2	2E-7	7E-10	-	-
61	Promethium-150	LLI wall (1E+3)	-	-	-	-	2E-5	2E-4
		Y, see $^{141}\text{Pm}$	-	2E+3	8E-7	2E-9	-	-
61	Promethium-151	W, see $^{141}\text{Pm}$	5E+3	2E+4	8E-6	3E-8	7E-5	7E-4
		Y, see $^{141}\text{Pm}$	-	2E+4	7E-6	2E-8	-	-
62	Samarium-141m <sup>2</sup>	W, see $^{141}\text{Pm}$	2E+3	4E+3	1E-6	5E-9	2E-5	2E-4
		Y, see $^{141}\text{Pm}$	-	3E+3	1E-6	4E-9	-	-
62	Samarium-141m <sup>2</sup>	W, all compounds	3E+4	1E+5	4E-5	1E-7	4E-4	4E-3



## CHAPTER 7. DEPARTMENT OF HEALTH SERVICES - RADIATION CONTROL

Atomic No.	Radionuclide	Class	Table I Occupational Values			Table II Effluent Concentrations		Table III Releases to Sewers Monthly Average Concentration ( $\mu\text{Ci/ml}$ )
			Col. 1 Oral Ingestion ALI ( $\mu\text{Ci}$ )	Col. 2 Inhalation ALI ( $\mu\text{Ci}$ )	Col. 3 DAC ( $\mu\text{Ci/ml}$ )	Col. 1 Air ( $\mu\text{Ci/ml}$ )	Col. 2 Water ( $\mu\text{Ci/ml}$ )	
62	Samarium-141 <sup>2</sup>	W, all compounds	5E+4 St wall (6E+4)	2E+5 -	8E-5 -	2E-7 -	- 8E-4	- 8E-3
62	Samarium-142 <sup>2</sup>	W, all compounds	8E+3	3E+4	1E-5	4E-8	1E-4	1E-3
62	Samarium-145	W, all compounds	6E+3	5E+2	2E-7	7E-10	8E-5	8E-4
62	Samarium-146	W, all compounds	1E+1 Bone surf (3E+1)	4E2 Bone surf (6E-2)	1E-11 -	- 9E-14	- 3E-7	- 3E-6
62	Samarium-147	W, all compounds	2E+1 Bone surf (3E+1)	4E2 Bone surf (7E-2)	2E-11 -	- 1E-13	- 4E-7	- 4E-6
62	Samarium-151	W, all compounds	1E+4 LLI wall (1E+4)	1E+2 Bone surf (2E+2)	4E-8 -	- 2E-10	- 2E-4	- 2E-3
62	Samarium-153	W, all compounds	2E+3 LLI wall (2E+3)	3E+3 -	1E-6 -	4E-9 -	- 3E-5	- 3E-4
62	Samarium-155 <sup>2</sup>	W, all compounds	6E+4 St wall (8E+4)	2E+5 -	9E-5 -	3E-7 -	- 1E-3	- 1E-2
62	Samarium-156	W, all compounds	5E+3	9E+3	4E-6	1E-8	7E-5	7E-4
63	Europium-145	W, all compounds	2E+3	2E+3	8E-7	3E-9	2E-5	2E-4
63	Europium-146	W, all compounds	1E+3	1E+3	5E-7	2E-9	1E-5	1E-4
63	Europium-147	W, all compounds	3E+3	2E+3	7E-7	2E-9	4E-5	4E-4
63	Europium-148	W, all compounds	1E+3	4E+2	1E-7	5E-10	1E-5	1E-4
63	Europium-149	W, all compounds	1E+4	3E+3	1E-6	4E-9	2E-4	2E-3
63	Europium-150 (12.62 h)	W, all compounds	3E+3	8E+3	4E-6	1E-8	4E-5	4E-4
63	Europium-150 (34.2 y)	W, all compounds	8E+2	2E+1	8E-9	3E-11	1E-5	1E-4
63	Europium-152m	W, all compounds	3E+3	6E+3	3E-6	9E-9	4E-5	4E-4
63	Europium-152	W, all compounds	8E+2	2E+1	1E-8	3E-11	1E-5	1E-4
63	Europium-154	W, all compounds	5E+2	2E+1	8E-9	3E-11	7E-6	7E-5
63	Europium-155	W, all compounds	4E+3 Bone surf -	9E+1 (1E+2)	4E-8 -	- 2E-10	5E-5 -	5E-4 -
63	Europium-156	W, all compounds	6E+2	5E+2	2E-7	6E-10	8E-6	8E-5
63	Europium-157	W, all compounds	2E+3	5E+3	2E-6	7E-9	3E-5	3E-4
63	Europium-158 <sup>2</sup>	W, all compounds	2E+4	6E+4	2E-5	8E-8	3E-4	3E-3
64	Gadolinium-145 <sup>2</sup>	D, all compounds except those given for W	5E+4 St wall (5E+4)	2E+5 -	6E-5 -	2E-7 -	- 6E-4	- 6E-3
		W, oxides, hydroxides, and fluorides	-	2E+5	7E-5	2E-7	-	-
64	Gadolinium-146	D, see <sup>145</sup> Gd	1E+3	1E+2	5E-8	2E-10	2E-5	2E-4
		W, see <sup>145</sup> Gd	-	3E+2	1E-7	4E-10	-	-
64	Gadolinium-147	D, see <sup>145</sup> Gd	2E+3	4E+3	2E-6	6E-9	3E-5	3E-4
		W, see <sup>145</sup> Gd	-	4E+3	1E-6	5E-9	-	-

## CHAPTER 7. DEPARTMENT OF HEALTH SERVICES - RADIATION CONTROL

Atomic No.	Radionuclide	Class	Table I Occupational Values			Table II Effluent Concentrations		Table III Releases to Sewers
			Col. 1 Oral Ingestion	Col. 2 Inhalation	Col. 3 DAC	Col. 1 Air	Col. 2 Water	Monthly Average
			ALI ( $\mu\text{Ci}$ )	ALI ( $\mu\text{Ci}$ )	( $\mu\text{Ci}/\text{ml}$ )	( $\mu\text{Ci}/\text{ml}$ )	( $\mu\text{Ci}/\text{ml}$ )	Concentration ( $\mu\text{Ci}/\text{ml}$ )
64	Gadolinium-148	D, see $^{145}\text{Gd}$	1E+1	8E+3	3E-12	-	-	-
			Bone surf (2E+1)	Bone surf (2E+2)	-	2E-14	3E-7	3E-6
		W, see $^{145}\text{Gd}$	-	3E-2	1E-11	-	-	-
			-	Bone surf (6E-2)	-	8E-14	-	-
64	Gadolinium-149	D, see $^{145}\text{Gd}$	3E+3	2E+3	9E-7	3E-9	4E-5	4E-4
		W, see $^{145}\text{Gd}$	-	2E+3	1E-6	3E-9	-	-
64	Gadolinium-151	D, see $^{145}\text{Gd}$	6E+3	4E+2	2E-7	-	9E-5	9E-4
			-	Bone surf (6E+2)	-	9E-10	-	-
		W, see $^{145}\text{Gd}$	-	1E+3	5E-7	2E-9	-	-
			-	-	-	-	-	-
64	Gadolinium-152	D, see $^{145}\text{Gd}$	2E+1	1E-2	4E-12	-	-	-
			Bone surf (3E+1)	Bone surf (2E-2)	-	3E-14	4E-7	4E-6
		W, see $^{145}\text{Gd}$	-	4E-2	2E-11	-	-	-
			-	Bone surf (8E-2)	-	1E-13	-	-
64	Gadolinium-153	D, see $^{145}\text{Gd}$	5E+3	1E+2	6E-8	-	6E-5	6E-4
			-	Bone surf (2E+2)	-	3E-10	-	-
		W, see $^{145}\text{Gd}$	-	6E+2	2E-7	8E-10	-	-
			-	-	-	-	-	-
64	Gadolinium-159	D, see $^{145}\text{Gd}$	3E+3	8E+3	3E-6	1E-8	4E-5	4E-4
		W, see $^{145}\text{Gd}$	-	6E+3	2E-6	8E-9	-	-
65	Terbium-147 <sup>2</sup>	W, all compounds	9E+3	3E+4	1E-5	5E-8	1E-4	1E-3
65	Terbium-149	W, all compounds	5E+3	7E+2	3E-7	1E-9	7E-5	7E-4
65	Terbium-150	W, all compounds	5E+3	2E+4	9E-6	3E-8	7E-5	7E-4
65	Terbium-151	W, all compounds	4E+3	9E+3	4E-6	1E-8	5E-5	5E-4
65	Terbium-153	W, all compounds	5E+3	7E+3	3E-6	1E-8	7E-5	7E-4
65	Terbium-154	W, all compounds	2E+3	4E+3	2E-6	6E-9	2E-5	2E-4
65	Terbium-155	W, all compounds	6E+3	8E+3	3E-6	1E-8	8E-5	8E-4
65	Terbium-156m (5.0 h)	W, all compounds	2E+4	3E+4	1E-5	4E-8	2E-4	2E-3
65	Terbium-156m (24.4 h)	W, all compounds	7E+3	8E+3	3E-6	1E-8	1E-4	1E-3
65	Terbium-156	W, all compounds	1E+3	1E+3	6E-7	2E-9	1E-5	1E-4
65	Terbium-157	W, all compounds	5E+4	3E+2	1E-7	-	-	-
65	Terbium-158	W, all compounds	LLI wall (5E+4)	Bone surf (6E+2)	-	8E-10	7E-4	7E-3
			1E+3	2E+1	8E-9	3E-11	2E-5	2E-4
			8E+2	2E+2	9E-8	3E-10	1E-5	1E-4
			2E+3	2E+3	7E-7	2E-9	-	-
65	Terbium-160	W, all compounds	LLI wall (2E+3)	-	-	-	3E-5	3E-4
			9E+3	3E+4	1E-5	4E-8	1E-4	1E-3
			2E+4	6E+4	3E-5	9E-8	3E-4	3E-3
			1E+4	2E+3	1E-6	3E-9	2E-4	2E-3
66	Dysprosium-155	W, all compounds	1E+4	5E+4	2E-5	6E-8	2E-4	2E-3
66	Dysprosium-157	W, all compounds	1E+4	5E+4	2E-5	6E-8	2E-4	2E-3
66	Dysprosium-159	W, all compounds	1E+4	5E+4	2E-5	6E-8	2E-4	2E-3
66	Dysprosium-165	W, all compounds	1E+4	5E+4	2E-5	6E-8	2E-4	2E-3

## CHAPTER 7. DEPARTMENT OF HEALTH SERVICES - RADIATION CONTROL

Atomic No.	Radionuclide	Class	Table I Occupational Values			Table II Effluent Concentrations		Table III Releases to Sewers Monthly Average Concentration ( $\mu\text{Ci/ml}$ )
			Col. 1 Oral Ingestion ALI ( $\mu\text{Ci}$ )	Col. 2 Inhalation ALI ( $\mu\text{Ci}$ )	Col. 3 DAC ( $\mu\text{Ci/ml}$ )	Col. 1 Air ( $\mu\text{Ci/ml}$ )	Col. 2 Water ( $\mu\text{Ci/ml}$ )	
66	Dysprosium-166	W, all compounds	6E+2	7E+2	3E-7	1E-9	-	-
			LLI wall (8E+2)	-	-	-	1E-5	1E-4
67	Holmium-155 <sup>2</sup>	W, all compounds	4E+4	2E+5	6E-5	2E-7	6E-4	6E-3
67	Holmium-157 <sup>2</sup>	W, all compounds	3E+5	1E+6	6E-4	2E-6	4E-3	4E-2
67	Holmium-159 <sup>2</sup>	W, all compounds	2E+5	1E+6	4E-4	1E-6	3E-3	3E-2
67	Holmium-161	W, all compounds	1E+5	4E+5	2E-4	6E-7	1E-3	1E-2
67	Holmium-162m <sup>2</sup>	W, all compounds	5E+4	3E+5	1E-4	4E-7	7E-4	7E-3
67	Holmium-162 <sup>2</sup>	W, all compounds	5E+5	2E+6	1E-3	3E-6	-	-
			St wall (8E+5)	-	-	-	1E-2	1E-1
67	Holmium-164m <sup>2</sup>	W, all compounds	1E+5	3E+5	1E-4	4E-7	1E-3	1E-2
67	Holmium-164 <sup>2</sup>	W, all compounds	2E+5	6E+5	3E-4	9E-7	-	-
			St wall (2E+5)	-	-	-	3E-3	3E-2
67	Holmium-166m	W, all compounds	6E+2	7E+0	3E-9	9E-12	9E-6	9E-5
67	Holmium-166	W, all compounds	9E+2	2E+3	7E-7	2E-9	-	-
			LLI wall (9E+2)	-	-	-	1E-5	1E-4
67	Holmium-167	W, all compounds	2E+4	6E+4	2E-5	8E-8	2E-4	2E-3
68	Erbium-161	W, all compounds	2E+4	6E+4	3E-5	9E-8	2E-4	2E-3
68	Erbium-165	W, all compounds	6E+4	2E+5	8E-5	3E-7	9E-4	9E-3
68	Erbium-169	W, all compounds	3E+3	3E+3	1E-6	4E-9	-	-
			LLI wall (4E+3)	-	-	-	5E-5	5E-4
68	Erbium-171	W, all compounds	4E+3	1E+4	4E-6	1E-8	5E-5	5E-4
68	Erbium-172	W, all compounds	1E+3	1E+3	6E-7	2E-9	-	-
			LLI wall (E+3)	-	-	-	2E-5	2E-4
69	Thulium-162 <sup>2</sup>	W, all compounds	7E+4	3E+5	1E-4	4E-7	-	-
			St wall (7E+4)	-	-	-	1E-3	1E-2
69	Thulium-166	W, all compounds	4E+3	1E+4	6E-6	2E-8	6E-5	6E-4
69	Thulium-167	W, all compounds	2E+3	2E+3	8E-7	3E-9	-	-
			LLI wall (2E+3)	-	-	-	3E-5	3E-4
69	Thulium-170	W, all compounds	8E+2	2E+2	9E-8	3E-10	-	-
			LLI wall (1E+3)	-	-	-	1E-5	1E-4
69	Thulium-171	W, all compounds	1E+4	3E+2	1E-7	-	-	-
			LLI wall Bone surf (1E+4)	(6E+2)	-	8E-10	2E-4	2E-3
69	Thulium-172	W, all compounds	7E+2	1E+3	5E-7	2E-9	-	-
			LLI wall (8E+2)	-	-	-	1E-5	1E-4
69	Thulium-173	W, all compounds	4E+3	1E+4	5E-6	2E-8	6E-5	6E-4
69	Thulium-175 <sup>2</sup>	W, all compounds	7E+4	3E+5	1E-4	4E-7	-	-
			St wall (9E+4)	-	-	-	1E-3	1E-2

## CHAPTER 7. DEPARTMENT OF HEALTH SERVICES - RADIATION CONTROL

Atomic No.	Radionuclide	Class	Table I Occupational Values			Table II Effluent Concentrations		Table III Releases to Sewers Monthly Average Concentration ( $\mu\text{Ci/ml}$ )
			Col. 1 Oral Ingestion ALI ( $\mu\text{Ci}$ )	Col. 2 Inhalation ALI ( $\mu\text{Ci}$ )	Col. 3 DAC ( $\mu\text{Ci/ml}$ )	Col. 1 Air ( $\mu\text{Ci/ml}$ )	Col. 2 Water ( $\mu\text{Ci/ml}$ )	
70	Ytterbium-162 <sup>2</sup>	W, all compounds except those given for Y Y, oxides, hydroxides, and fluorides	7E+4 -	3E+5 3E+5	1E-4 1E-4	4E-7 4E-7	1E-3 -	1E-2 -
70	Ytterbium-166	W, see <sup>162</sup> Yb Y, see <sup>162</sup> Yb	1E+3 -	2E+3 2E+3	8E-7 8E-7	3E-9 3E-9	2E-5 -	2E-4 -
70	Ytterbium-167 <sup>2</sup>	W, see <sup>162</sup> Yb Y, see <sup>162</sup> Yb	3E+5 -	8E+5 7E+5	3E-4 3E-4	1E-6 1E-6	4E-3 -	4E-2 -
70	Ytterbium-169	W, see <sup>162</sup> Yb Y, see <sup>162</sup> Yb	2E+3 -	8E+2 7E+2	4E-7 3E-7	1E-9 1E-9	2E-5 -	2E-4 -
70	Ytterbium-175	W, see <sup>162</sup> Yb	3E+3	4E+3	1E-6	5E-9	-	-
		LLI wall (3E+3)		-	-	-	4E-5	4E-4
		Y, see <sup>162</sup> Yb	-	3E+3	1E-6	5E-9	-	-
70	Ytterbium-177 <sup>2</sup>	W, see <sup>162</sup> Yb Y, see <sup>162</sup> Yb	2E+4 -	5E+4 5E+4	2E-5 2E-5	7E-8 6E-8	2E-4 -	2E-3 -
70	Ytterbium-178 <sup>2</sup>	W, see <sup>162</sup> Yb Y, see <sup>162</sup> Yb	1E+4 -	4E+4 4E+4	2E-5 2E-5	6E-8 5E-8	2E-4 -	2E-3 -
71	Lutetium-169	W, all compounds except those given for Y Y, oxides, hydroxides, and fluorides	3E+3 -	4E+3 4E+3	2E-6 2E-6	6E-9 6E-9	3E-5 -	3E-4 -
71	Lutetium-170	W, see <sup>169</sup> Lu Y, see <sup>169</sup> Lu	1E+3 -	2E+3 2E+3	9E-7 8E-7	3E-9 3E-9	2E-5 -	2E-4 -
71	Lutetium-171	W, see <sup>169</sup> Lu Y, see <sup>169</sup> Lu	2E+3 -	2E+3 2E+3	8E-7 8E-7	3E-9 3E-9	3E-5 -	3E-4 -
71	Lutetium-172	W, see <sup>169</sup> Lu Y, see <sup>169</sup> Lu	1E+3 -	1E+3 1E+3	5E-7 5E-7	2E-9 2E-9	1E-5 -	1E-4 -
71	Lutetium-173	W, see <sup>169</sup> Lu	5E+3	3E+2	1E-7	-	7E-5	7E-4
			-	Bone surf (5E+2)	-	6E-10	-	-
		Y, see <sup>169</sup> Lu	-	3E+2	1E-7	4E-10	-	-
71	Lutetium-174m	W, see <sup>169</sup> Lu	2E+3	2E+2	1E-7	-	-	-
		LLI wall (3E+3)		Bone surf (3E+2)	-	5E-10	4E-5	4E-4
		Y, see <sup>169</sup> Lu	-	2E+2	9E-8	3E-10	-	-
71	Lutetium-174	W, see <sup>169</sup> Lu	5E+3	1E+2	5E-8	-	7E-5	7E-4
			-	Bone surf (2E+2)	-	3E-10	-	-
		Y, see <sup>169</sup> Lu	-	2E+2	6E-8	2E-10	-	-
71	Lutetium-176m	W, see <sup>169</sup> Lu Y, see <sup>169</sup> Lu	8E+3 -	3E+4 2E+4	1E-5 9E-6	3E-8 3E-8	1E-4 -	1E-3 -
71	Lutetium-176	W, see <sup>169</sup> Lu	7E+2	5E+0	2E-9	-	1E-5	1E-4
			-	Bone surf (1E+1)	-	2E-11	-	-
		Y, see <sup>169</sup> Lu	-	8E+0	3E-9	1E-1	-	-

## CHAPTER 7. DEPARTMENT OF HEALTH SERVICES - RADIATION CONTROL

Atomic No.	Radionuclide	Class	Table I Occupational Values			Table II Effluent Concentrations		Table III Releases to Sewers
			Col. 1 Oral Ingestion ALI ( $\mu$ Ci)	Col. 2 Inhalation ALI ( $\mu$ Ci)	Col. 3 DAC ( $\mu$ Ci/ml)	Col. 1 Air ( $\mu$ Ci/ml)	Col. 2 Water ( $\mu$ Ci/ml)	Monthly Average Concentration ( $\mu$ Ci/ml)
71	Lutetium-177m	W, see $^{169}\text{Lu}$	7E+2	1E+2	5E-8	-	1E-5	1E-4
				Bone surf				
			-	(1E+2)	-	2E-10	-	-
		Y, see $^{169}\text{Lu}$	-	8E+1	3E-8	1E-10	-	-
71	Lutetium-177	W, see $^{169}\text{Lu}$	2E+3	2E+3	9E-7	3E-9	-	-
			LLI wall					
			(3E+3)	-	-	-	4E-5	4E-4
		Y, see $^{169}\text{Lu}$	-	2E+3	9E-7	3E-9	-	-
71	Lutetium-178m <sup>2</sup>	W, see $^{169}\text{Lu}$	5E+4	2E+5	8E-5	3E-7	-	-
			St. wall					
			(6E+4)	-	-	-	8E-4	8E-3
		Y, see $^{169}\text{Lu}$	-	2E+5	7E-5	2E-7	-	-
71	Lutetium-178 <sup>2</sup>	W, see $^{169}\text{Lu}$	4E+4	1E+5	5E-5	2E-7	-	-
			St wall					
			(4E+4)	-	-	-	6E-4	6E-3
		Y, see $^{169}\text{Lu}$	-	1E+5	5E-5	2E-7	-	-
71	Lutetium-179	W, see $^{169}\text{Lu}$	6E+3	2E+4	8E-6	3E-8	9E-5	9E-4
		Y, see $^{169}\text{Lu}$	-	2E+4	6E-6	3E-8	-	-
72	Hafnium-170	D, all compounds except those given for W	3E+3	6E+3	2E-6	8E-9	4E-5	4E-4
		W, oxides, hydroxides, carbides, and nitrates	-	5E+3	2E-6	6E-9	-	-
72	Hafnium-172	D, see $^{170}\text{Hf}$	1E+3	9E+0	4E-9	-	2E-5	2E-4
				Bone surf				
			-	(2E+1)	-	3E-11	-	-
		W, see $^{170}\text{Hf}$	-	4E+1	2E-8	-	-	-
				Bone surf				
			-	(6E+1)	-	8E-11	-	-
72	Hafnium-173	D, see $^{170}\text{Hf}$	5E+3	1E+4	5E-6	2E-8	7E-5	7E-4
		W, see $^{170}\text{Hf}$	-	1E+4	5E-6	2E-8	-	-
72	Hafnium-175	D, see $^{170}\text{Hf}$	3E+3	9E+2	4E-7	-	4E-5	4E-4
				Bone surf				
			-	(1E+3)	-	1E-9	-	-
		W, see $^{170}\text{Hf}$	-	1E+3	5E-7	2E-9	-	-
72	Hafnium-177m <sup>2</sup>	D, see $^{170}\text{Hf}$	2E+4	6E+4	2E-5	8E-8	3E-4	3E-3
		W, see $^{170}\text{Hf}$	-	9E+4	4E-5	1E-7	-	-
72	Hafnium-178m	D, see $^{170}\text{Hf}$	3E+2	1E+0	5E-10	-	3E-6	3E-5
				Bone surf				
			-	(2E+0)	-	3E-12	-	-
		W, see $^{170}\text{Hf}$	-	5E+0	2E-9	-	-	-
				Bone surf				
			-	(9E+0)	-	1E-11	-	-
72	Hafnium-179m	D, see $^{170}\text{Hf}$	1E+3	3E+2	1E-7	-	1E-5	1E-4
				Bone surf				
			-	(6E+2)	-	8E-10	-	-
		W, see $^{170}\text{Hf}$	-	6E+2	3E-7	8E-10	-	-

## CHAPTER 7. DEPARTMENT OF HEALTH SERVICES - RADIATION CONTROL

Atomic No.	Radionuclide	Class	Table I Occupational Values			Table II Effluent Concentrations		Table III Releases to Sewers Monthly Average Concentration ( $\mu\text{Ci/ml}$ )
			Col. 1 Oral Ingestion ALI ( $\mu\text{Ci}$ )	Col. 2 Inhalation ALI ( $\mu\text{Ci}$ )	Col. 3 DAC ( $\mu\text{Ci/ml}$ )	Col. 1 Air ( $\mu\text{Ci/ml}$ )	Col. 2 Water ( $\mu\text{Ci/ml}$ )	
72	Hafnium-180m	D, see $^{170}\text{Hf}$	7E+3	2E+4	9E-6	3E-8	1E-4	1E-3
		W, see $^{170}\text{Hf}$	-	3E+4	1E-5	4E-8	-	-
72	Hafnium-181	D, see $^{170}\text{Hf}$	1E+3	2E+2	7E-8	-	2E-5	2E-4
				Bone surf (4E+2)	-	6E-10	-	-
72	Hafnium-182m <sup>2</sup>	W, see $^{170}\text{Hf}$	-	4E+2	2E-7	6E-10	-	-
		D, see $^{170}\text{Hf}$	4E+4	9E+4	4E-5	1E-7	5E-4	5E-3
72	Hafnium-182	W, see $^{170}\text{Hf}$	-	1E+5	6E-5	2E-7	-	-
		D, see $^{170}\text{Hf}$	2E+2	8E-1	3E-10	-	-	-
72	Hafnium-183 <sup>2</sup>		Bone surf (4E+2)	Bone surf (2E+0)	-	2E-12	5E-6	5E-5
		W, see $^{170}\text{Hf}$	-	3E+0	1E-9	-	-	-
72	Hafnium-184			Bone surf (7E+0)	-	1E-11	-	-
		D, see $^{170}\text{Hf}$	2E+4	5E+4	2E-5	6E-8	3E-4	3E-3
72	Hafnium-184	W, see $^{170}\text{Hf}$	-	6E+4	2E-5	8E-8	-	-
		D, see $^{170}\text{Hf}$	2E+3	8E+3	3E-6	1E-8	3E-5	3E-4
72	Hafnium-184	W, see $^{170}\text{Hf}$	-	6E+3	3E-6	9E-9	-	-
73	Tantalum-172 <sup>2</sup>	W, all compounds except those given for Y	4E+4	1E+5	5E-5	2E-7	5E-4	5E-3
		Y, elemental Ta, oxides, hydroxides, halides, carbides, nitrates, and nitrides	-	1E+5	4E-5	1E-7	-	-
73	Tantalum-173	W, see $^{172}\text{Ta}$	7E+3	2E+4	8E-6	3E-8	9E-5	9E-4
		Y, see $^{172}\text{Ta}$	-	2E+4	7E-6	2E-8	-	-
73	Tantalum-174 <sup>2</sup>	W, see $^{172}\text{Ta}$	3E+4	1E+5	4E-5	1E-7	4E-4	4E-3
		Y, see $^{172}\text{Ta}$	-	9E+4	4E-5	1E-7	-	-
73	Tantalum-175	W, see $^{172}\text{Ta}$	6E+3	2E+4	7E-6	2E-8	8E-5	8E-4
		Y, see $^{172}\text{Ta}$	-	1E+4	6E-6	2E-8	-	-
73	Tantalum-176	W, see $^{172}\text{Ta}$	4E+3	1E+4	5E-6	2E-8	5E-5	5E-4
		Y, see $^{172}\text{Ta}$	-	1E+4	5E-6	2E-8	-	-
73	Tantalum-177	W, see $^{172}\text{Ta}$	1E+4	2E+4	8E-6	3E-8	2E-4	2E-3
		Y, see $^{172}\text{Ta}$	-	2E+4	7E-6	2E-8	-	-
73	Tantalum-178	W, see $^{172}\text{Ta}$	2E+4	9E+4	4E-5	1E-7	2E-4	2E-3
		Y, see $^{172}\text{Ta}$	-	7E+4	3E-5	1E-7	-	-
73	Tantalum-179	W, see $^{172}\text{Ta}$	2E+4	5E+3	2E-6	8E-9	3E-4	3E-3
		Y, see $^{172}\text{Ta}$	-	9E+2	4E-7	1E-9	-	-
73	Tantalum-180m	W, see $^{172}\text{Ta}$	2E+4	7E+4	3E-5	9E-8	3E-4	3E-3
		Y, see $^{172}\text{Ta}$	-	6E+4	2E-5	8E-8	-	-
73	Tantalum-180	W, see $^{172}\text{Ta}$	1E+3	4E+2	2E-7	6E-10	2E-5	2E-4
		Y, see $^{172}\text{Ta}$	-	2E+1	1E-8	3E-11	-	-

## CHAPTER 7. DEPARTMENT OF HEALTH SERVICES - RADIATION CONTROL

Atomic No.	Radionuclide	Class	Table I Occupational Values			Table II Effluent Concentrations		Table III Releases to Sewers Monthly Average Concentration ( $\mu\text{Ci/ml}$ )
			Col. 1 Oral Ingestion ALI ( $\mu\text{Ci}$ )	Col. 2 Inhalation ALI ( $\mu\text{Ci}$ )	Col. 3 DAC ( $\mu\text{Ci/ml}$ )	Col. 1 Air ( $\mu\text{Ci/ml}$ )	Col. 2 Water ( $\mu\text{Ci/ml}$ )	
73	Tantalum-182m <sup>2</sup>	W, see <sup>172</sup> Ta	2E+5 St wall (2E+5)	5E+5 -	2E-4 -	8E-7 -	- 3E-3	- 3E-2
		Y, see <sup>172</sup> Ta	-	4E+5	2E-4	6E-7	-	-
73	Tantalum-182	W, see <sup>172</sup> Ta	8E+2	3E+2	1E-7	5E-10	1E-5	1E-4
		Y, see <sup>172</sup> Ta	-	1E+2	6E-8	2E-10	-	-
73	Tantalum-183	W, see <sup>172</sup> Ta	9E+2 LLI wall (1E+3)	1E+3 -	5E-7 -	2E-9 -	- 2E-5	- 2E-4
		Y, see <sup>172</sup> Ta	-	1E+3	4E-7	1E-9	-	-
73	Tantalum-184	W, see <sup>172</sup> Ta	2E+3	5E+3	2E-6	8E-9	3E-5	3E-4
		Y, see <sup>172</sup> Ta	-	5E+3	2E-6	7E-9	-	-
73	Tantalum-185 <sup>2</sup>	W, see <sup>172</sup> Ta	3E+4	7E+4	3E-5	1E-7	4E-4	4E-3
		Y, see <sup>172</sup> Ta	-	6E+4	3E-5	9E-8	-	-
73	Tantalum-186 <sup>2</sup>	W, see <sup>172</sup> Ta	5E+4 St wall (7E+4)	2E+5 -	1E-4 -	3E-7 -	- 1E-3	- 1E-2
		Y, see <sup>172</sup> Ta	-	2E+5	9E-5	3E-7	-	-
74	Tungsten-176	D, all compounds	1E+4	5E+4	2E-5	7E-8	1E-4	1E-3
74	Tungsten-177	D, all compounds	2E+4	9E+4	4E-5	1E-7	3E-4	3E-3
74	Tungsten-178	D, all compounds	5E+3	2E+4	8E-6	3E-8	7E-5	7E-4
74	Tungsten-179 <sup>2</sup>	D, all compounds	5E+5	2E+6	7E-4	2E-6	7E-3	7E-2
74	Tungsten-181	D, all compounds	2E+4	3E+4	1E-5	5E-8	2E-4	2E-3
74	Tungsten-185	D, all compounds	2E+3 LLI wall (3E+3)	7E+3 -	3E-6 -	9E-9 -	- 4E-5	- 4E-4
74	Tungsten-187	D, all compounds	2E+3	9E+3	4E-6	1E-8	3E-5	3E-4
74	Tungsten-188	D, all compounds	4E+2 LLI wall (5E+2)	1E+3 -	5E-7 -	2E-9 -	- 7E-6	- 7E-5
75	Rhenium-177 <sup>2</sup>	D, all compounds except those given for W	9E+4 St wall (1E+5)	3E+5 -	1E-4 -	4E-7 -	- 2E-3	- 2E-2
		W, oxides, hydroxides, and nitrates	-	4E+5	1E-4	5E-7	-	-
75	Rhenium-178 <sup>2</sup>	D, see <sup>177</sup> Re	7E+4 St wall (1E+5)	3E+5 -	1E-4 -	4E-7 -	- 1E-3	- 1E-2
		W, see <sup>177</sup> Re	-	3E+5	1E-4	4E-7	-	-
75	Rhenium-181	D, see <sup>177</sup> Re	5E+3	9E+3	4E-6	1E-8	7E-5	7E-4
		W, see <sup>177</sup> Re	-	9E+3	4E-6	1E-8	-	-
75	Rhenium-182 (12.7 h)	D, see <sup>177</sup> Re	7E+3	1E+4	5E-6	2E-8	9E-5	9E-4
		W, see <sup>177</sup> Re	-	2E+4	6E-6	2E-8	-	-
75	Rhenium-182 (64.0 h)	D, see <sup>177</sup> Re	1E+3	2E+3	1E-6	3E-9	2E-5	2E-4
		W, see <sup>177</sup> Re	-	2E+3	9E-7	3E-9	-	-

## CHAPTER 7. DEPARTMENT OF HEALTH SERVICES - RADIATION CONTROL

Atomic No.	Radionuclide	Class	Table I Occupational Values			Table II Effluent Concentrations		Table III Releases to Sewers Monthly Average Concentration (μCi/ml)
			Col. 1 Oral Ingestion	Col. 2 Inhalation	Col. 3	Col. 1	Col. 2	
			ALI (μCi)	ALI (μCi)	DAC (μCi/ml)	Air (μCi/ml)	Water (μCi/ml)	
75	Rhenium-184m	D, see <sup>177</sup> Re	2E+3	3E+3	1E-6	4E-9	3E-5	3E-4
		W, see <sup>177</sup> Re	-	4E+2	2E-7	6E-10	-	-
75	Rhenium-184	D, see <sup>177</sup> Re	2E+3	4E+3	1E-6	5E-9	3E-5	3E-4
		W, see <sup>177</sup> Re	-	1E+3	6E-7	2E-9	-	-
75	Rhenium-186m	D, see <sup>177</sup> Re	1E+3	2E+3	7E-7	-	-	-
		St wall (2E+3)	St wall (2E+3)	-	3E-9	2E-5	2E-4	
		W, see <sup>177</sup> Re	-	2E+2	6E-8	2E-10	-	-
75	Rhenium-186	D, see <sup>177</sup> Re	2E+3	3E+3	1E-6	4E-9	3E-5	3E-4
		W, see <sup>177</sup> Re	-	2E+3	7E-7	2E-9	-	-
75	Rhenium-187	D, see <sup>177</sup> Re	6E+5	8E+5	4E-4	-	8E-3	8E-2
		St wall	-	(9E+5)	-	1E-6	-	-
		W, see <sup>177</sup> Re	-	1E+5	4E-5	1E-7	-	-
75	Rhenium-188m <sup>2</sup>	D, see <sup>177</sup> Re	8E+4	1E+5	6E-5	2E-7	1E-3	1E-2
		W, see <sup>177</sup> Re	-	1E+5	6E-5	2E-7	-	-
75	Rhenium-188	D, see <sup>177</sup> Re	2E+3	3E+3	1E-6	4E-9	2E-5	2E-4
		W, see <sup>177</sup> Re	-	3E+3	1E-6	4E-9	-	-
75	Rhenium-189	D, see <sup>177</sup> Re	3E+3	5E+3	2E-6	7E-9	4E-5	4E-4
		W, see <sup>177</sup> Re	-	4E+3	2E-6	6E-9	-	-
76	Osmium-180 <sup>2</sup>	D, all compounds except those given for W and Y	1E+5	4E+5	2E-4	5E-7	1E-3	1E-2
		W, halides and nitrates	-	5E+5	2E-4	7E-7	-	-
		Y, oxides and hydroxides	-	5E+5	2E-4	6E-7	-	-
76	Osmium-181 <sup>2</sup>	D, see <sup>180</sup> Os	1E+4	4E+4	2E-5	6E-8	2E-4	2E-3
		W, see <sup>180</sup> Os	-	5E+4	2E-5	6E-8	-	-
		Y, see <sup>180</sup> Os	-	4E+4	2E-5	6E-8	-	-
76	Osmium-182	D, see <sup>180</sup> Os	2E+3	6E+3	2E-6	8E-9	3E-5	3E-4
		W, see <sup>180</sup> Os	-	4E+3	2E-6	6E-9	-	-
		Y, see <sup>180</sup> Os	-	4E+3	2E-6	6E-9	-	-
76	Osmium-185	D, see <sup>180</sup> Os	2E+3	5E+2	2E-7	7E-10	3E-5	3E-4
		W, see <sup>180</sup> Os	-	8E+2	3E-7	1E-9	-	-
		Y, see <sup>180</sup> Os	-	8E+2	3E-7	1E-9	-	-
76	Osmium-189m	D, see <sup>180</sup> Os	8E+4	2E+5	1E-4	3E-7	1E-3	1E-2
		W, see <sup>180</sup> Os	-	2E+5	9E-5	3E-7	-	-
		Y, see <sup>180</sup> Os	-	2E+5	7E-5	2E-7	-	-
76	Osmium-191m	D, see <sup>180</sup> Os	1E+4	3E+4	1E-5	4E-8	2E-4	2E-3
		W, see <sup>180</sup> Os	-	2E+4	8E-6	3E-8	-	-
		Y, see <sup>180</sup> Os	-	2E+4	7E-6	2E-8	-	-
76	Osmium-191	D, see <sup>180</sup> Os	2E+3	2E+3	9E-7	3E-9	-	-
		LLI wall (3E+3)	-	-	-	3E-5	3E-4	
		W, see <sup>180</sup> Os	-	2E+3	7E-7	2E-9	-	-
		Y, see <sup>180</sup> Os	-	1E+3	6E-7	2E-9	-	-



## CHAPTER 7. DEPARTMENT OF HEALTH SERVICES - RADIATION CONTROL

Atomic No.	Radionuclide	Class	Table I Occupational Values			Table II Effluent Concentrations		Table III Releases to Sewers Monthly Average Concentration ( $\mu\text{Ci/ml}$ )
			Col. 1 Oral Ingestion ALI ( $\mu\text{Ci}$ )	Col. 2 Inhalation ALI ( $\mu\text{Ci}$ )	Col. 3 DAC ( $\mu\text{Ci/ml}$ )	Col. 1 Air ( $\mu\text{Ci/ml}$ )	Col. 2 Water ( $\mu\text{Ci/ml}$ )	
76	Osmium-193	D, see $^{180}\text{Os}$	2E+3	5E+3	2E-6	6E-9	-	-
		LLI wall (2E+3)	-	-	-	-	2E-5	2E-4
		W, see $^{180}\text{Os}$	-	3E+3	1E-6	4E-9	-	-
76	Osmium-194	Y, see $^{180}\text{Os}$	-	3E+3	1E-6	4E-9	-	-
		D, see $^{180}\text{Os}$	4E+2	4E+1	2E-8	6E-11	-	-
		LLI wall (6E+2)	-	-	-	-	8E-6	8E-5
77	Iridium-182 <sup>2</sup>	W, see $^{180}\text{Os}$	-	6E+1	2E-8	8E-11	-	-
		Y, see $^{180}\text{Os}$	-	8E+0	3E-9	1E-11	-	-
		D, all compounds except those given for W and Y	4E+4	1E+5	6E-5	2E-7	-	-
77	Iridium-184	St wall (4E+4)	-	-	-	-	6E-4	6E-3
		W, halides, nitrates, and metallic iridium	-	2E+5	6E-5	2E-7	-	-
		Y, oxides and hydroxides	-	1E+5	5E-5	2E-7	-	-
77	Iridium-185	D, see $^{182}\text{Ir}$	8E+3	2E+4	1E-5	3E-8	1E-4	1E-3
		W, see $^{182}\text{Ir}$	-	3E+4	1E-5	5E-8	-	-
		Y, see $^{182}\text{Ir}$	-	3E+4	1E-5	4E-8	-	-
77	Iridium-186	D, see $^{182}\text{Ir}$	5E+3	1E+4	5E-6	2E-8	7E-5	7E-4
		W, see $^{182}\text{Ir}$	-	1E+4	5E-6	2E-8	-	-
		Y, see $^{182}\text{Ir}$	-	1E+4	4E-6	1E-8	-	-
77	Iridium-187	D, see $^{182}\text{Ir}$	2E+3	8E+3	3E-6	1E-8	3E-5	3E-4
		W, see $^{182}\text{Ir}$	-	6E+3	3E-6	9E-9	-	-
		Y, see $^{182}\text{Ir}$	-	6E+3	2E-6	8E-9	-	-
77	Iridium-188	D, see $^{182}\text{Ir}$	1E+4	3E+4	1E-5	5E-8	1E-4	1E-3
		W, see $^{182}\text{Ir}$	-	3E+4	1E-5	4E-8	-	-
		Y, see $^{182}\text{Ir}$	-	3E+4	1E-5	4E-8	-	-
77	Iridium-189	D, see $^{182}\text{Ir}$	2E+3	5E+3	2E-6	6E-9	3E-5	3E-4
		W, see $^{182}\text{Ir}$	-	4E+3	1E-6	5E-9	-	-
		Y, see $^{182}\text{Ir}$	-	3E+3	1E-6	5E-9	-	-
77	Iridium-190m <sup>2</sup>	D, see $^{182}\text{Ir}$	5E+3	5E+3	2E-6	7E-9	-	-
		LLI wall (5E+3)	-	-	-	-	7E-5	7E-4
		W, see $^{182}\text{Ir}$	-	4E+3	2E-6	5E-9	-	-
77	Iridium-190	Y, see $^{182}\text{Ir}$	-	4E+3	1E-6	5E-9	-	-
		D, see $^{182}\text{Ir}$	2E+5	2E+5	8E-5	3E-7	2E-3	2E-2
		W, see $^{182}\text{Ir}$	-	2E+5	9E-5	3E-7	-	-
77	Iridium-190	Y, see $^{182}\text{Ir}$	-	2E+5	8E-5	3E-7	-	-
		D, see $^{182}\text{Ir}$	1E+3	9E+2	4E-7	1E-9	1E-5	1E-4
		W, see $^{182}\text{Ir}$	-	1E+3	4E-7	1E-9	-	-
77	Iridium-190	Y, see $^{182}\text{Ir}$	-	9E+2	4E-7	1E-9	-	-

## CHAPTER 7. DEPARTMENT OF HEALTH SERVICES - RADIATION CONTROL

Atomic No.	Radionuclide	Class	Table I Occupational Values			Table II Effluent Concentrations		Table III Releases to Sewers
			Col. 1 Oral Ingestion	Col. 2 Inhalation	Col. 3 DAC	Col. 1 Air	Col. 2 Water	Monthly Average
			ALI ( $\mu$ Ci)	ALI ( $\mu$ Ci)	( $\mu$ Ci/ml)	( $\mu$ Ci/ml)	( $\mu$ Ci/ml)	Concentration ( $\mu$ Ci/ml)
77	Iridium-192m	D, see $^{182}\text{Ir}$	3E+3	9E+1	4E-8	1E-10	4E-5	4E-4
		W, see $^{182}\text{Ir}$	-	2E+2	9E-8	3E-10	-	-
		Y, see $^{182}\text{Ir}$	-	2E+1	6E-9	2E-11	-	-
77	Iridium-192	D, see $^{182}\text{Ir}$	9E+2	3E+2	1E-7	4E-10	1E-5	1E-4
		W, see $^{182}\text{Ir}$	-	4E+2	2E-7	6E-10	-	-
		Y, see $^{182}\text{Ir}$	-	2E+2	9E-8	3E-10	-	-
77	Iridium-194m	D, see $^{182}\text{Ir}$	6E+2	9E+1	4E-8	1E-10	9E-6	9E-5
		W, see $^{182}\text{Ir}$	-	2E+2	7E-8	2E-10	-	-
		Y, see $^{182}\text{Ir}$	-	1E+2	4E-8	1E-10	-	-
77	Iridium-194	D, see $^{182}\text{Ir}$	1E+3	3E+3	1E-6	4E-9	1E-5	1E-4
		W, see $^{182}\text{Ir}$	-	2E+3	9E-7	3E-9	-	-
		Y, see $^{182}\text{Ir}$	-	2E+3	8E-7	3E-9	-	-
77	Iridium-195m	D, see $^{182}\text{Ir}$	8E+3	2E+4	1E-5	3E-8	1E-4	1E-3
		W, see $^{182}\text{Ir}$	-	3E+4	1E-5	4E-8	-	-
		Y, see $^{182}\text{Ir}$	-	2E+4	9E-6	3E-8	-	-
77	Iridium-195	D, see $^{182}\text{Ir}$	1E+4	4E+4	2E-5	6E-8	2E-4	2E-3
		W, see $^{182}\text{Ir}$	-	5E+4	2E-5	7E-8	-	-
		Y, see $^{182}\text{Ir}$	-	4E+4	2E-5	6E-8	-	-
78	Platinum-186	D, all compounds	1E+4	4E+4	2E-5	5E-8	2E-4	2E-3
78	Platinum-188	D, all compounds	2E+3	2E+3	7E-7	2E-9	2E-5	2E-4
78	Platinum-189	D, all compounds	1E+4	3E+4	1E-5	4E-8	1E-4	1E-3
78	Platinum-191	D, all compounds	4E+3	8E+3	4E-6	1E-8	5E-5	5E-4
78	Platinum-193m	D, all compounds	3E+3	6E+3	3E-6	8E-9	-	-
		LLI wall (3E+4)	-	-	-	-	4E-5	4E-4
		D, all compounds	4E+4	2E+4	1E-5	3E-8	-	-
78	Platinum-193	D, all compounds	LLI wall (5E+4)	-	-	-	6E-4	6E-3
		D, all compounds	2E+3	4E+3	2E-6	6E-9	-	-
		LLI wall (2E+3)	-	-	-	-	3E-5	3E-4
78	Platinum-197m <sup>2</sup>	D, all compounds	2E+4	4E+4	2E-5	6E-8	2E-4	2E-3
78	Platinum-197	D, all compounds	3E+3	1E+4	4E-6	1E-8	4E-5	4E-4
78	Platinum-199 <sup>2</sup>	D, all compounds	5E+4	1E+5	6E-5	2E-7	7E-4	7E-3
78	Platinum-200	D, all compounds	1E+3	3E+3	1E-6	5E-9	2E-5	2E-4
79	Gold-193	D, all compounds except those given for W and Y	9E+3	3E+4	1E-5	4E-8	1E-4	1E-3
		W, halides and nitrates	-	2E+4	9E-6	3E-8	-	-
		Y, oxides and hydroxides	-	2E+4	8E-6	3E-8	-	-
79	Gold-194	D, see $^{193}\text{Au}$	3E+3	8E+3	3E-6	1E-8	4E-5	4E-4
		W, see $^{193}\text{Au}$	-	5E+3	2E-6	8E-9	-	-
		Y, see $^{193}\text{Au}$	-	5E+3	2E-6	7E-9	-	-
79	Gold-195	D see $^{193}\text{Au}$	5E+3	1E+4	5E-6	2E-8	7E-5	7E-4
		W see $^{193}\text{Au}$	-	1E+3	6E-7	2E-9	-	-
		Y see $^{193}\text{Au}$	-	4E+2	2E-7	6E-10	-	-

## CHAPTER 7. DEPARTMENT OF HEALTH SERVICES - RADIATION CONTROL

Atomic No.	Radionuclide	Class	Table I Occupational Values			Table II Effluent Concentrations		Table III Releases to Sewers Monthly Average Concentration ( $\mu\text{Ci/ml}$ )
			Col. 1 Oral Ingestion ALI ( $\mu\text{Ci}$ )	Col. 2 Inhalation ALI ( $\mu\text{Ci}$ )	Col. 3 DAC ( $\mu\text{Ci/ml}$ )	Col. 1 Air ( $\mu\text{Ci/ml}$ )	Col. 2 Water ( $\mu\text{Ci/ml}$ )	
79	Gold-198m	D see $^{193}\text{Au}$	1E+3	3E+3	1E-6	4E-9	1E-5	1E-4
		W see $^{193}\text{Au}$	-	1E+3	5E-7	2E-9	-	-
		Y see $^{193}\text{Au}$	-	1E+3	5E-7	2E-9	-	-
79	Gold-198	D see $^{193}\text{Au}$	1E+3	4E+3	2E-6	5E-9	2E-5	2E-4
		W see $^{193}\text{Au}$	-	2E+3	8E-7	3E-9	-	-
		Y see $^{193}\text{Au}$	-	2E+3	7E-7	2E-9	-	-
79	Gold-199	D see $^{193}\text{Au}$	3E+3	9E+3	4E-6	1E-8	-	-
		LLI wall (3E+3)	-	-	-	-	4E-5	4E-4
		W, see $^{193}\text{Au}$	-	4E+3	2E-6	6E-9	-	-
79	Gold-200m	Y, see $^{193}\text{Au}$	-	4E+3	2E-6	5E-9	-	-
		D, see $^{193}\text{Au}$	1E+3	4E+3	1E-6	5E-9	2E-5	2E-4
		W, see $^{193}\text{Au}$	-	3E+3	1E-6	4E-9	-	-
79	Gold-200 <sup>2</sup>	Y, see $^{193}\text{Au}$	-	2E+4	1E-6	3E-9	-	-
		D, see $^{193}\text{Au}$	3E+4	6E+4	3E-5	9E-8	4E-4	4E-3
		W, see $^{193}\text{Au}$	-	8E+4	3E-5	1E-7	-	-
79	Gold-201 <sup>2</sup>	Y, see $^{193}\text{Au}$	-	7E+4	3E-5	1E-7	-	-
		D, see $^{193}\text{Au}$	7E+4	2E+5	9E-5	3E-7	-	-
		St wall (9E+4)	-	-	-	-	1E-3	1E-2
80	Mercury-193m	W, see $^{193}\text{Au}$	-	2E+5	1E-4	3E-7	-	-
		Y, see $^{193}\text{Au}$	-	2E+5	9E-5	3E-7	-	-
		Vapor	-	8E+3	4E-6	1E-8	-	-
80	Mercury-193	Organic D	4E+3	1E+4	5E-6	2E-8	6E-5	6E-4
		D, sulfates	3E+3	9E+3	4E-6	1E-8	4E-5	4E-4
		W, oxides, hydroxides, halides, nitrates, and sulfides	-	8E+3	3E-6	1E-8	-	-
80	Mercury-194	Vapor	-	3E+4	1E-5	4E-8	-	-
		Organic D	2E+4	6E+4	3E-5	9E-8	3E-4	3E-3
		D, see $^{193}\text{mHg}$	2E+4	4E+4	2E-5	6E-8	2E-4	2E-3
80	Mercury-195m	W, see $^{193}\text{mHg}$	-	4E+4	2E-5	6E-8	-	-
		Vapor	-	3E+1	1E-8	4E-11	-	-
		Organic D	2E+1	3E+1	1E-8	4E-11	2E-7	2E-6
80	Mercury-195	D, see $^{193}\text{mHg}$	8E+2	4E+1	2E-8	6E-11	1E-5	1E-4
		W, see $^{193}\text{mHg}$	-	1E+2	5E-8	2E-10	-	-
		Vapor	-	4E+3	2E-6	6E-9	-	-
80	Mercury-195m	Organic D	3E+3	6E+3	3E-6	8E-9	4E-5	4E-4
		D, see $^{193}\text{mHg}$	2E+3	5E+3	2E-6	7E-9	3E-5	3E-4
		W, see $^{193}\text{mHg}$	-	4E+3	2E-6	5E-9	-	-
80	Mercury-195	Vapor	-	3E+4	1E-5	4E-8	-	-
		Organic D	2E+4	5E+4	2E-5	6E-8	2E-4	2E-3
		D, see $^{193}\text{mHg}$	1E+4	4E+4	1E-5	5E-8	2E-4	2E-3
80	Mercury-195	W, see $^{193}\text{mHg}$	-	3E+4	1E-5	5E-8	-	-

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Atomic No.	Radionuclide	Class	Table I Occupational Values			Table II Effluent Concentrations		Table III Releases to Sewers
			Col. 1 Oral Ingestion	Col. 2 Inhalation	Col. 3 DAC	Col. 1 Air	Col. 2 Water	Monthly Average
			ALI ( $\mu$ Ci)	ALI ( $\mu$ Ci)	DAC ( $\mu$ Ci/ml)	( $\mu$ Ci/ml)	( $\mu$ Ci/ml)	Concentration ( $\mu$ Ci/ml)
80	Mercury-197m	Vapor	-	5E+3	2E-6	7E-9	-	-
		Organic D	4E+3	9E+3	4E-6	1E-8	5E-5	5E-4
		D, see $^{193m}\text{Hg}$	3E+3	7E+3	3E-6	1E-8	4E-5	4E-4
		W, see $^{193m}\text{Hg}$	-	5E+3	2E-6	7E-9	-	-
80	Mercury-197	Vapor	-	8E+3	4E-6	1E-8	-	-
		Organic D	7E+3	1E+4	6E-6	2E-8	9E-5	9E-4
		D, see $^{193m}\text{Hg}$	6E+3	1E+4	5E-6	2E-8	8E-5	8E-4
		W, see $^{193m}\text{Hg}$	-	9E+3	4E-6	1E-8	-	-
80	Mercury-199m <sup>2</sup>	Vapor	-	8E+4	3E-5	1E-7	-	-
		Organic D	6E+4	2E+5	7E-5	2E-7	-	-
		St wall	(1E+5)	-	-	-	1E-3	1E-2
		D, see $^{193m}\text{Hg}$	6E+4	1E+5	6E-5	2E-7	8E-4	8E-3
80	Mercury-203	W, see $^{193m}\text{Hg}$	-	2E+5	7E-5	2E-7	-	-
		Vapor	-	8E+2	4E-7	1E-9	-	-
		Organic D	5E+2	8E+2	3E-7	1E-9	7E-6	7E-5
		D, see $^{193m}\text{Hg}$	2E+3	1E+3	5E-7	2E-9	3E-5	3E-4
81	Thallium-194m <sup>2</sup>	W, see $^{193m}\text{Hg}$	-	1E+3	5E-7	2E-9	-	-
		D, all compounds	5E+4	2E+5	6E-5	2E-7	-	-
		St wall	(7E+4)	-	-	-	1E-3	1E-2
		D, all compounds	3E+5	6E+5	2E-4	8E-7	-	-
81	Thallium-194 <sup>2</sup>	St wall	(3E+5)	-	-	-	4E-3	4E-2
		D, all compounds	6E+4	1E+5	5E-5	2E-7	9E-4	9E-3
		D, all compounds	7E+4	1E+5	5E-5	2E-7	1E-3	1E-2
		D, all compounds	3E+4	5E+4	2E-5	8E-8	4E-4	4E-3
81	Thallium-198 <sup>2</sup>	D, all compounds	2E+4	3E+4	1E-5	5E-8	3E-4	3E-3
81	Thallium-199	D, all compounds	6E+4	8E+4	4E-5	1E-7	9E-4	9E-3
81	Thallium-200	D, all compounds	8E+3	1E+4	5E-6	2E-8	1E-4	1E-3
81	Thallium-201	D, all compounds	2E+4	2E+4	9E-6	3E-8	2E-4	2E-3
81	Thallium-202	D, all compounds	4E+3	5E+3	2E-6	7E-9	5E-5	5E-4
81	Thallium-204	D, all compounds	2E+3	2E+3	9E-7	3E-9	2E-5	2E-4
82	Lead-195m <sup>2</sup>	D, all compounds	6E+4	2E+5	8E-5	3E-7	8E-4	8E-3
82	Lead-198	D, all compounds	3E+4	6E+4	3E-5	9E-8	4E-4	4E-3
82	Lead-199 <sup>2</sup>	D, all compounds	2E+4	7E+4	3E-5	1E-7	3E-4	3E-3
82	Lead-200	D, all compounds	3E+3	6E+3	3E-6	9E-9	4E-5	4E-4
82	Lead-201	D, all compounds	7E+3	2E+4	8E-6	3E-8	1E-4	1E-3
82	Lead-202m	D, all compounds	9E+3	3E+4	1E-5	4E-8	1E-4	1E-3
82	Lead-202	D, all compounds	1E+2	5E+1	2E-8	7E-11	2E-6	2E-5
82	Lead-203	D, all compounds	5E+3	9E+3	4E-6	1E-8	7E-5	7E-4
82	Lead-205	D, all compounds	4E+3	1E+3	6E-7	2E-9	5E-5	5E-4
82	Lead-209	D, all compounds	2E+4	6E+4	2E-5	8E-8	3E-4	3E-3
82	Lead-210	D, all compounds	6E1	2E1	1E-10	-	-	-
82	Lead-211 <sup>2</sup>	Bone surf	(1E+0)	Bone surf	-	6E-13	1E-8	1E-7
		D, all compounds	1E+4	6E+2	3E-7	9E-10	2E-4	2E+3

## CHAPTER 7. DEPARTMENT OF HEALTH SERVICES - RADIATION CONTROL

Atomic No.	Radionuclide	Class	Table I Occupational Values			Table II Effluent Concentrations		Table III Releases to Sewers Monthly Average Concentration ( $\mu\text{Ci/ml}$ )
			Col. 1 Oral Ingestion ALI ( $\mu\text{Ci}$ )	Col. 2 Inhalation ALI ( $\mu\text{Ci}$ )	Col. 3 DAC ( $\mu\text{Ci/ml}$ )	Col. 1 Air ( $\mu\text{Ci/ml}$ )	Col. 2 Water ( $\mu\text{Ci/ml}$ )	
82	Lead-212	D, all compounds	8E+1	3E+1	1E-8	5E-11	-	-
			Bone surf (1E+2)	-	-	-	2E-6	2E-5
82	Lead-214 <sup>2</sup>	D, all compounds	9E+3	8E+2	3E-7	1E-9	1E-4	1E-3
83	Bismuth-200 <sup>2</sup>	D, nitrates	3E+4	8E+4	4E-5	1E-7	4E-4	4E-3
		W, all other compounds	-	1E+5	4E-5	1E-7	-	-
83	Bismuth-201 <sup>2</sup>	D, see <sup>200</sup> Bi	1E+4	3E+4	1E-5	4E-8	2E-4	2E-3
		W, see <sup>200</sup> Bi	-	4E+4	2E-5	5E-8	-	-
83	Bismuth-202 <sup>2</sup>	D, see <sup>200</sup> Bi	1E+4	4E+4	2E-5	6E-8	2E-4	2E-3
		W, see <sup>200</sup> Bi	-	8E+4	3E-5	1E-7	-	-
83	Bismuth-203	D, see <sup>200</sup> Bi	2E+3	7E+3	3E-6	9E-9	3E-5	3E-4
		W, see <sup>200</sup> Bi	-	6E+3	3E-6	9E-9	-	-
83	Bismuth-205	D, see <sup>200</sup> Bi	1E+3	3E+3	1E-6	3E-9	2E-5	2E-4
		W, see <sup>200</sup> Bi	-	1E+3	5E-7	2E-9	-	-
83	Bismuth-206	D, see <sup>200</sup> Bi	6E+2	1E+3	6E-7	2E-9	9E-6	9E-5
		W, see <sup>200</sup> Bi	-	9E+2	4E-7	1E-9	-	-
83	Bismuth-207	D, see <sup>200</sup> Bi	1E+3	2E+3	7E-7	2E-9	1E-5	1E-4
		W, see <sup>200</sup> Bi	-	4E+2	1E-7	5E-10	-	-
83	Bismuth-210m	D, see <sup>200</sup> Bi	4E+1	5E+0	2E-9	-	-	-
			Kidneys (6E+1)	Kidneys (6E+0)	-	9E-12	8E-7	8E-6
		W, see <sup>200</sup> Bi	-	7E-1	3E-10	9E-13		
83	Bismuth-210	D, see <sup>200</sup> Bi	8E+2	2E+2	1E-7	-	1E-5	1E-4
			-	Kidneys (4E+2)	-	5E-10	-	-
		W, see <sup>200</sup> Bi	-	3E+1	1E-8	4E-11	-	-
83	Bismuth-212 <sup>2</sup>	D, see <sup>200</sup> Bi	5E+3	2E+2	1E-7	3E-10	7E-5	7E-4
		W, see <sup>200</sup> Bi	-	3E+2	1E-7	4E-10	-	-
83	Bismuth-213 <sup>2</sup>	D, see <sup>200</sup> Bi	7E+3	3E+2	1E-7	4E-10	1E-4	1E-3
		W, see <sup>200</sup> Bi	-	4E+2	1E-7	5E-10	-	-
83	Bismuth-214 <sup>2</sup>	D, see <sup>200</sup> Bi	2E+4	8E+2	3E-7	1E-9	-	-
			St wall (2E+4)	-	-	-	3E-4	3E-3
		W, see <sup>200</sup> Bi	-	9E-2	4E-7	1E-9	-	-
84	Polonium-203 <sup>2</sup>	D, all compounds except those given for W	3E+4	6E+4	3E-5	9E-8	3E-4	3E-3
		W, oxides, hydroxides, and nitrates	-	9E+4	4E-5	1E-7	-	-
84	Polonium-205 <sup>2</sup>	D, see <sup>203</sup> Po	2E+4	4E+4	2E-5	5E-8	3E-4	3E-3
		W, see <sup>203</sup> Po	-	7E+4	3E-5	1E-7	-	-
84	Polonium-207	D, see <sup>203</sup> Po	8E+3	3E+4	1E-5	3E-8	1E-4	1E-3
		W, see <sup>203</sup> Po	-	3E+4	1E-5	4E-8	-	-
84	Polonium-210	D, see <sup>203</sup> Po	3E+0	6E-1	3E-10	9E-13	4E-8	4E-7
		W, see <sup>203</sup> Po	-	6E-1	3E-10	9E-13	-	-

## CHAPTER 7. DEPARTMENT OF HEALTH SERVICES - RADIATION CONTROL

Atomic No.	Radionuclide	Class	Table I Occupational Values			Table II Effluent Concentrations		Table III Releases to Sewers Monthly Average Concentration ( $\mu\text{Ci/ml}$ )
			Col. 1 Oral Ingestion ALI ( $\mu\text{Ci}$ )	Col. 2 Inhalation ALI ( $\mu\text{Ci}$ )	Col. 3 DAC ( $\mu\text{Ci/ml}$ )	Col. 1 Air ( $\mu\text{Ci/ml}$ )	Col. 2 Water ( $\mu\text{Ci/ml}$ )	
85	Astatine-207 <sup>2</sup>	D, halides	6E+3	3E+3	1E-6	4E-9	8E-5	8E-4
		W	-	2E+3	9E-7	3E-9	-	-
85	Astatine-211	D, halides	1E+2	8E+1	3E-8	1E-10	2E-6	2E-5
		W	-	5E+1	2E-8	8E-11	-	-
86	Radon-220	With daughters removed	-	2E+4	7E-6	2E-8	-	-
		With daughters present	-	2E+1	9E-9	3E-11	-	-
			(or 12 working level months)			(or 1.0 working level)		
86	Radon-222	With daughters removed	-	1E+4	4E-6	1E-8	-	-
		With daughters present	-	1E+2	3E-8	1E-10	-	-
			(or 4 working level months)			(or 0.33 working level)		
87	Francium-222 <sup>2</sup>	D, all compounds	2E+3	5E+2	2E-7	6E-10	3E-5	3E-4
87	Francium-223 <sup>2</sup>	D, all compounds	6E+2	8E+2	3E-7	1E-9	8E-6	8E-5
88	Radium-223	W, all compounds	5E+0	7E-1	3E-10	9E-13	-	-
			Bone surf (9E+0)	-	-	-	1E-7	1E-6
88	Radium-224	W, all compounds	8E+0	2E+0	7E-10	2E-12	-	-
			Bone surf (2E+1)	-	-	-	2E-7	2E-6
88	Radium-225	W, all compounds	8E+0	7E-1	3E-10	9E-13	-	-
			Bone surf (2E+1)	-	-	-	2E-7	2E-6
88	Radium-226	W, all compounds	2E+0	6E-1	3E-10	9E-13	-	-
			Bone surf (5E+0)	-	-	-	6E-8	6E-7
88	Radium-227 <sup>2</sup>	W, all compounds	2E+4	1E+4	6E-6	-	-	-
			Bone surf (2E+4)	Bone surf (2E+4)	-	3E-8	3E-4	3E-3
88	Radium-228	W, all compounds	2E+0	1E+0	5E-10	2E-12	-	-
			Bone surf (4E+0)	-	-	-	6E-8	6E-7
89	Actinium-224	D, all compounds except those given for W and Y	2E+3	3E+1	1E-8	-	-	-
			LLI wall (2E+3)	Bone surf (4E+1)	-	5E-11	3E-5	3E-4
		W, halides and nitrates	-	5E+1	2E-8	7E-11	-	-
		Y, oxides and hydroxides	-	5E+1	2E-8	6E-11	-	-
89	Actinium-225	D, see <sup>224</sup> Ac	5E+1	3E-1	1E-10	-	-	-
			LLI wall (5E+1)	Bone surf (5E-1)	-	7E-13	7E-7	7E-6
		W, see <sup>224</sup> Ac	-	6E-1	3E-10	9E-13	-	-
		Y, see <sup>224</sup> Ac	-	6E-1	3E-10	9E-13	-	-

## CHAPTER 7. DEPARTMENT OF HEALTH SERVICES - RADIATION CONTROL

Atomic No.	Radionuclide	Class	Table I Occupational Values			Table II Effluent Concentrations		Table III Releases to Sewers Monthly Average Concentration ( $\mu\text{Ci/ml}$ )
			Col. 1 Oral Ingestion ALI ( $\mu\text{Ci}$ )	Col. 2 Inhalation ALI ( $\mu\text{Ci}$ )	Col. 3 DAC ( $\mu\text{Ci/ml}$ )	Col. 1 Air ( $\mu\text{Ci/ml}$ )	Col. 2 Water ( $\mu\text{Ci/ml}$ )	
89	Actinium-226	D, see $^{224}\text{Ac}$	1E+2	3E+0	1E-9	-	-	-
			LLI wall (1E+2)	Bone surf (4E+0)	-	5E-12	2E-6	2E-5
		W, see $^{224}\text{Ac}$	-	5E+0	2E-9	7E-12	-	-
		Y, see $^{224}\text{Ac}$	-	5E+0	2E-9	6E-12	-	-
89	Actinium-227	D, see $^{224}\text{Ac}$	2E-1	4E-4	2E-13	-	-	-
			Bone surf (4E-1)	Bone surf (8E-4)	-	1E-15	5E-9	5E-8
		W, see $^{224}\text{Ac}$	-	2E-3	7E-13	-	-	-
			-	Bone surf (3E-3)	-	4E-15	-	-
		Y, see $^{224}\text{Ac}$	-	4E-3	2E-12	6E-15	-	-
89	Actinium-228	D, see $^{224}\text{Ac}$	2E+3	9E+0	4E-9	-	3E-5	3E-4
			-	Bone surf (2E+1)	-	2E-11	-	-
		W, see $^{224}\text{Ac}$	-	4E+1	2E-8	-	-	-
			-	Bone surf (6E+1)	-	8E-11	-	-
		Y, see $^{224}\text{Ac}$	-	4E+1	2E-8	6E-11	-	-
90	Thorium-226 <sup>2</sup>	W, all compounds except those given for Y	5E+3	2E+2	6E-8	2E-10	-	-
			St wall (5E+3)	-	-	-	7E-5	7E-4
		Y, oxides and hydroxides	-	1E+2	6E-8	2E-10	-	-
90	Thorium-227	W, see $^{226}\text{Th}$	1E+2	3E-1	1E-10	5E-13	2E-6	2E-5
		Y, see $^{226}\text{Th}$	-	3E-1	1E-10	5E-13	-	-
90	Thorium-228	W, see $^{226}\text{Th}$	6E+0	1E-2	4E-12	-	-	-
			Bone surf (1E+1)	Bone surf (2E-2)	-	3E-14	2E-7	2E-6
		Y, see $^{226}\text{Th}$	-	2E-2	7E-12	2E-14	-	-
90	Thorium-229	W, see $^{226}\text{Th}$	6E-1	9E-4	4E-13	-	-	-
			Bone surf (1E+0)	Bone surf (2E-3)	-	3E-15	2E-8	2E-7
		Y, see $^{226}\text{Th}$	-	2E-3	1E-12	-	-	-
			-	Bone surf (3E-3)	-	4E-15-	-	-
90	Thorium-230	W, see $^{226}\text{Th}$	4E+0	6E-3	3E-12	-	-	-
			Bone surf (9E+0)	Bone surf (2E-2)	-	2E-14	1E-6	-
		Y, see $^{226}\text{Th}$	-	2E-2	6E-12	-	-	-
90	Thorium-231	W, see $^{228}\text{Th}$	-	Bone surf (2E-2)	-	3E-14-	-	-
			4E+3	6E+3	3E-6	9E-9	5E-5	5E-4
		Y, see $^{228}\text{Th}$	-	6E+3	3E-6	9E-9-	-	-

## CHAPTER 7. DEPARTMENT OF HEALTH SERVICES - RADIATION CONTROL

Atomic No.	Radionuclide	Class	Table I Occupational Values			Table II Effluent Concentrations		Table III Releases to Sewers Monthly Average Concentration ( $\mu\text{Ci/ml}$ )
			Col. 1 Oral Ingestion ALI ( $\mu\text{Ci}$ )	Col. 2 Inhalation ALI ( $\mu\text{Ci}$ )	Col. 3 DAC ( $\mu\text{Ci/ml}$ )	Col. 1 Air ( $\mu\text{Ci/ml}$ )	Col. 2 Water ( $\mu\text{Ci/ml}$ )	
90	Thorium-232	W, see $^{228}\text{Th}$	7E-1	1E-3	5E-13	-	-	-
			Bone surf (2E+0)	Bone surf (3E-3)	-	4E-15	3E-8	3E-7
		Y, see $^{228}\text{Th}$	-	3E-3	1E-12	-	-	-
			-	Bone surf (4E-3)	-	6E-15	-	-
90	Thorium-234	W, see $^{228}\text{Th}$	3E+2	2E+2	8E-8	3E-10	-	-
			LLI wall (4E+2)	-	-	-	5E-6	5E-5
		Y, see $^{228}\text{Th}$	-	2E+2	6E-8	2E-10	-	-
91	Protactinium-227 <sup>2</sup>	W, all compounds except those given for Y	4E+3	1E+2	5E-8	2E-10	5E-5	5E-4
		Y, oxides and hydroxides	-	1E+2	4E-8	1E-10	-	-
91	Protactinium-228	W, see $^{227}\text{Pa}$	1E+3	1E+1	5E-9	-	2E-5	2E-4
			-	Bone surf (2E+1)	-	3E-11	-	-
		Y, see $^{227}\text{Pa}$	-	1E+1	5E-9	2E-11	-	-
91	Protactinium-230	W, see $^{227}\text{Pa}$	6E+2	5E+0	2E-9	7E-12	-	-
			Bone surf (9E+2)	-	-	-	1E-5	1E-4
		Y, see $^{227}\text{Pa}$	-	4E+0	1E-9	5E-12	-	-
91	Protactinium-231	W, see $^{227}\text{Pa}$	2E-1	2E-3	6E-13	-	-	-
			Bone surf (5E-1)	Bone surf (4E-3)	-	6E-15	6E-9	6E-8
		Y, see $^{227}\text{Pa}$	-	4E-3	2E-12	-	-	-
			-	Bone surf (6E-3)	-	8E-15	-	-
91	Protactinium-232	W, see $^{227}\text{Pa}$	1E+3	2E+1	9E-9	-	2E-5	2E-4
			-	Bone surf (6E+1)	-	8E-11	-	-
		Y, see $^{227}\text{Pa}$	-	6E+1	2E-8	-	-	-
			-	Bone surf (7E+1)	-	1E-10	-	-
91	Protactinium-233	W, see $^{227}\text{Pa}$	1E+3	7E+2	3E-7	1E-9	-	-
			LLI wall (2E+3)	-	-	-	2E-5	2E-4
		Y, see $^{227}\text{Pa}$	-	6E+2	2E-7	8E-10	-	-
91	Protactinium-234	W, see $^{227}\text{Pa}$	2E+3	8E+3	3E-6	1E-8	3E-5	3E-4
		Y, see $^{227}\text{Pa}$	-	7E+3	3E-6	9E-9	-	-
92	Uranium-230	D, UF, UOF, UO(NO)	4E+0	4E-1	2E-10	-	-	-
			Bone surf (6E+0)	Bone surf (6E-1)	-	8E-13	8E-8	8E-7
		W, UO, UF, UCl	-	4E-1	1E-10	5E-13	-	-
		Y, UO, UO	-	3E-1	1E-10	4E-13	-	-



## CHAPTER 7. DEPARTMENT OF HEALTH SERVICES - RADIATION CONTROL

Atomic No.	Radionuclide	Class	Table I Occupational Values			Table II Effluent Concentrations		Table III Releases to Sewers Monthly Average Concentration ( $\mu\text{Ci/ml}$ )
			Col. 1 Oral Ingestion ALI ( $\mu\text{Ci}$ )	Col. 2 Inhalation ALI ( $\mu\text{Ci}$ )	Col. 3 DAC ( $\mu\text{Ci/ml}$ )	Col. 1 Air ( $\mu\text{Ci/ml}$ )	Col. 2 Water ( $\mu\text{Ci/ml}$ )	
92	Uranium-231	D, see $^{230}\text{U}$	5E+3	8E+3	3E-6	1E-8	-	-
			LLI wall (4E+3)	-	-	-	6E-5	6E-4
		W, see $^{230}\text{U}$	-	6E+3	2E-6	8E-9	-	-
		Y, see $^{230}\text{U}$	-	5E+3	2E-6	6E-9	-	-
92	Uranium-232	D, see $^{230}\text{U}$	2E+0	2E-1	9E-11	-	-	-
			Bone surf (4E+0)	Bone surf (4E-1)	-	6E-13	6E-8	6E-7
		W, see $^{230}\text{U}$	-	4E-1	2E-10	5E-13	-	-
		Y, see $^{230}\text{U}$	-	8E-3	3E-12	1E-14	-	-
92	Uranium-233	D, see $^{230}\text{U}$	1E+1	1E+0	5E-10	-	-	-
			Bone surf (2E+1)	Bone surf (2E+0)	-	3E-12	3E-7	3E-6
		W, see $^{230}\text{U}$	-	7E-1	3E-10	1E-12	-	-
		Y, see $^{230}\text{U}$	-	4E-2	2E-11	5E-14	-	-
92	Uranium-234 <sup>3</sup>	D, see $^{230}\text{U}$	1E+1	1E+0	5E-10	-	-	-
			Bone surf (2E+1)	Bone surf (2E+0)	-	3E-12	3E-7	3E-6
		W, see $^{230}\text{U}$	-	7E-1	3E-10	1E-12	-	-
		Y, see $^{230}\text{U}$	-	4E-2	2E-11	5E-14	-	-
92	Uranium-235 <sup>3</sup>	D, see $^{230}\text{U}$	1E+1	1E+0	6E-10	-	-	-
			Bone surf (2E+1)	Bone surf (2E+0)	-	3E-12	3E-7	3E-6
		W, see $^{230}\text{U}$	-	8E-1	3E-10	1E-12	-	-
		Y, see $^{230}\text{U}$	-	4E-2	2E-11	6E-14	-	-
92	Uranium-236	D, see $^{230}\text{U}$	1E+1	1E+0	5E-10	-	-	-
			Bone surf (2E+1)	Bone surf (2E+0)	-	3E-12	3E-7	3E-6
		W, see $^{230}\text{U}$	-	8E-1	3E-10	1E-12	-	-
		Y, see $^{230}\text{U}$	-	4E-2	2E-11	6E-14	-	-
92	Uranium-237	D, see $^{230}\text{U}$	2E+3	3E+3	1E-6	4E-9	-	-
			LLI wall (2E+3)	-	-	-	3E-5	3E-4
		W, see $^{230}\text{U}$	-	2E+3	7E-7	2E-9	-	-
		Y, see $^{230}\text{U}$	-	2E+3	6E-7	2E-9	-	-
92	Uranium-238 <sup>3</sup>	D, see $^{230}\text{U}$	1E+1	1E+0	6E-10	-	-	-
			Bone surf (2E+1)	Bone surf (2E+0)	-	3E-12	3E-7	3E-6
		W, see $^{230}\text{U}$	-	8E-1	3E-10	1E-12	-	-
		Y, see $^{230}\text{U}$	-	4E-2	2E-11	6E-14	-	-
92	Uranium-239 <sup>2</sup>	D, see $^{230}\text{U}$	7E+4	2E+5	8E-5	3E-7	9E-4	9E-3
		W, see $^{230}\text{U}$	-	2E+5	7E-5	2E-7	-	-
		Y, see $^{230}\text{U}$	-	2E+5	6E-5	2E-7	-	-

## CHAPTER 7. DEPARTMENT OF HEALTH SERVICES - RADIATION CONTROL

Atomic No.	Radionuclide	Class	Table I Occupational Values			Table II Effluent Concentrations		Table III Releases to Sewers Monthly Average Concentration ( $\mu\text{Ci/ml}$ )
			Col. 1 Oral Ingestion ALI ( $\mu\text{Ci}$ )	Col. 2 Inhalation ALI ( $\mu\text{Ci}$ )	Col. 3 DAC ( $\mu\text{Ci/ml}$ )	Col. 1 Air ( $\mu\text{Ci/ml}$ )	Col. 2 Water ( $\mu\text{Ci/ml}$ )	
92	Uranium-240	D, see $^{230}\text{U}$	1E+3	4E+3	2E-6	5E-9	2E-5	2E-4
		W, see $^{230}\text{U}$	-	3E+3	1E-6	4E-9	-	-
		Y, see $^{230}\text{U}$	-	2E+3	1E-6	3E-9	-	-
92	Uranium-natural <sup>3</sup>	D, see $^{230}\text{U}$	1E+1	1E+0	5E-10	-	-	-
		Bone surf (2E+1)	Bone surf (2E+0)	-	3E-12	3E-7	3E-6	
		W, see $^{230}\text{U}$	-	8E-1	3E-10	9E-13	-	-
		Y, see $^{230}\text{U}$	-	5E-2	2E-11	9E-24	-	-
93	Neptunium-232 <sup>2</sup>	W, all compounds	1E+5	2E+3	7E-7	-	2E-3	2E-2
		Bone surf (5E+2)	-	-	6E-9	-	-	-
93	Neptunium-233 <sup>2</sup>	W, all compounds	8E+5	3E+6	1E-3	4E-6	1E-2	1E-1
93	Neptunium-234	W, all compounds	2E+3	3E+3	1E-6	4E-9	3E-5	3E-4
93	Neptunium-235	W, all compounds	2E+4	8E+2	3E-7	-	-	-
		LLI wall (2E+4)	Bone surf (1E+3)	-	2E-9	3E-4	3E-3	
93	Neptunium-236 (1.15E+5 y)	W, all compounds	3E+0	2E-2	9E-12	-	-	-
		Bone surf (6E+0)	Bone surf (5E-2)	-	8E-14	9E-8	9E-7	
93	Neptunium-236 (22.5 h)	W, all compounds	3E+3	3E+1	1E-8	-	-	-
		Bone surf (4E+3)	Bone surf (7E+1)	-	1E-10	5E-5	5E-4	
93	Neptunium-237	W, all compounds	5E-1	4E-3	2E-12	-	-	-
		Bone surf (1E+0)	Bone surf (1E-2)	-	1E-14	2E-8	2E-7	
93	Neptunium-238	W, all compounds	1E+3	6E+1	3E-8	-	2E-5	2E-4
		Bone surf (2E+2)	-	-	2E-10	-	-	-
93	Neptunium-239	W, all compounds	2E+3	2E+3	9E-7	3E-9	-	-
		LLI wall (2E+3)	-	-	-	2E-5	2E-4	
93	Neptunium-240 <sup>2</sup>	W, all compounds	2E+4	8E+4	3E-5	1E-7	3E-4	3E-3
94	Plutonium-234	W, all compounds except PuO	8E+3	2E+2	9E-8	3E-10	1E-4	1E-3
		Y, PuO	-	2E+2	8E-8	3E-10	-	-
94	Plutonium-235 <sup>2</sup>	W, see $^{234}\text{Pu}$	9E+5	3E+6	1E-3	4E-6	1E-2	1E-1
		Y, see $^{234}\text{Pu}$	-	3E+6	1E-3	3E-6	-	-
94	Plutonium-236	W, see $^{234}\text{Pu}$	2E+0	2E-2	8E-12	-	-	-
		Bone surf (4E+0)	Bone surf (4E-2)	-	5E-14	6E-8	6E-7	
		Y, see $^{234}\text{Pu}$	-	4E-2	2E-11	6E-14	-	-
94	Plutonium-237	W, see $^{234}\text{Pu}$	1E+4	3E+3	1E-6	5E-9	2E-4	2E-3
		Y, see $^{234}\text{Pu}$	-	3E+3	1E-6	4E-9	-	-
94	Plutonium-238	W, see $^{234}\text{Pu}$	9E-1	7E-3	3E-12	-	-	-
		Bone surf (2E+0)	Bone surf (1E-2)	-	2E-14	2E-8	2E-7	
		Y, see $^{234}\text{Pu}$	-	2E-2	8E-12	2E-14	-	-

## CHAPTER 7. DEPARTMENT OF HEALTH SERVICES - RADIATION CONTROL

Atomic No.	Radionuclide	Class	Table I Occupational Values			Table II Effluent Concentrations		Table III Releases to Sewers Monthly Average Concentration ( $\mu\text{Ci/ml}$ )
			Col. 1 Oral Ingestion ALI ( $\mu\text{Ci}$ )	Col. 2 Inhalation ALI ( $\mu\text{Ci}$ )	Col. 3 DAC ( $\mu\text{Ci/ml}$ )	Col. 1 Air ( $\mu\text{Ci/ml}$ )	Col. 2 Water ( $\mu\text{Ci/ml}$ )	
94	Plutonium-239	W, see $^{234}\text{Pu}$	8E-1	6E-3	3E-12	-	-	-
			Bone surf (1E+0)	Bone surf (1E-2)	-	2E-14	2E-8	2E-7
		Y, see $^{234}\text{Pu}$	-	2E-2	7E-12	-	-	-
			-	Bone surf (2E-2)	-	2E-14	-	-
94	Plutonium-240	W, see $^{234}\text{Pu}$	8E-1	6E-3	3E-12	-	-	-
			Bone surf (1E+0)	Bone surf (1E-2)	-	2E-14	2E-8	2E-7
		Y, see $^{234}\text{Pu}$	-	2E-2	7E-12	-	-	-
			-	Bone surf (2E-2)	-	2E-14	-	-
94	Plutonium-241	W, see $^{234}\text{Pu}$	4E+1	3E-1	1E-10	-	-	-
			Bone surf (7E+1)	Bone surf (6E-1)	-	8E-13	1E-6	1E-5
		Y, see $^{234}\text{Pu}$	-	8E-1	3E-10	-	-	-
			-	Bone surf (1E+0)	-	1E-12	-	-
94	Plutonium-242	W, see $^{234}\text{Pu}$	8E-1	7E-3	3E-12	-	-	-
			Bone surf (1E+0)	Bone surf (1E-2)	-	2E-14	2E-8	2E-7
		Y, see $^{234}\text{Pu}$	-	2E-2	7E-12	-	-	-
			-	Bone surf (2E-2)	-	2E-14	-	-
94	Plutonium-243	W, see $^{234}\text{Pu}$	2E+4	4E+4	2E-5	5E-8	2E-4	2E-3
		Y, see $^{234}\text{Pu}$	-	4E+4	2E-5	5E-8	-	-
94	Plutonium-244	W, see $^{234}\text{Pu}$	8E-1	7E-3	3E-12	-	-	-
			Bone surf (2E+0)	Bone surf (1E-2)	-	2E-14	2E-8	2E-7
		Y, see $^{234}\text{Pu}$	-	2E-2	7E-12	-	-	-
			-	Bone surf (2E-2)	-	2E-14	-	-
94	Plutonium-245	W, see $^{234}\text{Pu}$	2E+3	5E+3	2E-6	6E-9	3E-5	3E-4
		Y, see $^{234}\text{Pu}$	-	4E+3	2E-6	6E-9	-	-
94	Plutonium-246	W, see $^{234}\text{Pu}$	4E+2	3E+2	1E-7	4E-10	-	-
			LLI wall (4E+2)	-	-	-	6E-6	6E-5
		Y, see $^{234}\text{Pu}$	-	3E+2	1E-7	4E-10	-	-
			-	Bone surf (6E+3)	-	9E-9	-	-
95	Americium-237 <sup>2</sup>	W, all compounds	8E+4	3E+5	1E-4	4E-7	1E-3	1E-2
95	Americium-238 <sup>2</sup>	W, all compounds	4E+4	3E+3	1E-6	-	5E-4	5E-3
			-	Bone surf (6E+3)	-	9E-9	-	-
95	Americium-239	W, all compounds	5E+3	1E+4	5E-6	2E-8	7E-5	7E-4
95	Americium-240	W, all compounds	2E+3	3E+3	1E-6	4E-9	3E-5	3E-4
95	Americium-241	W, all compounds	8E-1	6E-3	3E-12	-	-	-
			Bone surf (1E+0)	Bone surf (1E-2)	-	2E-14	2E-8	2E-7

## CHAPTER 7. DEPARTMENT OF HEALTH SERVICES - RADIATION CONTROL

Atomic No.	Radionuclide	Class	Table I Occupational Values			Table II Effluent Concentrations		Table III Releases to Sewers
			Col. 1 Oral Ingestion	Col. 2 Inhalation	Col. 3 DAC	Col. 1 Air	Col. 2 Water	Monthly Average
			ALI ( $\mu$ Ci)	ALI ( $\mu$ Ci)	( $\mu$ Ci/ml)	( $\mu$ Ci/ml)	( $\mu$ Ci/ml)	Concentration ( $\mu$ Ci/ml)
95	Americium-242m	W, all compounds	8E-1	6E-3	3E-12	-	-	-
			Bone surf (1E+0)	Bone surf (1E-2)	-	2E-14	2E-8	2E-7
95	Americium-242	W, all compounds	4E+3	8E+1	4E-8	-	5E-5	5E-4
				Bone surf (9E+1)	-	1E-10	-	-
95	Americium-243	W, all compounds	8E-1	6E-3	3E-12	-	-	-
			Bone surf (1E+0)	Bone surf (1E-2)	-	2E-14	2E-8	2E-7
95	Americium-244m <sup>2</sup>	W, all compounds	6E+4	4E+3	2E-6	-	-	-
			St wall (8E+4)	Bone surf (7E+3)	-	1E-8	1E-3	1E-2
95	Americium-244	W, all compounds	3E+3	2E+2	8E-8	-	4E-5	4E-4
				Bone surf (3E+2)	-	4E-10	-	-
95	Americium-245	W, all compounds	3E+4	8E+4	3E-5	1E-7	4E-4	4E-3
95	Americium-246m <sup>2</sup>	W, all compounds	5E+4	2E+5	8E-5	3E-7	-	-
			St wall (6E+4)	-	-	-	8E-4	8E-3
95	Americium-246 <sup>2</sup>	W, all compounds	3E+4	1E+5	4E-5	1E-7	4E-4	4E-3
96	Curium-238	W, all compounds	2E+4	1E+3	5E-7	2E-9	2E-4	2E-3
96	Curium-240	W, all compounds	6E+1	6E-1	2E-10	-	-	-
			Bone surf (8E+1)	Bone surf (6E-1)	-	9E-13	1E-6	1E-5
96	Curium-241	W, all compounds	1E+3	3E+1	1E-8	-	2E-5	2E-4
				Bone surf (4E+1)	-	5E-11	-	-
96	Curium-242	W, all compounds	3E+1	3E-1	1E-10	-	-	-
			Bone surf (5E+1)	Bone surf (3E-1)	-	4E-13	7E-7	7E-6
96	Curium-243	W, all compounds	1E+0	9E-3	4E-12	-	-	-
			Bone surf (2E+0)	Bone surf (2E-2)	-	2E-14	3E-8	3E-7
96	Curium-244	W, all compounds	1E+0	1E-2	5E-12	-	-	-
			Bone surf (3E+0)	Bone surf (2E-2)	-	3E-14	3E-8	3E-7
96	Curium-245	W, all compounds	7E-1	6E-3	3E-12	-	-	-
			Bone surf (1E+0)	Bone surf (1E-2)	-	2E-14	2E-8	2E-7
96	Curium-246	W, all compounds	7E-1	6E-3	3E-12	-	-	-
			Bone surf (1E+0)	Bone surf (1E-2)	-	2E-14	2E-8	2E-7
96	Curium-247	W, all compounds	8E-1	6E-3	3E-12	-	-	-
			Bone surf (1E+0)	Bone surf (1E-2)	-	2E-14	2E-8	2E-7
96	Curium-248	W, all compounds	2E-1	2E-3	7E-13	-	-	-
			Bone surf (4E-1)	Bone surf (3E-3)	-	4E-15	5E-9	5E-8

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Atomic No.	Radionuclide	Class	Table I Occupational Values			Table II Effluent Concentrations		Table III Releases to Sewers
			Col. 1 Oral Ingestion	Col. 2 Inhalation	Col. 3 DAC	Col. 1 Air	Col. 2 Water	Monthly Average
			ALI ( $\mu$ Ci)	ALI ( $\mu$ Ci)	( $\mu$ Ci/ml)	( $\mu$ Ci/ml)	( $\mu$ Ci/ml)	Concentration ( $\mu$ Ci/ml)
96	Curium-249 <sup>2</sup>	W, all compounds	5E+4	2E+4	7E-6	-	7E-4	7E-3
				Bone surf				
			-	(3E+4)	-	4E-8	-	-
96	Curium-250	W, all compounds	4E-2	3E-4	1E-13	-	-	-
			Bone surf	Bone surf				
			(6E-2)	(5E-4)	-	8E-16	9E-10	9E-9
97	Berkelium-245	W, all compounds	2E+3	1E+3	5E-7	2E-9	3E-5	3E-4
97	Berkelium-246	W, all compounds	3E+3	3E+3	1E-6	4E-9	4E-5	4E-4
97	Berkelium-247	W, all compounds	5E-1	4E-3	2E-12	-	-	-
			Bone surf	Bone surf				
			(1E+0)	(9E-3)	-	1E-14	2E-8	2E-7
97	Berkelium-249	W, all compounds	2E+2	2E+0	7E-10	-	-	-
			Bone surf	Bone surf				
			(5E+2)	(4E+0)	-	5E-12	6E-6	6E-5
97	Berkelium-250	W, all compounds	9E+3	3E+2	1E-7	-	1E-4	1E-3
				Bone surf				
			-	(7E+2)	-	1E-9	-	-
98	Californium-244 <sup>2</sup>	W, all compounds except those given for Y	3E+4	6E+2	2E-7	8E-10	-	-
			St wall					
			(3E+4)	-	-	-	4E-4	4E-3
		Y, oxides and hydroxides	-	6E+2	2E-7	8E-10	-	-
98	Californium-246	W, see <sup>244</sup> Cf	4E+2	9E+0	4E-9	1E-11	5E-6	5E-5
		Y, see <sup>244</sup> Cf	-	9E+0	4E-9	1E-11	-	-
98	Californium-248	W, see <sup>244</sup> Cf	8E+0	6E-2	3E-11	-	-	-
			Bone surf	Bone surf				
			(2E+1)	(1E-1)	-	2E-13	2E-7	2E-6
		Y, see <sup>244</sup> Cf	-	1E-1	4E-11	1E-13	-	-
98	Californium-249	W, see <sup>244</sup> Cf	5E-1	4E-3	2E-12	-	-	-
			Bone surf	Bone surf				
			(1E+0)	(9E-3)	-	1E-14	2E-8	2E-7
		Y, see <sup>244</sup> Cf	-	1E-2	4E-12	-	-	-
				Bone surf				
			-	(1E-2)	-	2E-14	-	-
98	Californium-250	W, see <sup>244</sup> Cf	1E+0	9E-3	4E-12	-	-	-
			Bone surf	Bone surf				
			(2E+0)	(2E-2)	-	3E-14	3E-8	3E-7
		Y, see <sup>244</sup> Cf	-	3E-2	1E-11	4E-14	-	-
98	Californium-251	W, see <sup>244</sup> Cf	5E-1	4E-3	2E-12	-	-	-
			Bone surf	Bone surf				
			(1E+0)	(9E-3)	-	1E-14	2E-8	2E-7
		Y, see <sup>244</sup> Cf	-	1E-2	4E-12	-	-	-
				Bone surf				
			-	(1E-2)	-	2E-14	-	-
98	Californium-252	W, see <sup>244</sup> Cf	2E+0	2E-2	8E-12	-	-	-
			Bone surf	Bone surf				
			(5E+0)	(4E-2)	-	5E-14	7E-8	7E-7
		Y, see <sup>244</sup> Cf	-	3E-2	1E-11	5E-14	-	-

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Atomic No.	Radionuclide	Class	Table I Occupational Values			Table II Effluent Concentrations		Table III Releases to Sewers Monthly Average Concentration ( $\mu\text{Ci/ml}$ )
			Col. 1 Oral Ingestion ALI ( $\mu\text{Ci}$ )	Col. 2 Inhalation ALI ( $\mu\text{Ci}$ )	Col. 3 DAC ( $\mu\text{Ci/ml}$ )	Col. 1 Air ( $\mu\text{Ci/ml}$ )	Col. 2 Water ( $\mu\text{Ci/ml}$ )	
98	Californium-253	W, see $^{244}\text{Cf}$	2E+2	2E+0	8E-10	3E-12	-	-
			Bone surf (4E+2)	-	-	-	5E-6	5E-5
		Y, see $^{244}\text{Cf}$	-	2E+0	7E-10	2E-12	-	-
98	Californium-254	W, see $^{244}\text{Cf}$	2E+0	2E-2	9E-12	3E-14	3E-8	3E-7
		Y, see $^{244}\text{Cf}$	-	2E-2	7E-12	2E-14	-	-
99	Einsteinium-250	W, all compounds	4E+4	5E+2	2E-7	-	6E-4	6E-3
				Bone surf (1E+3)	-	2E-9	-	-
99	Einsteinium-251	W, all compounds	7E+3	9E+2	4E-7	-	1E-4	1E-3
				Bone surf (1E+3)	-	2E-9	-	-
99	Einsteinium-253	W, all compounds	2E+2	1E+0	6E-10	2E-12	2E-6	2E-5
99	Einsteinium-254m	W, all compounds	3E+2	1E+1	4E-9	1E-11	-	-
			LLI wall (3E+2)	-	-	-	4E-6	4E-5
99	Einsteinium-254	W, all compounds	8E+0	7E-2	3E-11	-	-	-
			Bone surf (2E+1)	Bone surf (1E-1)	-	2E-13	2E-7	2E-6
100	Fermium-252	W, all compounds	5E+2	1E+1	5E-9	2E-11	6E-6	6E-5
100	Fermium-253	W, all compounds	1E+3	1E+1	4E-9	1E-11	1E-5	1E-4
100	Fermium-254	W, all compounds	3E+3	9E+1	4E-8	1E-10	4E-5	4E-4
100	Fermium-255	W, all compounds	5E+2	2E+1	9E-9	3E-11	7E-6	7E-5
100	Fermium-257	W, all compounds	2E+1	2E-1	7E-11	-	-	-
			Bone surf (4E+1)	Bone surf (2E-1)	-	3E-13	5E-7	5E-6
101	Mendelevium-257	W, all compounds	7E+3	8E+1	4E-8	-	1E-4	1E-3
				Bone surf (9E+1)	-	1E-10	-	-
101	Mendelevium-258	W, all compounds	3E+1	2E-1	1E-10	-	-	-
			Bone surf (5E+1)	Bone surf (3E-1)	-	5E-13	6E-7	6E-6
-	Any single radionuclide not listed above with decay mode other than alpha emission or spontaneous fission and with radioactive half-life less than 2 hours	Submersion <sup>1</sup>	-	2E+2	1E-7	1E-9	-	-
-	Any single radionuclide not listed above with decay mode other than alpha emission or spontaneous fission and with radioactive half-life greater than 2 hours.	...	-	2E-1	1E-10	1E-12	1E-8	1E-7

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Atomic No.	Radionuclide	Class	Table I Occupational Values			Table II Effluent Concentrations		Table III Releases to Sewers Monthly Average Concentration ( $\mu\text{Ci/ml}$ )
			Col. 1 Oral Ingestion	Col. 2 Inhalation	Col. 3	Col. 1	Col. 2	
			ALI ( $\mu\text{Ci}$ )	ALI ( $\mu\text{Ci}$ )	DAC ( $\mu\text{Ci/ml}$ )	Air ( $\mu\text{Ci/ml}$ )	Water ( $\mu\text{Ci/ml}$ )	
	Any single radionuclide not listed above that decays by alpha emission or spontaneous fission, or any mixture for which either the identity or the concentration of any radionuclide in the mixture is not known.	...	-	4E-4	2E-13	1E-15	2E-9	2E-8

## FOOTNOTES:

- <sup>1</sup> "Submersion" means that values given are for submersion in a hemispherical semi-infinite cloud of airborne material.
- <sup>2</sup> These radionuclides have radiological half-lives of less than 2 hours. The total effective dose equivalent received during operations with these radionuclides might include a significant contribution from external exposure. The DAC values for all radionuclides, other than those designated Class "Submersion," are based upon the committed effective dose equivalent due to the intake of the radionuclide into the body and do NOT include potentially significant contributions to dose equivalent from external exposures. The licensee may substitute  $1\text{E-}7 \mu\text{Ci/ml}$  for the listed DAC to account for the submersion dose prospectively but shall use individual monitoring devices or other radiation-measuring instruments that measure external exposure to demonstrate compliance with the limits. (See R12-1-410)
- <sup>3</sup> For soluble mixtures of U-238, U-234, and U-235 in air, chemical toxicity may be the limiting factor (see R12-1-408(E)). If the percent by weight (enrichment) of U-235 is not greater than 5, the concentration value for a 40-hour work week is 0.2 milligrams uranium per cubic meter of air average. For any enrichment, the product of the average concentration and time of exposure during a 40-hour work week shall not exceed  $8\text{E-}3 \text{ (SA)} \mu\text{Ci-hr/ml}$ , where SA is the specific activity of the uranium inhaled. The specific activity for natural uranium is  $6.77\text{E-}7$  curies per gram U. The specific activity for other mixtures of U-238, U-235, and U-234, if not known, shall be:

$$\text{SA} = 3.6\text{E-}7 \text{ curies/gram U U-depleted}$$

$$\text{SA} = [0.4 + 0.38 (\text{enrichment}) + 0.0034 (\text{enrichment})^2] \text{E-}6, \text{ enrichment} > 0.72$$

where enrichment is the percentage by weight of U-235, expressed as percent.

## NOTE:

- If the identity of each radionuclide in a mixture is known but the concentration of one or more of the radionuclides in the mixture is not known, the DAC for the mixture shall be the most restrictive DAC of any radionuclide in the mixture.
- If the identity of each radionuclide in the mixture is not known, but it is known that certain radionuclides specified in this Appendix are not present in the mixture, the inhalation ALI, DAC, and effluent and sewage concentrations for the mixture are the lowest values specified in this Appendix for any radionuclide that is not known to be absent from the mixture; or\

Atomic No.	Radionuclide	Class	Table I Occupational Values			Table II Effluent Concentrations		Table III Releases to Sewers Monthly Average Concentration ( $\mu\text{Ci/ml}$ )
			Col. 1 Oral Ingestion	Col. 2 Inhalation	Col. 3	Col. 1	Col. 2	
			ALI ( $\mu\text{Ci}$ )	ALI ( $\mu\text{Ci}$ )	DAC ( $\mu\text{Ci/ml}$ )	Air ( $\mu\text{Ci/ml}$ )	Water ( $\mu\text{Ci/ml}$ )	
	If it is known that Ac-227-D and Cm-250-W are not present		-	7E-4	3E-13	-	-	-
	If, in addition, it is known that Ac-227-W,Y, Th-229-W,Y, Th-230-W, Th-232-W,Y, Pa-231-W,Y, Np-237-W, Pu-239-W, Pu-240-W, Pu-242-W, Am-241-W, Am-242m-W, Am-243-W, Cm-245-W, Cm-246-W, Cm-247-W, Cm-248-W, Bk-247-W, Cf-249-W, and Cf-251-W are not present		-	7E-3	3E-12	-	-	-

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Atomic No.	Radionuclide	Class	Table I Occupational Values			Table II Effluent Concentrations		Table III Releases to Sewers Monthly Average Concentration (μCi/ml)
			Col. 1 Oral Ingestion	Col. 2 Inhalation	Col. 3	Col. 1	Col. 2	
			ALI (μCi)	ALI (μCi)	DAC (μCi/ml)	Air (μCi/ml)	Water (μCi/ml)	
	If, in addition, it is known that Sm-146-W, Sm-147-W, Gd-148-D,W, Gd-152-D,W, Th-228-W,Y, Th-230-Y, U-232-Y, U-233-Y, U-234-Y, U-235-Y, U-236-Y, U-238-Y, Np-236-W, Pu-236-W,Y, Pu-238-W,Y, Pu-239-Y, Pu-240-Y, Pu-242-Y, Pu-244-W,Y, Cm-243-W, Cm-244-W, Cf-248-W, Cf-249-Y, Cf-250-W,Y, Cf-251-Y, Cf-252-WY, and Cf-254-W,Y are not present		-	7E-2	3E-11	-	-	-
	If, in addition, it is known that Pb-210-D, Bi-210m-W, Po-210-D,W, Ra-223-W, Ra-225-W, Ra-226-W, Ac-225-D,W,Y, Th-227-W,Y, U-230-D,W,Y, U-232-D,W, Pu-241-W, Cm-240-W, Cm-242-W, Cf-248-Y, Es-254-W, Fm-257-W, and Md-258-W are not present		-	7E-1	3E-10	-	-	-
	If, in addition, it is known that Si-32-Y, Ti-44-Y, Fe-60-D, Sr-90-Y, Zr-93-D, Cd-113m-D, Cd-113-D, In-115-D,W, La-138-D, Lu-176-W, Hf-178m-D,W, Hf-182-D,W, Bi-210m-D, Ra-224-W, Ra-228-W, Ac-226-D,W,Y, Pa-230-W,Y, U-233-D,W, U-234-D,W, U-235-D,W, U-236-D,W, U-238-D,W, Pu-241-Y, Bk-249-W, Cf-253-W,Y, and Es-253-W are not present		-	7E+0	3E-9	-	-	-
	If it is known that Ac-227-D,W,Y, Th-229-W,Y, Th-232-W,Y, Pa-231-W,Y, Cm-248-W, and Cm-250-W are not present		-	-	-	1E-14	-	-
	If, in addition, it is known that Sm-146-W, Gd-148-D,W, Gd-152-D, Th-228-W,Y, Th-230-W,Y, U-232-Y, U-233-Y, U-234-Y, U-235-Y, U-236-Y, U-238-Y, U-Nat-Y, Np-236-W, Np-237-W, Pu-236-W,Y, Pu-238-W,Y, Pu-239-W,Y, Pu-240-W,Y, Pu-242-W,Y, Pu-244-W,Y, Am-241-W, Am-242m-W, Am-243-W, Cm-243-W, Cm-244-W, Cm-245-W, Cm-246-W, Cm-247-W, Bk-247-W, Cf-249-W,Y, Cf-250-W,Y, Cf-251-W,Y, Cf-252-W,Y, and Cf-254-W,Y are not present		-	-	-	1E-13	-	-
	If, in addition, it is known that Sm-147-W, Gd-152-W, Pb-210-D, Bi-210m-W, Po-210-D,W, Ra-223-W, Ra-225-W, Ra-226-W, Ac-225-D,W,Y, Th-227-W,Y, U-230-D,W,Y, U-232-D,W, U-Nat-W, Pu-241-W, Cm-240-W, Cm-242-W, Cf-248-W,Y, Es-254-W, Fm-257-W, and Md-258-W are not present		-	-	-	-	1E-12	-
	If, in addition it is known that Fe-60, Sr-90, Cd-113m, Cd-113, In-115, I-129, Cs-134, Sm-145, Sm-147, Gd-148, Gd-152, Hg-194 (organic), Bi-210m, Ra-223, Ra-224, Ra-225, Ac-225, Th-228, Th-230, U-233, U-234, U-235, U-236, U-238, U-Nat, Cm-242, Cf-248, Es-254, Fm-257, and Md-258 are not present		-	-	-	-	1E-6	1E-5

3. If a mixture of radionuclides consists of Uranium and its daughters in ore dust (10  $\mu\text{m}$  AMAD particle distribution assumed) prior to chemical separation of the Uranium from the ore, the following values may be used for the DAC of the mixture: 6E-11  $\mu\text{Ci}$  of gross



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alpha activity from Uranium-238, Uranium-234, Thorium-230, and Radium-226 per milliliter of air; 3E-11 µCi of natural uranium per milliliter of air; or 45 micrograms of natural uranium per cubic meter of air.

4. If the identity and concentration of each radionuclide in a mixture are known, the limiting values should be derived as follows: determine, for each radionuclide in the mixture, the ratio between the concentration present in the mixture and the concentration otherwise established in Appendix B to Article 4 for the specific radionuclide when not in a mixture. The sum of such ratios for all of the radionuclides in the mixture may not exceed "1" (i.e., "unity").

Example: If radionuclides "A," "B," and "C" are present in concentrations  $C_A$ ,  $C_B$ , and  $C_C$ , and if the applicable DACs are  $DAC_A$ ,  $DAC_B$ , and  $DAC_C$  respectively then the concentrations shall be limited so that the following relationship exists:

$$\frac{C_A}{DAC_A} + \frac{C_B}{DAC_B} + \frac{C_C}{DAC_C} \leq 1$$

**Historical Note**

New Appendix B recodified from 12 A.A.C. 1, Article 4, Appendix B, effective March 22, 2018 (Supp. 18-1).

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Appendix C. Quantities<sup>1</sup> of Licensed or Registered Material Requiring Labeling

Radionuclide	Quantity (μCi)	Radionuclide	Quantity (μCi)	Radionuclide	Quantity (μCi)
Hydrogen-3	1,000	Nickel-57	100	Krypton-83m	1,000
Beryllium-7	1,000	Nickel-59	100	Krypton-85m	1,000
Beryllium-10	1	Nickel-63	100	Krypton-85	1,000
Carbon-11	1,000	Nickel-65	1,000	Krypton-87	1,000
Carbon-14	1,000	Nickel-66	10	Krypton-88	1,000
Fluorine-18	1,000	Copper-60	1,000	Rubidium-79	1,000
Sodium-22	10	Copper-61	1,000	Rubidium-81m	1,000
Sodium-24	100	Copper-64	1,000	Rubidium-81	1,000
Magnesium-28	100	Copper-67	1,000	Rubidium-82m	1,000
Aluminum-26	10	Zinc-62	100	Rubidium-83	100
Silicon-31	1,000	Zinc-63	1,000	Rubidium-84	100
Silicon-32	1	Zinc-65	10	Rubidium-86	100
Phosphorus-32	10	Zinc-69m	100	Rubidium-87	100
Phosphorus-33	100	Zinc-69	1,000	Rubidium-88	1,000
Sulfur-35	100	Zinc-71m	1,000	Rubidium-89	1,000
Chlorine-36	10	Zinc-72	100	Strontium-80	100
Chlorine-38	1,000	Gallium-65	1,000	Strontium-81	1,000
Chlorine-39	1,000	Gallium-66	100	Strontium-83	100
Argon-39	1,000	Gallium-67	1,000	Strontium-85m	1,000
Argon-41	1,000	Gallium-68	1,000	Strontium-85	100
Potassium-40	100	Gallium-70	1,000	Strontium-87m	1,000
Potassium-42	1,000	Gallium-72	100	Strontium-89	10
Potassium-43	1,000	Gallium-73	1,000	Strontium-90	0.1
Potassium-44	1,000	Germanium-66	1,000	Strontium-91	100
Potassium-45	1,000	Germanium-67	1,000	Strontium-92	100
Calcium-41	100	Germanium-68	10	Yttrium-86m	1,000
Calcium-45	100	Germanium-69	1,000	Yttrium-86	100
Calcium-47	100	Germanium-71	1,000	Yttrium-87	100
Scandium-43	1,000	Germanium-75	1,000	Yttrium-88	10
Scandium-44m	100	Germanium-77	1,000	Yttrium-90m	1,000
Scandium-44	100	Germanium-78	1,000	Yttrium-90	10
Scandium-46	10	Arsenic-69	1,000	Yttrium-91m	1,000
Scandium-47	100	Arsenic-70	1,000	Yttrium-91	10
Scandium-48	100	Arsenic-71	100	Yttrium-92	100
Scandium-49	1,000	Arsenic-72	100	Yttrium-93	100
Titanium-44	1	Arsenic-73	100	Yttrium-94	1,000
Titanium-45	1,000	Arsenic-74	100	Yttrium-95	1,000
Vanadium-47	1,000	Arsenic-76	100	Zirconium-86	100
Vanadium-48	100	Arsenic-77	100	Zirconium-88	10
Vanadium-49	1,000	Arsenic-78	1,000	Zirconium-89	100
Chromium-48	1,000	Selenium-70	1,000	Zirconium-93	1
Chromium-49	1,000	Selenium-73m	1,000	Zirconium-95	10
Chromium-51	1,000	Selenium-73	100	Zirconium-97	100
Manganese-51	1,000	Selenium-75	100	Niobium-88	1,000
Manganese-52m	1,000	Selenium-79	100	Niobium-89m	
Manganese-52	100	Selenium-81m	1,000	(66 min)	1,000
Manganese-53	1,000	Selenium-81	1,000	Niobium-89	
Manganese-54	100	Selenium-83	1,000	(122 min)	1,000
Manganese-56	1,000	Bromine-74m	1,000	Niobium-90	100
Iron-52	100	Bromine-74	1,000	Niobium-93m	10
Iron-55	100	Bromine-75	1,000	Niobium-94	1
Iron-59	10	Bromine-76	100	Niobium-95m	100
Iron-60	1	Bromine-77	1,000	Niobium-95	100
Cobalt-55	100	Bromine-80m	1,000	Niobium-96	100
Cobalt-56	10	Bromine-80	1,000	Niobium-97	1,000
Cobalt-57	100	Bromine-82	100	Niobium-98	1,000
Cobalt-58m	1,000	Bromine-83	1,000	Molybdenum-90	100
Cobalt-58	100	Bromine-84	1,000	Molybdenum-93m	100
Cobalt-60m	1,000	Krypton-74	1,000	Molybdenum-93	10
Cobalt-60	1	Krypton-76	1,000	Molybdenum-99	100
Cobalt-61	1,000	Krypton-77	1,000	Molybdenum-101	1,000
Cobalt-62m	1,000	Krypton-79	1,000	Technetium-93m	1,000
Nickel-56	100	Krypton-81	1,000	Technetium-93	1,000

## CHAPTER 7. DEPARTMENT OF HEALTH SERVICES - RADIATION CONTROL

## Appendix C. Continued

Radionuclide	Quantity (μCi)	Radionuclide	Quantity (μCi)	Radionuclide	Quantity (μCi)
Technetium-94m	1,000	Indium-116m	1,000	Iodine-128	1,000
Technetium-94	1,000	Indium-117m	1,000	Iodine-129	1
Technetium-96m	1,000	Indium-117	1,000	Iodine-130	10
Technetium-96	100	Indium-119m	1,000	Iodine-131	1
Technetium-97m	100	Tin-110	100	Iodine-132m	100
Technetium-97	1,000	Tin-111	1,000	Iodine-132	100
Technetium-98	10	Tin-113	100	Iodine-133	10
Technetium-99m	1,000	Tin-117m	100	Iodine-134	1,000
Technetium-99	100	Tin-119m	100	Iodine-135	100
Technetium-101	1,000	Tin-121m	100	Xenon-120	1,000
Technetium-104	1,000	Tin-121	1,000	Xenon-121	1,000
Ruthenium-94	1,000	Tin-123m	1,000	Xenon-122	1,000
Ruthenium-97	1,000	Tin-123	10	Xenon-123	1,000
Ruthenium-103	100	Tin-125	10	Xenon-125	1,000
Ruthenium-105	1,000	Tin-126	10	Xenon-127	1,000
Ruthenium-106	1	Tin-127	1,000	Xenon-129m	1,000
Rhodium-99m	1,000	Tin-128	1,000	Xenon-131m	1,000
Rhodium-99	100	Antimony-115	1,000	Xenon-133m	1,000
Rhodium-100	100	Antimony-116m	1,000	Xenon-133	1,000
Rhodium-101m	1,000	Antimony-116	1,000	Xenon-135m	1,000
Rhodium-101	10	Antimony-117	1,000	Xenon-135	1,000
Rhodium-102m	10	Antimony-118m	1,000	Xenon-138	1,000
Rhodium-102	10	Antimony-119	1,000	Cesium-125	1,000
Rhodium-103m	1,000	Antimony-120		Cesium-127	1,000
Rhodium-105	100	(16m)	1,000	Cesium-129	1,000
Rhodium-106m	1,000	Antimony-120		Cesium-130	1,000
Rhodium-107	1,000	(5.76d)	100	Cesium-131	1,000
Palladium-100	100	Antimony-122	100	Cesium-132	100
Palladium-101	1,000	Antimony-124m	1,000	Cesium-134m	1,000
Palladium-103	100	Antimony-124	10	Cesium-134	10
Palladium-107	10	Antimony-125	100	Cesium-135m	1,000
Palladium-109	100	Antimony-126m	1,000	Cesium-135	100
Silver-102	1,000	Antimony-126	100	Cesium-136	10
Silver-103	1,000	Antimony-127	100	Cesium-137	10
Silver-104m	1,000	Antimony-128		Cesium-138	1,000
Silver-104	1,000	(10.4m)	1,000	Barium-126	1,000
Silver-105	100	Antimony-128		Barium-128	100
Silver-106m	100	(9.01h)	100	Barium-131m	1,000
Silver-106	1,000	Antimony-129	100	Barium-131	100
Silver-108m	1	Antimony-130	1,000	Barium-133m	100
Silver-110m	10	Antimony-131	1,000	Barium-133	100
Silver-111	100	Tellurium-116	1,000	Barium-135m	100
Silver-112	100	Tellurium-121m	10	Barium-139	1,000
Silver-115	1,000	Tellurium-121	100	Barium-140	100
Cadmium-104	1,000	Tellurium-123m	10	Barium-141	1,000
Cadmium-107	1,000	Tellurium-123	100	Barium-142	1,000
Cadmium-109	1	Tellurium-125m	10	Lanthanum-131	1,000
Cadmium-113m	0.1	Tellurium-127m	10	Lanthanum-132	100
Cadmium-113	100	Tellurium-127	1,000	Lanthanum-135	1,000
Cadmium-115m	10	Tellurium-129m	10	Lanthanum-137	10
Cadmium-115	100	Tellurium-129	1,000	Lanthanum-138	100
Cadmium-117m	1,000	Tellurium-131m	10	Lanthanum-140	100
Cadmium-117	1,000	Tellurium-131	100	Lanthanum-141	100
Indium-109	1,000	Tellurium-132	10	Lanthanum-142	1,000
Indium-110m		Tellurium-133m	100	Lanthanum-143	1,000
(69.1m)	1,000	Tellurium-133	1,000	Cerium-134	100
Indium-110		Tellurium-134	1,000	Cerium-135	100
(4.9h)	1,000	Iodine-120m	1,000	Cerium-137m	100
Indium-111	100	Iodine-120	100	Cerium-137	1,000
Indium-112	1,000	Iodine-121	1,000	Cerium-139	100
Indium-113m	1,000	Iodine-123	100	Cerium-141	100
Indium-114m	10	Iodine-124	10	Cerium-143	100
Indium-115m	1,000	Iodine-125	1	Cerium-144	1
Indium-115	100	Iodine-126	1	Praseodymium-136	1,000

## CHAPTER 7. DEPARTMENT OF HEALTH SERVICES - RADIATION CONTROL

## Appendix C. Continued

Radionuclide	Quantity (μCi)	Radionuclide	Quantity (μCi)	Radionuclide	Quantity (μCi)
Praseodymium-137	1,000	Terbium-149	100	Lutetium-179	1,000
Praseodymium-138m	1,000	Terbium-150	1,000	Hafnium-170	100
Praseodymium-139	1,000	Terbium-151	100	Hafnium-172	1
Praseodymium-142m	1,000	Terbium-153	1,000	Hafnium-173	1,000
Praseodymium-142	100	Terbium-154	100	Hafnium-175	100
Praseodymium-143	100	Terbium-155	1,000	Hafnium-177m	1,000
Praseodymium-144	1,000	Terbium-156m		Hafnium-178m	0.1
Praseodymium-145	100	(5.0h)	1,000	Hafnium-179m	10
Praseodymium-147	1,000	Terbium-156m		Hafnium-180m	1,000
Neodymium-136	1,000	(24.4h)	1,000	Hafnium-181	10
Neodymium-138	100	Terbium-156	100	Hafnium-182m	1,000
Neodymium-139m	1,000	Terbium-157	10	Hafnium-182	0.1
Neodymium-139	1,000	Terbium-158	1	Hafnium-183	1,000
Neodymium-141	1,000	Terbium-160	10	Hafnium-184	100
Neodymium-147	100	Terbium-161	100	Tantalum-172	1,000
Neodymium-149	1,000	Dysprosium-155	1,000	Tantalum-173	1,000
Neodymium-151	1,000	Dysprosium-157	1,000	Tantalum-174	1,000
Promethium-141	1,000	Dysprosium-159	100	Tantalum-175	1,000
Promethium-143	100	Dysprosium-165	1,000	Tantalum-176	100
Promethium-144	10	Dysprosium-166	100	Tantalum-177	1,000
Promethium-145	10	Holmium-155	1,000	Tantalum-178	1,000
Promethium-146	1	Holmium-157	1,000	Tantalum-179	100
Promethium-147	10	Holmium-159	1,000	Tantalum-180m	1,000
Promethium-148m	10	Holmium-161	1,000	Tantalum-180	100
Promethium-148	10	Holmium-162m	1,000	Tantalum-182m	1,000
Promethium-149	100	Holmium-162	1,000	Tantalum-182	10
Promethium-150	1,000	Holmium-164m	1,000	Tantalum-183	100
Promethium-151	100	Holmium-164	1,000	Tantalum-184	100
Samarium-141m	1,000	Holmium-166m	1	Tantalum-185	1,000
Samarium-141	1,000	Holmium-166	100	Tantalum-186	1,000
Samarium-142	1,000	Holmium-167	1,000	Tungsten-176	1,000
Samarium-145	100	Erbium-161	1,000	Tungsten-177	1,000
Samarium-146	1	Erbium-165	1,000	Tungsten-178	1,000
Samarium-147	100	Erbium-169	100	Tungsten-179	1,000
Samarium-151	10	Erbium-171	100	Tungsten-181	1,000
Samarium-153	100	Erbium-172	100	Tungsten-185	100
Samarium-155	1,000	Thulium-162	1,000	Tungsten-187	100
Samarium-156	1,000	Thulium-166	100	Tungsten-188	10
Europium-145	100	Thulium-167	100	Rhenium-177	1,000
Europium-146	100	Thulium-170	10	Rhenium-178	1,000
Europium-147	100	Thulium-171	10	Rhenium-181	1,000
Europium-148	10	Thulium-172	100	Rhenium-182	
Europium-149	100	Thulium-173	100	(12.7h)	1,000
Europium-150		Thulium-175	1,000	Rhenium-182	
(12.62h)	100	Ytterbium-162	1,000	(64.0h)	100
Europium-150		Ytterbium-166	100	Rhenium-184m	10
(34.2y)	1	Ytterbium-167	1,000	Rhenium-184	100
Europium-152m	100	Ytterbium-169	100	Rhenium-186m	10
Europium-152	1	Ytterbium-175	100	Rhenium-186	100
Europium-154	1	Ytterbium-177	1,000	Rhenium-187	1,000
Europium-155	10	Ytterbium-178	1,000	Rhenium-188m	1,000
Europium-156	100	Lutetium-169	100	Rhenium-188	100
Europium-157	100	Lutetium-170	100	Rhenium-189	100
Europium-158	1,000	Lutetium-171	100	Osmium-180	1,000
Gadolinium-145	1,000	Lutetium-172	100	Osmium-181	1,000
Gadolinium-146	10	Lutetium-173	10	Osmium-182	100
Gadolinium-147	100	Lutetium-174m	10	Osmium-185	100
Gadolinium-148	0.001	Lutetium-174	10	Osmium-189m	1,000
Gadolinium-149	100	Lutetium-176m	1,000	Osmium-191m	1,000
Gadolinium-151	10	Lutetium-176	100	Osmium-191	100
Gadolinium-152	100	Lutetium-177m	10	Osmium-193	100
Gadolinium-153	10	Lutetium-177	100	Osmium-194	1
Gadolinium-159	100	Lutetium-178m	1,000	Iridium-182	1,000
Terbium-147	1,000	Lutetium-178	1,000	Iridium-184	1,000

## CHAPTER 7. DEPARTMENT OF HEALTH SERVICES - RADIATION CONTROL

## Appendix C. Continued

Radionuclide	Quantity (μCi)	Radionuclide	Quantity (μCi)	Radionuclide	Quantity (μCi)
Iridium-185	1,000	Lead-209	1,000	Uranium-240	100
Iridium-186	100	Lead-210	0.01	Uranium-natural	100
Iridium-187	1,000	Lead-211	100	Neptunium-232	100
Iridium-188	100	Lead-212	1	Neptunium-233	1,000
Iridium-189	100	Lead-214	100	Neptunium-234	100
Iridium-190m	1,000	Bismuth-200	1,000	Neptunium-235	100
Iridium-190	100	Bismuth-201	1,000	Neptunium-236	
Iridium-192m		Bismuth-202	1,000	(1.15E + 5)	0.001
(1.4m)	10	Bismuth-203	100	Neptunium-236	
Iridium-192		Bismuth-205	100	(22.5h)	1
(73.8d)	1	Bismuth-206	100	Neptunium-237	0.001
Iridium-194m	10	Bismuth-207	10	Neptunium-238	10
Iridium-194	100	Bismuth-210m	0.1	Neptunium-239	100
Iridium-195m	1,000	Bismuth-210	1	Neptunium-240	1,000
Iridium-195	1,000	Bismuth-212	10	Plutonium-234	10
Platinum-186	1,000	Bismuth-213	10	Plutonium-235	1,000
Platinum-188	100	Bismuth-214	100	Plutonium-236	0.001
Platinum-189	1,000	Polonium-203	1,000	Plutonium-237	100
Platinum-191	100	Polonium-205	1,000	Plutonium-238	0.001
Platinum-193m	100	Polonium-207	1,000	Plutonium-239	0.001
Platinum-193	1,000	Polonium-210	0.1	Plutonium-240	0.001
Platinum-195m	100	Astatine-207	100	Plutonium-241	0.01
Platinum-197m	1,000	Astatine-211	10	Plutonium-242	0.001
Platinum-197	100	Radon-220	1	Plutonium-243	1,000
Platinum-199	1,000	Radon-222	1	Plutonium-244	0.001
Platinum-200	100	Francium-222	100	Plutonium-245	100
Gold-193	1,000	Francium-223	100	Americium-237	1,000
Gold-194	100	Radium-223	0.1	Americium-238	100
Gold-195	10	Radium-224	0.1	Americium-239	1,000
Gold-198m	100	Radium-225	0.1	Americium-240	100
Gold-198	100	Radium-226	0.1	Americium-241	0.001
Gold-199	100	Radium-227	1,000	Americium-242m	0.001
Gold-200m	100	Radium-228	0.1	Americium-242	10
Gold-200	1,000	Actinium-224	1	Americium-243	0.001
Gold-201	1,000	Actinium-225	0.01	Americium-244m	100
Mercury-193m	100	Actinium-226	0.1	Americium-244	10
Mercury-193	1,000	Actinium-227	0.001	Americium-245	1,000
Mercury-194	1	Actinium-228	1	Americium-246m	1,000
Mercury-195m	100	Thorium-226	10	Americium-246	1,000
Mercury-195	1,000	Thorium-227	0.01	Curium-238	100
Mercury-197m	100	Thorium-228	0.001	Curium-240	0.1
Mercury-197	1,000	Thorium-229	0.001	Curium-241	1
Mercury-199m	1,000	Thorium-230	0.001	Curium-242	0.01
Mercury-203	100	Thorium-231	100	Curium-243	0.001
Thallium-194m	1,000	Thorium-232	100	Curium-244	0.001
Thallium-194	1,000	Thorium-234	10	Curium-245	0.001
Thallium-195	1,000	Thorium-natural	100	Curium-246	0.001
Thallium-197	1,000	Protactinium-227	10	Curium-247	0.001
Thallium-198m	1,000	Protactinium-228	1	Curium-248	0.001
Thallium-198	1,000	Protactinium-230	0.1	Curium-249	1,000
Thallium-199	1,000	Protactinium-231	0.001	Berkelium-245	100
Thallium-201	1,000	Protactinium-232	1	Berkelium-246	100
Thallium-200	1,000	Protactinium-233	100	Berkelium-247	0.001
Thallium-202	100	Protactinium-234	100	Berkelium-249	0.1
Thallium-204	100	Uranium-230	0.01	Berkelium-250	10
Lead-195m	1,000	Uranium-231	100	Californium-244	100
Lead-198	1,000	Uranium-232	0.001	Californium-246	1
Lead-199	1,000	Uranium-233	0.001	Californium-248	0.01
Lead-200	100	Uranium-234	0.001	Californium-249	0.001
Lead-201	1,000	Uranium-235	0.001	Californium-250	0.001
Lead-202m	1,000	Uranium-236	0.001	Californium-251	0.001
Lead-202	10	Uranium-237	100	Californium-252	0.001
Lead-203	1,000	Uranium-238	100	Californium-253	0.1
Lead-205	100	Uranium-239	1,000	Californium-254	0.001

## CHAPTER 7. DEPARTMENT OF HEALTH SERVICES - RADIATION CONTROL

## Appendix C. Continued

Radionuclide	Quantity (μCi)	Radionuclide	Quantity (μCi)
Einsteinium-250	100	Any alpha-emitting radionuclide not listed above or mixtures of alpha emitters of unknown composition	0.001
Einsteinium-251	100		
Einsteinium-253	0.1		
Einsteinium-254m	1		
Einsteinium-254	0.01		
Fermium-252	1		
Fermium-253	1		
Fermium-254	10	Any radionuclide other than alpha-emitting radionuclides not listed above, or mixtures of beta emitters of unknown composition	0.01
Fermium-255	1		
Fermium-257	0.01		
Mendelevium-257	10		
Mendelevium-258	0.01		

\* To convert μCi to kBq, multiply the μCi value by 37.

NOTE: Where there is involved a combination of radionuclides in known amounts, the limit for the combination shall be derived as follows: determine, for each radionuclide in the combination, the ratio between the quantity present in the combination and the limit otherwise established for the specific radionuclide when not in combination. The sum of such ratios for all radionuclides in the combination may not exceed "1" -- that is, unity.

<sup>1</sup> The quantities listed above were derived by taking 1/10 of the most restrictive ALI listed in Table I, Columns 1 and 2, of Appendix B to Article 4, rounding to the nearest factor of 10, and constraining the values listed between 37 Bq and 37 MBq (0.001 and 1,000 μCi). Values of 3.7 MBq (100 μCi) have been assigned for radionuclides having a radioactive half-life in excess of E+9 years, except rhenium, 37 MBq (1,000 μCi), to take into account their low specific activity.

**Historical Note**

New Appendix C recodified from 12 A.A.C. 1, Article 4, Appendix C, effective March 22, 2018 (Supp. 18-1). Amended by final expedited rulemaking at 24 A.A.R. 2151, effective July 12, 2018 (Supp. 18-3).

## CHAPTER 7. DEPARTMENT OF HEALTH SERVICES - RADIATION CONTROL

## Appendix D. Classification and Characteristics of Low-level Radioactive Waste

## I. Classification of Radioactive Waste for Land Disposal

- a) Considerations. Determination of the classification of radioactive waste involves two considerations. First, consideration must be given to the concentration of long-lived radionuclides (and their shorter-lived precursors) whose potential hazard will persist long after such precautions as institutional controls, improved waste form, and deeper disposal have ceased to be effective. These precautions delay the time when long-lived radio nuclides could cause exposures. In addition, the magnitude of the potential dose is limited by the concentration and availability of the radionuclide at the time of exposure. Second, consideration must be given to the concentration of shorter-lived radionuclides for which requirements on institutional controls, waste form, and disposal methods are effective.

## b) Classes of waste.

- 1) Class A waste is waste that is usually segregated from other waste classes at the disposal site. The physical form and characteristics of Class A waste must meet the minimum requirements set forth in Section II(a). If Class A waste also meets the stability requirements set forth in Section II(b), it is not necessary to segregate the waste for disposal.
- 2) Class B waste is waste that must meet more rigorous requirements on waste form to ensure stability after disposal. The physical form and characteristics of Class B waste must meet both the minimum and stability requirements set forth in Section II.
- 3) Class C waste is waste that not only must meet more rigorous requirements on waste form to ensure stability but also requires additional measures at the disposal facility to protect against inadvertent intrusion. The physical form and characteristics of Class C waste must meet both the minimum and stability requirements set forth in Section II.

## c) Classification determined by long-lived radionuclides. If the radioactive waste contains only radionuclides listed in Table I, classification shall be determined as follows:

- 1) If the concentration does not exceed 0.1 times the value in Table I, the waste is Class A.
- 2) If the concentration exceeds 0.1 times the value in Table I but does not exceed the value in Table I, the waste is Class C.
- 3) If the concentration exceeds the value in Table I, the waste is not generally acceptable for land disposal.
- 4) For wastes containing mixtures of radionuclides listed in Table I, the total concentration shall be determined by the sum of fractions rule described in Section I(g).

## Appendix D. Table I

Radionuclide	TABLE I Concentration	
	curie/cubic meter <sup>a</sup>	nanocuries/gram <sup>b</sup>
C-14	8	
C-14 in activated metal	80	
Ni-59 in activated metal	220	
Nb-94 in activated metal	0.2	
Tc-99	3	
I-129	0.08	

Alpha-emitting transuranic radionuclides with half-life greater than five years 100

Pu-241 3,500

Cm-242 20,000

Ra-226 100

<sup>a</sup>To convert the Ci/m<sup>3</sup> values to gigabecquerel (GBq) per cubic meter, multiply the Ci/m<sup>3</sup> value by 37.

<sup>b</sup>To convert the nCi/g values to becquerel (Bq) per gram, multiply the nCi/g value by 37.

- d) Classification determined by short-lived radionuclides. If the waste does not contain any of the radionuclides listed in Table I, classification shall be determined based on the concentrations shown in Table II. However, as specified in Section I(f), if radioactive waste does not contain any nuclides listed in either Table I or II, it is Class A.

- 1) If the concentration does not exceed the value in Column 1, the waste is Class A.
- 2) If the concentration exceeds the value in Column 1 but does not exceed the value in Column 2, the waste is Class B.
- 3) If the concentration exceeds the value in Column 2 but does not exceed the value in Column 3, the waste is Class C.
- 4) If the concentration exceeds the value in Column 3, the waste is not generally acceptable for near-surface disposal.
- 5) For wastes containing mixtures of the radionuclides listed in Table II, the total concentration shall be determined by the sum of fractions rule described in Section I(g).

## Appendix D. Table II

Radionuclide	TABLE II Concentration, Curie/cubic meter*		
	Column 1	Column 2	Column 3
Total of all radionuclides with less than 5-year half-life	700	*	*
H-3	40	*	*
Co-60	700	*	*
Ni-63	3.5	70	700
Ni-63 in activated metal	35	700	7000
Sr-90	0.04	150	7000
Cs-137	1	44	4600

\* DEPARTMENT NOTE: To convert the Ci/m<sup>3</sup> value to gigabecquerel (GBq) per cubic meter, multiply the Ci/m<sup>3</sup> value by 37. There are no limits established for these radionuclides in Class B or C wastes. Practical considerations such as the effects of external radiation and internal heat generation on transportation, handling, and disposal will limit the concentrations for these wastes. These wastes shall be Class B unless the concentrations of other radionuclides in Table II determine the waste to be Class C independent of these radionuclides.

- e) Classification determined by both long- and short-lived radionuclides. If the radioactive waste contains a mixture of radionuclides, some of which are listed in Table I and some of which are listed in Table II, classification shall be determined as follows:

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Each package of waste shall be clearly labeled to identify whether it is Class A, Class B, or Class C waste, in accordance with Section I.

\*\*\*\*\*See Section R9-7-102 for definition of pyrophoric.

**Historical Note**

New Appendix D, including Tables 1 and 2 recodified from 12 A.A.C. 1, Article 4, Appendix D, Tables 1 and 2, effective March 22, 2018 (Supp. 18-1).



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## Appendix E. Quantities for Use with Decommissioning

Material	Microcurie	Material	Microcurie
Americium-241	0.01	Iodine-135	10
Antimony-122	100	Iridium-192	10
Antimony-124	10	Iridium-194	100
Antimony-125	10	Iron-55	100
Arsenic-73	100	Iron-59	10
Arsenic-74	10	Krypton-85	100
Arsenic-76	10	Krypton-87	10
Arsenic-77	100	Lanthanum-140	10
Barium-131	10	Lutetium-177	100
Barium-133	10	Manganese-52	10
Barium-140	10	Manganese-54	10
Bismuth-210	1	Manganese-56	10
Bromine-82	10	Mercury-197m	100
Cadmium-109	10	Mercury-197	100
Cadmium-115m	10	Mercury-203	10
Cadmium-115	100	Molybdenum-99	100
Calcium-45	10	Neodymium-147	100
Calcium-47	10	Neodymium-149	100
Carbon-14	100	Nickel-59	100
Cerium-141	100	Nickel-63	10
Cerium-143	100	Nickel-65	100
Cerium-144	1	Niobium-93m	10
Cesium-131	1,000	Niobium-95	10
Cesium-134m	100	Niobium-97	10
Cesium-134	1	Osmium-185	10
Cesium-135	10	Osmium-191m	100
Cesium-136	10	Osmium-191	100
Cesium-137	10	Osmium-193	100
Chlorine-36	10	Palladium-103	100
Chlorine-38	10	Palladium-109	100
Chromium-51	1,000	Phosphorus-32	10
Cobalt-58m	10	Platinum-191	100
Cobalt-58	10	Platinum-193m	100
Cobalt-60	1	Platinum-193	100
Copper-64	100	Platinum-197m	100
Dysprosium-165	10	Platinum-197	100
Dysprosium-166	100	Plutonium-239	0.01
Erbium-169	100	Polonium-210	0.1
Erbium-171	100	Potassium-42	10
Europium-152 (9.2 h)	100	Praseodymium-142	100
Europium-152 (13 yr)	1	Praseodymium-143	100
Europium-154	1	Promethium-147	10
Europium-155	10	Promethium-149	10
Fluorine-18	1,000	Radium-226	0.01
Gadolinium-153	10	Rhenium-186	100
Gadolinium-159	100	Rhenium-188	100
Gallium-72	10	Rhodium-103m	100
Germanium-71	100	Rhodium-105	100
Gold-198	100	Rubidium-86	10
Gold-199	100	Rubidium-87	10
Hafnium-181	10	Ruthenium-97	100
Holmium-166	100	Ruthenium-103	10
Hydrogen-3	1,000	Ruthenium-105	10
Indium-113m	100	Ruthenium-106	1
Indium-114m	10	Samarium-151	10
Indium-115m	100	Samarium-153	100
Indium-115	10	Scandium-46	10
Iodine-125	1	Scandium-47	100
Iodine-126	1	Scandium-48	10
Iodine-129	0.1	Selenium-75	10
Iodine-131	1	Silicon-31	100
Iodine-132	10	Silver-105	10
Iodine-133	1	Silver-110m	1
Iodine-134	10	Silver-111	100

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Material	Microcurie	Material	Microcurie
Sodium-22	1	Tungsten-185	10
Sodium-24	10	Tungsten-187	100
Strontium-85	10	Uranium (natural)**	100
Strontium-89	1	Uranium-233	0.01
Strontium-90	0.1	Uranium-234	0.01
Strontium-91	10	Uranium-235	0.01
Strontium-92	10	Vanadium-48	10
Sulfur-35	100	Xenon-131m	1,000
Tantalum-182	10	Xenon-133	100
Technetium-96	10	Xenon-135	100
Technetium-97m	100	Ytterbium-175	100
Technetium-97	100	Yttrium-90	10
Technetium-99m	100	Yttrium-91	10
Technetium-99	10	Yttrium-92	100
Tellurium-125m	10	Yttrium-93	100
Tellurium-127m	10	Zinc-65	10
Tellurium-127	100	Zinc-69m	100
Tellurium-129m	10	Zinc-69	1,000
Tellurium-129	100	Zirconium-93	10
Tellurium-131m	10	Zirconium-95	10
Tellurium-132	10	Zirconium-97	10
Terbium-160	10	Any alpha emitting	
Thallium-200	100	radionuclide not listed	
Thallium-201	100	above or mixtures of	
Thallium-202	100	alpha emitters of unknown	
Thallium-204	10	composition	0.01
Thorium (natural)**	100	Any radionuclide other	
Thulium-170	10	than alpha emitting	
Thulium-171	10	radionuclides, not listed	
Tin-113	10	above or mixtures of	
Tin-125	10	beta emitters of unknown	
Tungsten-181	10	composition	0.1

\* To convert  $\mu\text{Ci}$  to  $\text{kBq}$ , multiply the  $\mu\text{Ci}$  value by 37.

\*\* Based on alpha disintegration rate of Th-232, Th-230 and their daughter products.

\*\*\* Based on alpha disintegration rate of U-238, U-234, and U-235.

NOTE: Where there is involved a combination of isotopes in known amounts, the limit for the combination should be derived as follows: Determine, for each isotope in the combination, the ratio between the quantity present in the combination and the limit otherwise established for the specific isotope when not in combination. The sum of such ratios for all the isotopes in the combination may not exceed "1" - that is, unity.

**Historical Note**

New Appendix E recodified from 12 A.A.C. 1, Article 4, Appendix E, effective March 22, 2018 (Supp. 18-1).

**ARTICLE 5. SEALED SOURCE INDUSTRIAL RADIOGRAPHY****R9-7-501. Definitions**

"Access panel" means any panel that is designed to be removed or opened for maintenance or service purposes, opened using tools, and used to provide access to the interior of the cabinet x-ray unit.

"Annual refresher safety training" means a review conducted or provided by the licensee for its employees on radiation safety aspects of industrial radiography. The review shall include, as applicable, the results of internal inspections, new procedures or equipment, new or revised state rules, accidents or errors that have occurred, and provide opportunities for employees to ask safety questions.

"Aperture" means any opening in the outside surface of the cabinet x-ray unit, other than a port, which remains open during generation of x-radiation.

"Associated equipment" means equipment used in conjunction with a radiographic exposure device that drives, guides, or comes in contact with the source.

"Certifying entity" means an independent certifying organization that complies with the requirements in Appendix A of this

Article, or requirements of the NRC or another Agreement State, that are equivalent to the requirements in parts II and III of Appendix A.

"Collimator" means a radiation shield that is placed on the end of the guide tube or directly onto a radiographic exposure device to restrict the size of the radiation beam when the sealed source is positioned to make a radiographic exposure.

"Control (drive) cable" means the cable that is connected to the source assembly and used to drive the source to and from the exposure location.

"Control (drive) mechanism" means a device that enables the source assembly to be moved to and from the exposure device.

"Control tube" means a protective sheath for guiding the control cable. The control tube connects the control drive mechanism to the radiographic exposure device.

"Door" means any barrier that is designed to be movable or opened for routine operation purposes, not opened using tools, and used to provide access to the interior of the cabinet x-ray unit.

"Exposure head" means a device that places the gamma radiography sealed source in a selected working position.

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“Ground fault” means an accidental electrical grounding of an electrical conductor.

“Guide tube (projection sheath)” means a flexible or rigid tube (i.e., “J” tube) for guiding the source assembly and the attached control cable from the exposure device to the exposure head. The guide tube may also include the connections necessary for attachment to the exposure device and to the exposure head.

“Hands-on experience” means accumulation of knowledge or skill in any area relevant to radiography.

“Independent certifying organization” means an independent organization that meets all of the requirements in Appendix A.

“Lay-barge radiography” means industrial radiography performed on any water vessel used for laying pipe.

“Port” means any opening in the outside surface of the cabinet x-ray unit that is designed to remain open, during generation of x-rays, for conveying material being irradiated into and out of the cabinet, or for partial insertion of an object for irradiation whose dimensions do not permit complete insertion into the cabinet x-ray unit.

“Practical examination” means a demonstration, through practical application of safety rules and principles of industrial radiography, including use of all radiography equipment and knowledge of radiography procedures.

“Radiographer certification” means written approval received from a certifying entity stating that an individual has satisfactorily met certain established radiation safety, testing, and experience criteria.

“Radiographic exposure device” means any x-ray machine used for purposes of making an industrial radiographic exposure or a device that contains a sealed source, and the sealed source or its shielding may be moved or otherwise changed from a shielded to an unshielded position for purposes of making an industrial radiographic exposure.

“Radiographic operations” means all activities associated with the presence of radiation sources in a radiographic exposure device during use of the device or transport (except when the device is being transported by a common or contract carrier). This includes performing surveys to confirm the adequacy of boundaries, setting up equipment, and conducting any activity inside restricted area boundaries.

“S-tube” means a tube through which a radioactive source travels when the source is inside a radiographic exposure device.

“Source assembly” means an assembly that consists of a sealed source and a connector that attaches the source to a control cable. The source assembly may also include a stop ball used to secure the source in the shielded position.

“Underwater radiography” means industrial radiography performed when a radiographic exposure device is beneath the surface of water.

**Historical Note**

New Section R9-7-501 recodified from R12-1-501 at 24 A.A.R. 813, effective March 22, 2018 (Supp. 18-1).

**R9-7-502. License Requirements**

- A. The Department shall review an application for a specific license for the use of radioactive material in industrial radiography and approve the license if an applicant meets all of the following requirements:
  1. The applicant satisfies the general requirements in R9-7-309 and any special requirements contained in this Article; and

2. The applicant submits a program for training radiographers and radiographers’ assistants that complies with R9-7-543, except that:
  - a. After the effective date of this Section, an applicant is not required to describe its initial training and examination program for radiographers;
  - b. An applicant shall affirm that an individual who is acting as an industrial radiographer is certified in radiation safety by a certifying organization, as required in R9-7-543, before permitting the individual to act as a radiographer. This affirmation substitutes for a description of the applicant’s initial training and examination program for radiographers in the subjects outlined in R9-7-543(G); and
  - c. An applicant shall submit procedures for verifying and documenting the certification status of each radiographer and for ensuring that the certification remains valid.

- B. The applicant shall submit written operating and emergency procedures as prescribed in R9-7-522.
- C. The applicant shall submit a description of a program for review of job performance of each radiographer and radiographers’ assistant at intervals that do not exceed six months as prescribed in R9-7-543(E).
- D. The applicant shall submit a description of the applicant’s overall organizational structure as it applies to radiation safety responsibilities in industrial radiography, including specified delegation of authority and responsibility.
- E. The applicant shall submit a list of the qualifications of each individual designated as an RSO under R9-7-512 and indicate which designee is responsible for ensuring that the licensee’s radiation safety program is implemented in accordance with approved procedures.
- F. If an applicant intends to perform leak testing on any sealed source or exposure device that contains depleted uranium (DU) shielding, the applicant shall submit a description of the procedures for performing the leak testing and the qualifications of each person authorized to perform leak testing. If the applicant intends to analyze its own wipe samples, the application shall include a description of the procedures to be followed. The description shall include the:
  1. Instruments to be used,
  2. Methods of performing the analysis, and
  3. Relevant experience of the person who will analyze the wipe samples.
- G. If the applicant intends to perform “in-house” calibrations of survey instruments, the applicant shall describe each calibration method to be used and the relevant experience of each person who will perform a calibration. A licensee shall perform all calibrations according to the procedures prescribed in R9-7-504.
- H. The applicant shall identify and describe the location of all field stations and permanent radiographic installations.
- I. The applicant shall identify each location where records required by this Chapter will be maintained.

**Historical Note**

New Section R9-7-502 recodified from R12-1-502 at 24 A.A.R. 813, effective March 22, 2018 (Supp. 18-1).

**R9-7-503. Performance Requirements for Equipment**

- A. A licensee shall ensure that equipment used in industrial radiographic operations meets the following minimum criteria:
  1. Each radiographic exposure device, source assembly or sealed source, and all associated equipment meet the requirements in American National Standards Institute, N432-1980 “Radiological Safety for the Design and Con-

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struction of Apparatus for Gamma Radiography” (published as NBS Handbook 136, issued January 1981) by the American National Standards Institute, which is incorporated by reference and on file with the Department. This incorporation by reference contains no future editions or amendments. This publication may be purchased from the American National Standards Institute, Inc., 25 West 43rd Street, New York, New York 10036 Telephone (212) 642-4900. A copy of the document is also on file at the National Archives and Records Administration (NARA). For information on the availability of this material at NARA, call (202) 741-6030, or go to: [http://www.archives.gov/federal\\_register/code\\_of\\_federal\\_regulations/ibr\\_locations.html](http://www.archives.gov/federal_register/code_of_federal_regulations/ibr_locations.html); or

2. An engineering safety analysis demonstrates the applicability of previously performed testing on similar individual radiography equipment components. Based on a review of the analysis, the Department may find that previously performed testing can be substituted for testing of the component under the standards in subsection (A)(1).
- B.** In addition to the requirements in subsection (A), the following requirements apply to each radiographic exposure device, source changer, source assembly, and sealed source:
1. A licensee shall ensure that each radiographic exposure device has attached to it a durable, legible, and clearly visible label bearing:
    - a. The chemical symbol and mass number of the radionuclide in the device;
    - b. The activity of the source and the date on which this activity was last measured;
    - c. The model (or product code) and serial number of the sealed source;
    - d. The manufacturer’s description of the sealed source; and
    - e. The licensee’s name, address, and telephone number.
  2. A licensee shall ensure that each radiographic exposure device intended for use as a Type B transport container meets the applicable requirements of 10 CFR 71, revised January 1, 2015, incorporated by reference, and available under R9-7-101. This incorporated material contains no future editions or amendments.
  3. A licensee shall not modify any radiographic exposure device, source changer, source assembly, or associated equipment, unless the design of the replacement component, including source holder, source assembly, controls, or guide tubes is consistent with and does not compromise the design safety features of the system.
- C.** In addition to the requirements in subsections (A) and (B), the following requirements apply to each radiographic exposure device, source assembly, and associated equipment that allows the source to be moved out of the device for radiographic operations or to a source changer:
1. The license shall ensure that the coupling between the source assembly and the control cable is designed so that the source assembly does not become disconnected if it is positioned outside of the guide tube and is constructed so that an unintentional disconnect will not occur under normal and reasonably foreseeable abnormal conditions;
  2. The device automatically secures the source assembly if it is retracted into the fully shielded position within the device and the securing system is released from the exposure device only by means of a deliberate operation;
  3. The outlet fittings, lock box, and drive cable fittings on each radiographic exposure device are equipped with safety plugs or covers installed for storage and transport-

tion to protect the source assembly from water, mud, sand, or other foreign matter;

4. Each sealed source or source assembly has attached to it or is engraved with a durable, legible, and visible label with the words: “DANGER--RADIOACTIVE.” The licensee shall ensure that the label does not interfere with safe operation of the equipment;
  5. The guide tube is able to withstand a crushing test that closely approximates the crushing forces that are likely to be encountered during use, and a kinking resistance test that closely approximates the kinking forces that are likely to be encountered during use;
  6. A guide tube is used if a person moves the source out of the device;
  7. An exposure head or similar device, designed to prevent the source assembly from passing out of the end of the guide tube, is attached to the outermost end of the guide tube during industrial radiography operations;
  8. The guide tube exposure head connection is able to withstand the tensile test for control units specified in ANSI N432-1980, incorporated by reference in subsection (A); and
  9. Source changers provide a system for ensuring that the source is not accidentally withdrawn from the changer when a person is connecting or disconnecting the drive cable to or from the source assembly.
- D.** A licensee shall ensure that radiographic exposure devices and associated equipment in use after January 10, 1996 comply with the requirements of this Section.
- E.** Notwithstanding subsection (A), a licensee with equipment used in industrial radiographic operations need not comply with Sec. 8.92(C) of the Endurance Test in American National Standards Institute N432-1980 if the prototype equipment has been tested using a torque value representative of the torque that an individual using the radiography equipment can realistically exert on the lever or crankshaft of the drive mechanism.

**Historical Note**

New Section R9-7-503 recodified from R12-1-503 at 24 A.A.R. 813, effective March 22, 2018 (Supp. 18-1).

**R9-7-504. Radiation Survey Instruments**

- A.** A licensee shall maintain at least two calibrated and operable radiation survey instruments at each location where sources of radiation are present to make radiation surveys required by this Article and Article 4 of this Chapter. Instrumentation required by this Section shall be capable of measuring a range from 0.02 millisieverts (2 millirems) per hour through 0.01 sievert (1 rem) per hour.
- B.** A licensee shall ensure that each radiation survey instrument required under subsection (A) is calibrated:
1. At intervals that do not exceed six months, and after instrument servicing, except for battery changes;
  2. For linear scale instruments, at two points located approximately one-third and two-thirds of full-scale on each scale; for logarithmic scale instruments, at mid-range of each decade, and at two points of at least one decade; and for digital instruments, at 3 points between 0.02 and 10 millisieverts (2 and 1000 millirems) per hour; and
  3. So that an accuracy within plus or minus 20% of the calibration source can be demonstrated at each point checked.
- C.** A licensee shall maintain calibration records for each radiation survey instrument, and maintain each record for three years after it is made.

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**Historical Note**

New Section R9-7-504 recodified from R12-1-504 at 24  
A.A.R. 813, effective March 22, 2018 (Supp. 18-1).

**R9-7-505. Leak Testing and Replacement of Sealed Sources**

- A. A licensee shall ensure that replacement of any sealed source fastened to or contained in a radiographic exposure device and leak testing of any sealed source is performed by a person authorized to do so by the Department, the NRC, or another Agreement State.
- B. A licensee shall ensure that opening, repairing, or modifying any sealed source is performed by a person specifically authorized to do so by the Department, the NRC, or another Agreement State.
- C. A licensee that uses a sealed source shall have the source tested for leakage by a qualified person at intervals that do not exceed six months. The person who performs leak testing of the source shall use a method approved by the Department, the NRC, or by another Agreement State. A wipe sample shall be taken from the nearest accessible point to the sealed source where contamination might accumulate. The wipe sample shall be analyzed for radioactive contamination. The licensee shall ensure that the analysis is capable of detecting the presence of 185 Bq (0.005 microcurie) of radioactive material on the test sample and a person specifically authorized by the Department, the NRC, or another Agreement State performs the analysis. The licensee shall maintain records of the leak tests in accordance with this Section.
- D. Unless a sealed source is accompanied by a certificate from the transferor that shows that the sealed source has been leak tested within six months before the transfer, a licensee shall not use the sealed source until it is tested for leakage. A licensee is not required to test a sealed source that is in storage, but shall test each sealed source before use or transfer to another person if the interval of storage exceeds six months.
- E. A licensee shall immediately withdraw equipment containing a leaking source from use and have it decontaminated and repaired or dispose of the source in accordance with this Chapter. The licensee shall file a report with the Director of the Department within five days of any test with results that exceed the threshold in this subsection, and describe the equipment involved, the test results, and corrective action taken. If a leak test conducted under this Section reveals the presence of 185 Bq (0.005 microcurie) or more of removable radioactive material the Department classifies the sealed source as leaking.
- F. A licensee shall test for DU contamination at intervals that do not to exceed 12 months a radiographic exposure device that uses depleted uranium (DU) shielding and an "S" tube configuration. The licensee shall ensure that the analysis is capable of detecting the presence of 185 Bq (0.005 microcuries) of radioactive material on the test sample and a person specifically authorized by the Department, the NRC, or another Agreement State performs the analysis. If the testing reveals the presence of 185 Bq (0.005 microcuries) or more of removable DU contamination, the licensee shall remove the exposure device from use until an evaluation of the wear on the S-tube is completed. If the evaluation reveals that the S-tube is worn through, the licensee shall ensure that the device is not used again. The licensee is not required to test for DU contamination if the radiographic exposure device is in storage. Before using or transferring the radiographic exposure device, the licensee shall test the device for DU contamination if the interval of storage exceeds 12 months. The licensee shall maintain records of the DU leak test in accordance with subsection (G).

- G. A licensee shall maintain records of leak test results for each sealed source and for each device that contains DU. The licensee shall ensure results are in Becquerels (microcuries), and retain each record for three years after it is made or until the source is removed from storage and tested, whichever is longer.

**Historical Note**

New Section R9-7-505 recodified from R12-1-505 at 24  
A.A.R. 813, effective March 22, 2018 (Supp. 18-1).

**R9-7-506. Quarterly Inventory**

- A. A licensee shall conduct a quarterly physical inventory to account for all sealed sources and devices that contain depleted uranium.
- B. A licensee shall maintain a record of the quarterly inventory required under subsection (A) for three years after it is made.
- C. The record required in subsection (B) shall include the date of the inventory, name of the individual who conducted the inventory, radionuclide, number of becquerels (curies) or mass (for DU) in each device, location of sealed source and associated devices, and manufacturer, model, and serial number of each sealed source and device as applicable.

**Historical Note**

New Section R9-7-506 recodified from R12-1-506 at 24  
A.A.R. 813, effective March 22, 2018 (Supp. 18-1).

**R9-7-507. Utilization Logs**

- A. A licensee shall maintain for each sealed source a utilization log that provides all of the following information:
  1. A description, including the make, model, and serial number of each radiographic exposure device, and each sealed source transport and storage container that contains a sealed source;
  2. The identity and signature of the radiographer using the source; and
  3. The plant or site where the source is used and dates of use, including the date each source is removed from and returned to storage.
- B. A licensee shall retain the log required by subsection (A) for three years after the log is made.

**Historical Note**

New Section R9-7-507 recodified from R12-1-507 at 24  
A.A.R. 813, effective March 22, 2018 (Supp. 18-1).

**R9-7-508. Inspection and Maintenance of Radiographic Exposure Devices, Transport and Storage Containers, Source Changers, Survey Instruments, and Associated Equipment**

- A. A licensee shall perform visual and operability checks on each survey instrument, radiographic exposure device, transport and storage container, source changer, and associated equipment before use on each day the equipment is to be used to ensure that the equipment is in good working condition, the source is adequately shielded, and required labeling is present. A survey instrument operability check shall be performed using a check source or other authorized means. If an equipment problem is found, the licensee shall remove the equipment from service until it is repaired.
- B. A licensee shall have written inspection and maintenance procedures to ensure that:
  1. Radiographic exposure devices, source changers, transport and storage containers, survey instruments, and associated equipment that require inspection and maintenance at intervals that do not exceed three months or before first use of the equipment are functioning properly and safely. Replacement components shall meet design specifications. If an equipment problem is discovered, the licensee

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shall remove the equipment from service until it is repaired; and

2. Type B packages are shipped and maintained in accordance with the certificate of compliance or other approval.
- C. A licensee shall maintain records of daily checks and quarterly inspections of radiographic exposure devices, transport and storage containers, source changers, survey instruments, and associated equipment, and retain each record for three years after it is made. The record shall include the date of the check or inspection, name of the inspector, equipment involved, any problems found, and any repair or needed maintenance performed.

**Historical Note**

New Section R9-7-508 recodified from R12-1-508 at 24 A.A.R. 813, effective March 22, 2018 (Supp. 18-1).

**R9-7-509. Surveillance**

During each radiographic operation, a radiographer or the radiographer's assistant, as permitted by R9-7-510, shall maintain continuous direct visual surveillance of the operation to protect against unauthorized entry into a high radiation area, except at permanent radiographic installations where all entrances are locked and the licensee is in compliance with R9-7-539.

**Historical Note**

New Section R9-7-509 recodified from R12-1-509 at 24 A.A.R. 813, effective March 22, 2018 (Supp. 18-1).

**R9-7-510. Radiographic Operations**

- A. If industrial radiography is performed at a location other than a permanent radiographic installation, a licensee shall ensure that the radiographer is accompanied by at least one other radiographer or radiographer's assistant, qualified under R9-7-543. The additional radiographer or radiographer's assistant shall observe the operations and be capable of providing immediate assistance to prevent unauthorized entry. Industrial radiography is prohibited if only one qualified individual is present.
- B. A licensee shall ensure that each industrial radiographic operation is conducted at a location of use authorized on the license in a permanent radiographic installation, unless another permanent location is specifically authorized by the Department.

**Historical Note**

New Section R9-7-510 recodified from R12-1-510 at 24 A.A.R. 813, effective March 22, 2018 (Supp. 18-1).

**R9-7-511. Reserved****Historical Note**

R9-7-511 reserved when the Chapter was recodified from 12 A.A.C. 1 (Supp. 18-1).

**R9-7-512. Radiation Safety Officer (RSO)**

- A. A licensee shall have a radiation safety officer (RSO) who is responsible for implementing procedures and regulatory requirements in the daily operation of the radiation safety program.
- B. Except as provided in subsection (C), the licensee shall ensure that the RSO satisfies the following minimum requirements:
  1. The training and testing requirements in R9-7-543,
  2. Two thousand hours of hands-on experience as a qualified radiographer for an industrial radiographic operation, and
  3. Formal training in the establishment and maintenance of a radiation safety program.
- C. If the licensee uses an individual in the position of RSO who does not have the training and experience required in subsection

(B), the licensee shall provide the Department with a description of the individual's training and experience in the field of ionizing radiation and training with respect to the establishment and maintenance of a radiation safety protection program so the Department can determine whether the individual is qualified to perform under subsection (D).

- D. The specific duties and authorities of the RSO include, but are not limited to:
  1. Establishing and overseeing operating, emergency, and ALARA procedures as required in Article 4 of this Chapter and reviewing them every year to ensure that the procedures in use conform to current Department rules and license conditions;
  2. Overseeing and approving all phases of the training program for radiographic personnel, ensuring that appropriate and effective radiation protection practices are taught;
  3. Overseeing radiation surveys, leak tests, and associated documentation to ensure that the surveys and tests are performed in accordance with the rules and taking corrective measures if levels of radiation exceed established action limits;
  4. Overseeing the personnel monitoring program to ensure that devices are calibrated and used properly by occupationally exposed personnel and ensuring that records are kept of the monitoring results and timely notifications are made as required in R9-7-444; and
  5. Overseeing operations to ensure that they are conducted safely and instituting corrective actions, which may include ceasing operations if necessary.

**Historical Note**

New Section R9-7-512 recodified from R12-1-512 at 24 A.A.R. 813, effective March 22, 2018 (Supp. 18-1).

**R9-7-513. Form of Records**

A licensee shall maintain records in accordance with R9-7-405.

**Historical Note**

New Section R9-7-513 recodified from R12-1-513 at 24 A.A.R. 813, effective March 22, 2018 (Supp. 18-1).

**R9-7-514. Limits on External Radiation Levels from Storage Containers and Source Changers**

The maximum rate limits for storage containers and source changers are 2 millisieverts (200 mRem/hr) at any exterior surface and 0.1 millisieverts (10 mRem/hr) at 1 meter from any exterior surface with the sealed source in the shielded position.

**Historical Note**

New Section R9-7-514 recodified from R12-1-514 at 24 A.A.R. 813, effective March 22, 2018 (Supp. 18-1).

**R9-7-515. Locking Radiographic Exposure Devices, Storage Containers, and Source Changers**

- A. Except at permanent radiographic installations governed by R9-7-539, a licensee shall ensure that each radiographic exposure device has a lock or an outer container with a lock designed to prevent unauthorized or accidental removal of the sealed source from its shielded position. The licensee shall ensure that the exposure device or its container, if applicable, is locked (and if a keyed lock, with the key removed) if the device or container is not under the direct surveillance of a radiographer or a radiographer's assistant. During radiographic operations, the radiographer or radiographer's assistant shall secure the sealed source assembly in the shielded position each time the source is returned to the shielded position.
- B. A licensee shall ensure that each sealed source storage container and source changer has a lock or an outer container with

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a lock designed to prevent unauthorized or accidental removal of the sealed source from its shielded position. The licensee shall ensure that each storage container and source changer is locked (and if a keyed lock, with the key removed) if the storage container or source changer contains a sealed source and is not under the direct surveillance of a radiographer or a radiographer's assistant.

**Historical Note**

New Section R9-7-515 recodified from R12-1-515 at 24 A.A.R. 813, effective March 22, 2018 (Supp. 18-1).

**R9-7-516. Records of Receipt and Transfer of Sealed Sources**

- A. A licensee shall maintain records that show each receipt and transfer of a sealed source or device that uses DU for shielding and retain each record for three years after it is made.
- B. The records shall contain separate entries for each transaction, including the date, name of the individual making the record, radionuclide, number of Becquerels (curies) or mass (for DU), and manufacturer, model, and serial number of each sealed source or device, as applicable.

**Historical Note**

New Section R9-7-516 recodified from R12-1-516 at 24 A.A.R. 813, effective March 22, 2018 (Supp. 18-1).

**R9-7-517. Posting**

A licensee shall post any area in which industrial radiography is performed as required by R9-7-429. Exceptions listed in R9-7-430 do not apply to industrial radiographic operations.

**Historical Note**

New Section R9-7-517 recodified from R12-1-517 at 24 A.A.R. 813, effective March 22, 2018 (Supp. 18-1).

**R9-7-518. Labeling, Storage, and Transportation**

- A. A licensee shall not use a source changer or a storage container to store licensed material unless the source changer or the storage container has securely attached to it a durable, legible, and clearly visible label that bears the standard trefoil radiation caution symbol and the standard colors for the symbol specifically: magenta, purple, or black on a yellow background, and the label has a minimum diameter of 25 mm and the wording "CAUTION (or DANGER), RADIOACTIVE MATERIAL NOTIFY CIVIL AUTHORITIES (or "NAME OF COMPANY")"
- B. A licensee shall not transport licensed material unless the material is packaged and the package is labeled, marked, and accompanied with appropriate shipping papers in accordance with 10 CFR 71, January 1, 2004, published by the Office of the Federal Register, National Archives and Records Administration, incorporated by reference, and on file with the Department. This incorporation by reference contains no future editions or amendments.
- C. A licensee shall physically secure locked radiographic exposure devices and storage containers behind a locked door to prevent tampering or removal by unauthorized personnel. The licensee shall store licensed material in a manner that will minimize danger from explosion or fire.
- D. A licensee shall lock each transport package that contains licensed material and physically secure the package behind the locked doors of the transporting vehicle to prevent accidental loss, tampering, or unauthorized removal of the licensed material from the vehicle.

**Historical Note**

New Section R9-7-518 recodified from R12-1-518 at 24 A.A.R. 813, effective March 22, 2018 (Supp. 18-1).

**R9-7-519. Reserved****Historical Note**

R9-7-519 reserved when the Chapter was recodified from 12 A.A.C. 1 (Supp. 18-1).

**R9-7-520. Reserved****Historical Note**

R9-7-520 reserved when the Chapter was recodified from 12 A.A.C. 1 (Supp. 18-1).

**R9-7-521. Reserved****Historical Note**

R9-7-521 reserved when the Chapter was recodified from 12 A.A.C. 1 (Supp. 18-1).

**R9-7-522. Operating and Emergency Procedures**

- A. A licensee shall ensure that the operating and emergency procedures include, at a minimum, instructions in the following, as applicable:
  1. Handling and use of sealed sources or radiographic exposure devices, so that persons are not exposed to radiation that exceeds the limits in Article 4 of this Chapter;
  2. Methods and occasions for conducting radiation surveys;
  3. Methods for controlling access to radiographic areas;
  4. Methods and occasions for locking and securing radiographic exposure devices, transport and storage containers, and sealed sources;
  5. Personnel monitoring and associated equipment;
  6. Transportation of sealed sources to field locations, including packing radiographic exposure devices and storage containers in vehicles, placarding vehicles, and maintaining control of the sealed sources during transportation, as required in 49 CFR 171-173, 2002 edition, published October 1, 2002, by the Office of the Federal Register, National Archives and Records Administration, Washington, D.C. 20408, which is incorporated by reference and on file with the Department. This incorporation contains no future editions or amendments;
  7. Inspection, maintenance, and operability checks of radiographic exposure devices, survey instruments, transport containers, and storage containers;
  8. Actions to be taken immediately by radiography personnel if a pocket dosimeter is found to be off-scale or an alarm rate meter sounds an alarm;
  9. Procedures for identifying and reporting defects and non-compliance, as required by R9-7-448 and R9-7-535;
  10. Procedures for notifying the RSO and the Department in the event of an accident;
  11. Methods for minimizing exposure of persons in the event of an accident;
  12. Procedures for recovering a source if the licensee is responsible for source recovery; and
  13. Maintenance of records.
- B. The licensee shall maintain copies of current operating and emergency procedures until the Department terminates the license. Superseded procedures shall be maintained for three years after being superseded. Additionally, a copy of the procedures shall be maintained at field stations in accordance with R9-7-540.

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**Historical Note**

New Section R9-7-522 recodified from R12-1-522 at 24 A.A.R. 813, effective March 22, 2018 (Supp. 18-1).

**R9-7-523. Personnel Monitoring**

- A. A licensee shall not permit any individual to act as a radiographer or a radiographer's assistant unless, at all times during radiographic operations, each individual wears, on the trunk of the body, a direct reading dosimeter, an operating alarm rate meter, and a personnel dosimeter that is processed and evaluated by an accredited National Voluntary Laboratory Accreditation Program (NVLAP) processor. At permanent radiography installations where other appropriate alarming or warning devices are in routine use, the wearing of an alarm rate meter is not required. A licensee shall:
1. Use a pocket dosimeter with a range from zero to 2 millisieverts (200 millirems). The licensee shall ensure that each dosimeter is recharged at the start of each shift. Electronic personal dosimeters are permitted in place of ion-chamber pocket dosimeters.
  2. Assign a personnel dosimeter to each individual, who shall wear the assigned equipment.
  3. Replace film badges at least monthly and ensure that other personnel dosimeters are processed and evaluated by an accredited NVLAP processor and replaced at periods that do not exceed three months.
  4. After replacement, ensure that each personnel dosimeter is processed as soon as possible.
- B. A licensee shall record exposures noted from direct reading dosimeters, such as pocket dosimeters or electronic personal dosimeters, at the beginning and end of each shift. The licensee shall maintain the records for three years after the Department terminates the license.
- C. A licensee shall check pocket dosimeters and electronic personal dosimeters for correct response to radiation at periods that do not exceed 12 months. The licensee shall record the results of each check and maintain the records for three years after the dosimeter check is performed. The licensee shall discontinue use of a dosimeter if it is not accurate within plus or minus 20 percent of the true radiation exposure.
- D. If an individual's pocket dosimeter has an off-scale reading, or the individual's electronic personal dosimeter reads greater than 2 millisieverts (200 millirems), and radiation exposure cannot be ruled out as the cause, a licensee shall process the individual's dosimeter within 24 hours of the suspect exposure. The licensee shall not allow the individual to resume work associated with sources of radiation until the individual's radiation exposure has been determined. Using information from the dosimeter, the licensee's RSO or the RSO's designee shall calculate the affected individual's cumulative radiation exposure as prescribed in Article 4 of this Chapter and include the results of this determination in the personnel monitoring records maintained in accordance with subsection (B).
- E. If the personnel dosimeter that is required by subsection (A) is lost or damaged, the licensee shall ensure that the worker ceases work immediately until the licensee provides a replacement personnel dosimeter that meets the requirements in subsection (A) and the RSO or the RSO's designee calculates the exposure for the time period from issuance to discovery of the lost or damaged personnel dosimeter. The licensee shall maintain a record of the calculated exposure and the time period for which the personnel dosimeter was lost or damaged in accordance with subsection (B).
- F. The licensee shall maintain dosimetry reports received from the accredited NVLAP personnel dosimeter processor in accordance with subsection (B).
- G. For each alarm rate meter a licensee shall ensure that:

1. At the start of each shift, the alarm functions (sounds) properly before an individual uses the device;
2. Each device is set to give an alarm signal at a preset dose rate of 5 mSv/hr (500 mrem/hr); with an accuracy of plus or minus 20 percent of the true radiation dose rate;
3. A special means is necessary to change the preset alarm function on the device; and
4. Each device is calibrated at periods that do not exceed 12 months for correct response to radiation. The licensee shall maintain records of alarm rate meter calibrations in accordance with subsection (B).

**Historical Note**

New Section R9-7-523 recodified from R12-1-523 at 24 A.A.R. 813, effective March 22, 2018 (Supp. 18-1).

**R9-7-524. Supervision of a Radiographer's Assistant**

If a radiographer's assistant uses a radiographic exposure device, associated equipment, or a sealed source or conducts a radiation survey required by R9-7-533(B) to determine that the sealed source has returned to the shielded position after an exposure, the licensee shall ensure that the assistant is under the personal supervision of a radiographer. For purposes of this Section "personal supervision" means:

1. The radiographer is physically present at the site where the sealed source is being used,
2. The radiographer is available to give immediate assistance if required, and
3. The radiographer is able to observe the assistant's performance directly.

**Historical Note**

New Section R9-7-524 recodified from R12-1-524 at 24 A.A.R. 813, effective March 22, 2018 (Supp. 18-1).

**R9-7-525. Notification of Field Work**

Each day radioactive material is used for industrial radiography, a licensee shall notify the Department of any planned field radiography. The notice shall be in writing and specify the location of the field work, the name of the supervising individual at the job site, and the expected duration of the work at the job site listed in the notice. A facsimile that provides the required information is sufficient notice.

**Historical Note**

New Section R9-7-525 recodified from R12-1-525 at 24 A.A.R. 813, effective March 22, 2018 (Supp. 18-1).

**R9-7-526. Reserved****Historical Note**

R9-7-526 reserved when the Chapter was recodified from 12 A.A.C. 1 (Supp. 18-1).

**R9-7-527. Reserved****Historical Note**

R9-7-527 reserved when the Chapter was recodified from 12 A.A.C. 1 (Supp. 18-1).

**R9-7-528. Reserved****Historical Note**

R9-7-528 reserved when the Chapter was recodified from 12 A.A.C. 1 (Supp. 18-1).

**R9-7-529. Reserved****Historical Note**

R9-7-529 reserved when the Chapter was recodified from 12 A.A.C. 1 (Supp. 18-1).

**R9-7-530. Reserved**



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**Historical Note**

R9-7-530 reserved when the Chapter was recodified from 12 A.A.C. 1 (Supp. 18-1).

**R9-7-531. Security**

During each radiographic operation, the radiographer or radiographer's assistant shall maintain continuous direct visual surveillance of the operation to protect against unauthorized entry into a high radiation area, as defined in Article 1, unless:

1. The high radiation area is equipped with a control device or an alarm system as prescribed in R9-7-420(A), or
2. The high radiation area is locked to protect against unauthorized or accidental entry.

**Historical Note**

New Section R9-7-531 recodified from R12-1-531 at 24 A.A.R. 813, effective March 22, 2018 (Supp. 18-1).

**R9-7-532. Posting**

Notwithstanding any provisions in R9-7-430, areas in which radiography is being performed shall be conspicuously posted as required by R9-7-429(A) and (B).

**Historical Note**

New Section R9-7-532 recodified from R12-1-532 at 24 A.A.R. 813, effective March 22, 2018 (Supp. 18-1).

**R9-7-533. Radiation Surveys**

- A. A licensee shall conduct surveys with a calibrated and operable radiation survey instrument that meets the requirements of R9-7-504.
- B. Using a survey instrument that complies with subsection (A), the licensee shall conduct a survey of the radiographic exposure device and the guide tube after each exposure before approaching the device or the guide tube. The survey shall be performed to determine that the sealed source is in the shielded position before the radiographer or radiographer's assistant exchanges films, repositions the exposure head, or dismantles the equipment.
- C. The licensee shall conduct a survey of the radiographic exposure device with a calibrated radiation survey instrument any time the source is exchanged or the device is placed in a storage area, as defined in R9-7-102, to ensure that the sealed source is in the shielded position.
- D. The licensee shall maintain a record of each exposure device survey conducted before the device is placed in storage under subsection (C), if that survey is the last one performed during the workday. Each record shall be maintained for three years after the record is made.

**Historical Note**

New Section R9-7-533 recodified from R12-1-533 at 24 A.A.R. 813, effective March 22, 2018 (Supp. 18-1).

**R9-7-534. Reserved****Historical Note**

R9-7-534 reserved when the Chapter was recodified from 12 A.A.C. 1 (Supp. 18-1).

**R9-7-535. Notifications**

- A. In addition to the reporting requirements specified in Article 4, each licensee shall provide a written report to the Department if any of the following incidents involving radiography equipment occur:
  1. Unintentional disconnection of the source assembly from the control cable;
  2. Inability to retract the source assembly to the fully shielded position or secure it in this position; or

3. Failure of any component (critical to safe operation of the device) to properly perform its intended function;

- B. A licensee shall include the following information in any report submitted under this Section, regarding radiography equipment, or Article 4, regarding an overexposure, if the report concerns the failure of safety components of radiography equipment:
  1. A description of the equipment problem;
  2. Cause of the incident, if known;
  3. Name of manufacturer and model number of the equipment involved in the incident;
  4. Place, date, and time of the incident;
  5. Actions taken to establish normal operations;
  6. Corrective actions taken or planned to prevent recurrence; and
  7. Qualifications of personnel involved in the incident.
- C. Any licensee that conducts radiographic operations, or stores radioactive material at a location not listed on the license or for a period longer than 180 days during a calendar year, shall notify the Department of these activities before the 180 days has elapsed.

**Historical Note**

New Section R9-7-535 recodified from R12-1-535 at 24 A.A.R. 813, effective March 22, 2018 (Supp. 18-1).

**R9-7-536. Reserved****Historical Note**

R9-7-536 reserved when the Chapter was recodified from 12 A.A.C. 1 (Supp. 18-1).

**R9-7-537. Reserved****Historical Note**

R9-7-537 reserved when the Chapter was recodified from 12 A.A.C. 1 (Supp. 18-1).

**R9-7-538. Reserved****Historical Note**

R9-7-538 reserved when the Chapter was recodified from 12 A.A.C. 1 (Supp. 18-1).

**R9-7-539. Permanent Radiographic Installations**

- A. If a licensee maintains a permanent radiographic installation that does not fall within the definition of "enclosed radiography" in R9-7-102, the licensee shall ensure that each entrance, used for personnel access to the high radiation area, has either:
  1. An entrance control device of the type described in R9-7-420(A)(1) that reduces the radiation level upon entry into the area, or
  2. Both conspicuous visible and audible alarm signals to warn of the presence of radiation. The licensee shall ensure that the visible signal is actuated by radiation if a source is exposed and the audible signal is actuated if someone attempts to enter the installation while a source is exposed.
- B. A licensee with an alarm signal shall test the alarm signal for proper operation with a radiation source each day before the installation is used for radiographic operations. The test shall include a check of both the visible and audible signals. A licensee with an entrance control device shall test the device monthly. If an entrance control device or alarm signal is operating improperly, the licensee shall immediately label the device or signal as "defective" and repair the device or signal within seven calendar days. The licensee may continue to use the facility during this seven-day period, if the licensee implements continuous surveillance requirements of R9-7-509 and uses an alarming rate meter.

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- C. A licensee shall maintain each record an alarm system or entrance control device test for three years after the record is made.

**Historical Note**

New Section R9-7-539 recodified from R12-1-539 at 24 A.A.R. 813, effective March 22, 2018 (Supp. 18-1).

**R9-7-540. Location of Documents and Records**

- A. A licensee shall maintain a copy of each record required by this Article and other applicable Articles of this Chapter at a location specified under R9-7-502(I).
- B. A licensee shall maintain a copy of each record listed below at each field station and temporary job site;
1. The license that authorizes use of radioactive material;
  2. A copy of Articles 4, 5, and 10 of this Chapter;
  3. Utilization logs for each radiographic exposure device dispatched from that location, as required by R9-7-507;
  4. Records of equipment problems identified in daily checks of equipment, as required by R9-7-508(A);
  5. Records of alarm system and entrance control checks as required by R9-7-539;
  6. Records of direct-reading dosimeters, such as pocket dosimeters and electronic personnel dosimeters as required by R9-7-523;
  7. Operating and emergency procedures as required by R9-7-522;
  8. A report on the most recent calibration of the radiation survey instruments in use at the site as required by R9-7-504;
  9. A report on the most recent calibration of each alarm rate meter, and operability check of each pocket dosimeter and electronic personnel dosimeter as required in R9-7-523;
  10. Most recent survey record as required by R9-7-533;
  11. The shipping papers for the transportation of radioactive material required by 10 CFR 71.5, 2003 edition, published January 1, 2003, by the Office of the Federal Register, National Archives and Records Administration, Washington, D.C. 20408, which is incorporated by reference and on file with the Department (this incorporation contains no future editions or amendments); and
  12. If operating under reciprocity in accordance with R9-7-320, a copy of the NRC or Agreement State license authorizing the use of radioactive materials.

**Historical Note**

New Section R9-7-540 recodified from R12-1-540 at 24 A.A.R. 813, effective March 22, 2018 (Supp. 18-1).

**R9-7-541. Reserved****Historical Note**

R9-7-541 reserved when the Chapter was recodified from 12 A.A.C. 1 (Supp. 18-1).

**R9-7-542. Reserved****Historical Note**

R9-7-542 reserved when the Chapter was recodified from 12 A.A.C. 1 (Supp. 18-1).

**R9-7-543. Training**

- A. A licensee shall not allow an individual to act as a radiographer until the individual has received training in the subjects in subsection (G), has participated in a minimum of two months of on-the-job training, and is certified through a radiographer certification program by a independent certifying organization in accordance with the criteria specified in Appendix A.

1. A licensee shall provide the Department with proof of an individual's certification and a written request that the individual be added to a license as a certified radiographer.
  2. A licensee shall maintain proof of certification at the job site where a radiographer is performing field radiography.
  3. A licensee that employs certified radiographers in Arizona shall ensure that:
    - a. Each radiographer has obtained initial certification within the last five years, and
    - b. An uncertified radiographer works only as a radiographer's assistant until certified.
  4. A radiographer shall recertify every five years by:
    - a. Taking an approved radiography certification examination in accordance with this subsection; or
    - b. Providing written evidence that the radiographer is active in the practice of industrial radiography and has participated in continuing education during the previous five-year period.
  5. If an individual cannot provide the written evidence required in subsection (4)(b), the individual shall retake the certification examination.
  6. A radiographer shall provide the licensee with proof of certification in the form of a card issued by the certifying organization that contains:
    - a. A picture of the certified radiographer,
    - b. The radiographer's certification number,
    - c. The date the certification expires, and
    - d. The radiographer's signature.
- B. A licensee shall not allow an individual to act as a radiographer until the individual:
1. Has received copies of and instruction in the requirements of this Article; applicable Sections of Articles 4 and 10 and R9-7-107; applicable DOT regulations in 10 CFR 71, January 1, 2003 edition, by the Office of the Federal Register, National Archives and Records Administration, Washington, D.C. 20408, which is incorporated by reference, contains no future editions or amendments, and is on file with Department; the Department license or licenses under which the radiographer will perform industrial radiography; and the licensee's operating and emergency procedures;
  2. Has demonstrated an understanding of the licensee's license and operating and emergency procedures by successfully completing a written or oral examination that covers the relevant material;
  3. Has received training in:
    - a. Use of the licensee's radiographic exposure devices and sealed sources,
    - b. Daily inspection of devices and associated equipment, and
    - c. Use of radiation survey instruments; and
  4. Has demonstrated an understanding of the use of radiographic exposure devices, sources, survey instruments, and associated equipment described in subsection (B)(3) by successfully completing a practical examination covering this material.
- C. A licensee shall not allow an individual to act as a radiographer's assistant until the individual:
1. Has received copies of and instruction in the requirements of this Article; applicable Sections of Articles 4 and 10 and R9-7-107; applicable DOT regulations in 10 CFR 71, January 1, 2003 edition, by the Office of the Federal Register, National Archives and Records Administration, Washington, D.C. 20408, which is incorporated by reference, contains no future editions or amendments,

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- and is on file with the Department; the Department license or licenses under which the radiographer's assistant will perform industrial radiography; and the licensee's operating and emergency procedures;
2. Has developed competence to use, under the personal supervision of the radiographer, the licensee's radiographic exposure devices, sealed sources, associated equipment, and radiation survey instruments; and
  3. Has demonstrated understanding of the instructions provided under subsection (C)(1) by successfully completing a written test on the subjects covered and has demonstrated competence using the hardware described in subsection (C)(2) by successfully completing a practical examination.
- D. A licensee shall provide refresher safety training for each radiographer and radiographer's assistant at intervals not to exceed 12 months.
- E. Unless an individual serves as both a radiographer and an RSO, the RSO or the RSO's designee shall design and implement an inspection program to examine the job performance of each radiographer and radiographer's assistant and to ensure that the Department's rules and license requirements, and the licensee's operating and emergency procedures are followed. The inspection program shall:
1. Include observation of the performance of each radiographer and radiographer's assistant during an actual industrial radiographic operation, at intervals that do not exceed six months; and
  2. If a radiographer or a radiographer's assistant has not participated in an industrial radiographic operation for more than six months, the radiographer shall demonstrate knowledge of the training requirements in subsection (B)(3) and the radiographer's assistant shall demonstrate knowledge of the training requirements of subsection (C)(2) by a practical examination before participating in a radiographic operation.
- F. A licensee shall maintain records of the training required in this Section including certification documents, written and practical examinations, refresher safety training documents, and inspection documents, in accordance with subsection (I).
- G. A licensee shall include the following subjects in the training required under subsection (A):
1. Fundamentals of radiation safety, including:
    - a. Characteristics of gamma radiation,
    - b. Units of radiation dose and quantity of radioactivity,
    - c. Hazards of exposure to radiation,
    - d. Levels of radiation from licensed material, and
    - e. Methods of controlling radiation dose (time, distance, and shielding);
  2. Radiation detection instruments, including:
    - a. Use, operation, calibration, and limitations of radiation survey instruments;
    - b. Survey techniques; and
    - c. Use of personnel monitoring equipment;
  3. Equipment topics, including:
    - a. Operation and control of radiographic exposure equipment, use of remote handling equipment, and use of storage containers, using pictures or models of source assemblies (pigtailed);
    - b. Storage, control, and disposal of licensed material; and
    - c. Inspection and maintenance of equipment;
  4. The requirements of pertinent Department rules; and
  5. Case histories of accidents in radiography.
- H. A licensee shall maintain records of radiographer certification in accordance with subsection (I)(1) and provide proof of certification as required in subsection (A)(1).
- I. A licensee shall maintain the following records for three years after each record is made:
1. Records of training for each radiographer and each radiographer's assistant. For radiographers, the records shall include radiographer certification documents and verification of certification status. All records shall include copies of written tests, dates of oral and practical examinations, and names of individuals who conducted and took the oral and practical examinations; and
  2. Records of annual refresher safety training and semi-annual inspections of job performance for each radiographer and each radiographer's assistant. The records for the annual refresher safety training shall list topics discussed during training, the date of training, and names of each instructor and attendee. For inspections of job performance, the records shall include a list of the items checked during the inspection and any non-compliance observed by the RSO.

**Historical Note**

New Section R9-7-543 recodified from R12-1-543 at 24 A.A.R. 813, effective March 22, 2018 (Supp. 18-1).

**Appendix A. Standards for Organizations that Provide Radiography Certification**

Note: For purposes of this Article an "independent certifying organization" means an organization that meets all of the criteria in this Appendix.

**I. Requirements for an Organization that Provides Radiographer Certification**

To qualify to provide radiographer certification an organization shall:

- A. Be a society or association, with members who participate in, or have an interest in, the field of industrial radiography;
- B. Not restrict membership because of race, color, religion, sex, age, national origin, or disability;
- C. Have a certification program that is open to nonmembers, as well as members;
- D. Be an incorporated, nationally recognized organization that is involved in setting national standards of practice within its fields of expertise;
- E. Have a staff comparable to other nationally recognized organizations, a viable system for financing its operations, and a policy-and decision-making review board;
- F. Have a set of written, organizational by-laws and policies that address conflicts of interest and provide a system for monitoring and enforcing the by-laws and policies;
- G. Have a committee, with members who can carry out their responsibilities impartially, review and approve the certification guidelines and procedures, and advise the organization's staff in implementing the certification program;
- H. Have a committee, with members who can carry out their responsibilities impartially, review complaints against certified individuals and determine sanctions;
- I. Have written procedures describing all aspects of the organization's certification program;
- J. Maintain records of the current status of each individual's certification and administration of the certification program;
- K. Have procedures to ensure that certified individuals are provided due process with respect to administration of the certification program, including a process for becoming certified and a process for imposing sanctions against certified individuals;
- L. Have procedures for proctoring examinations and qualifying proctors. The organization, through these procedures, shall

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ensure that an individual who proctors an examination is not employed by the same company or corporation (or a wholly-owned subsidiary of the company or corporation) that employs an examinee;

- M. Exchange information about certified individuals with the Department, other independent certifying organizations, the NRC, or Agreement States and allow periodic review of its certification program and related records; and
- N. Provide a description to the Department of its procedures for choosing examination sites and providing a favorable examination environment.

#### II. Requirements for a Certification Program

An independent certifying organization shall ensure that its certification program:

- A. Requires an applicant for certification to:
  1. Obtain training in the subjects listed in R9-7-543(G) or equivalent NRC or Agreement State regulations, and
  2. Satisfactorily complete a written examination that covers these subjects;
- B. Requires an applicant for certification to provide documentation demonstrating that the applicant has:
  1. Received training in the subjects listed in R9-7-543(G) or equivalent NRC or Agreement State regulations;
  2. Satisfactorily completed the on-the-job training required in R9-7-543(A); and
  3. Received verification by an Agreement State or a NRC licensee that the applicant has demonstrated the capability of independently working as a radiographer;
- C. Provides procedures that protect examination questions from disclosure;
- D. Provides procedures for denying certification to an applicant and revoking, suspending, and reinstating a certificate;
- E. Provides a certification period that is not less than three years or more than five years, procedures for renewing certifications and, if the procedures allow renewals without examination, a system for assessing evidence of recent full-time employment and annual refresher training; and
- F. Provides a timely response to inquiries, by telephone or letter, from members of the public, about an individual's certification status.

#### III. Requirements for a Written Examination

An independent certifying organization shall ensure that its examination:

- A. Is designed to test an individual's knowledge and understanding of the subjects listed in R9-7-543(G);
- B. Is written in a multiple-choice format; and
- C. Has psychometrically valid questions drawn from a question bank and based on the material in R9-7-543(G).

#### Historical Note

New Article 5, Appendix A recodified from 12 A.A.C. 1, Article 5, Appendix A at 24 A.A.R. 813, effective March 22, 2018 (Supp. 18-1).

### ARTICLE 6. USE OF X-RAYS IN THE HEALING ARTS

#### R9-7-601. Reserved

#### Historical Note

R9-7-601 reserved when the Chapter was recodified from 12 A.A.C. 1 (Supp. 18-1).

#### R9-7-602. Definitions

The following definitions apply in this Article, unless the context otherwise requires:

"Accessible surface" means the external surface of the enclosure or housing provided by the manufacturer.

"Added filter" means the filter added to the inherent filtration.

"Aluminum equivalent" means the thickness of aluminum (type 1100 alloy) that affords equivalent attenuation, under specified conditions, as the material in question. (The nominal chemical composition of type 1100 aluminum alloy is 99.00 percent minimum aluminum, 0.12 percent copper).

"Annual" means annually within two months of the anniversary due date as determined by the original installation date, inspection date, survey date, or a reset date created by conducting a full survey before the anniversary date has arrived.

"Assembler" means any person engaged in the business of assembling, replacing, or installing one or more components into an x-ray system or subsystem.

"Attenuation block" means a block or stack, having dimensions 20 cm by 20 cm by 3.8 cm (7.9 inches by 7.9 inches by 1.5 inches) of type 1100 aluminum alloy or other materials that afford equivalent attenuation.

"Automatic exposure control" means a device that automatically controls one or more technique factors in order to obtain, at a preselected location or locations, a required quantity of radiation.

"Barrier" (See "Protective barrier")

"Beam axis" means a line from the source through the center of the x-ray field.

"Beam-limiting device" means a device that provides a means to restrict the dimensions of the x-ray field.

"C-arm x-ray system" means an x-ray system that has the image receptor and x-ray tube housing assembly connected by a common mechanical support system to maintain a desired spatial relationship. This system is designed to allow a change in the projection of the beam through the patient without a change in the position of the patient.

"Changeable filter" means any filter, exclusive of inherent filtration, which can be removed from the useful beam by an electronic, mechanical, or physical process.

"Cinefluorography" means fluorography that uses a movie camera to record fluorograph images on film for later playback.

"Coefficient of variation" means the ratio of the standard deviation to the mean value of a population of observations.

"Collimator" means an adjustable device, generally made of lead, that is fixed to an x-ray tube housing to intercept or collimate the useful beam and, if not made of lead, has a lead equivalency of not less than that of the tube housing assembly.

"Compression device" means a device used to bring object structures closer to the image plane of a radiograph and make a part of the human body a more uniform thickness so the optical density of the radiograph will be more uniform.

"Computed tomography" means the production of a tomogram by the acquisition and computer processing of x-ray transmission data. For purposes of these rules this term has the same meaning as "CT."

"Contact therapy system" means that the x-ray tube port is put in contact with or within 5 centimeters (2 inches) of the surface being treated.

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“Control panel” means that part of the x-ray machine where switches, knobs, push-buttons, or other hardware necessary for manually setting the technique factors are located.

“Cooling curve” means the graphical relationship between heat units stored and cooling time.

“CT gantry” means the tube housing assemblies, beam-limiting devices, detectors, and the supporting structure, frame, and cover which hold or enclose these components.

“Dead-man switch” means a switch constructed so that a circuit-closing contact can be maintained only by continuous pressure on the switch by the operator.

“Diagnostic source assembly” means the tube housing assembly with a beam-limiting device attached.

“Diagnostic x-ray system” means an x-ray system designed for irradiation of any part of a human or animal body for the purpose of diagnosis or visualization.

“Direct scattered radiation” means scattered radiation that has been deviated in direction only by materials irradiated by the useful beam (see “Scattered radiation”).

“Electronic brachytherapy” means a method of radiation therapy where an electrically generated source of ionizing radiation is placed in or near the tumor or target tissue to deliver therapeutic radiation dosage.

“Entrance exposure rate” means the roentgens per unit time at the point where the center of the useful beam enters the patient.

“Equipment” (See “X-ray equipment”)

“Filter” means material placed in the useful beam to absorb undesirable radiation.

“Fluoroscopic imaging assembly” means a subsystem in which x-ray photons produce a fluoroscopic image. It includes the image receptor or receptors such as the image intensifier and spot-film device, electrical interlocks, if any, and structural material that provides a linkage between the image receptor and diagnostic source assembly.

“Fluoroscopic system” means a radiographic x-ray system used to directly visualize internal structure, the motion of internal structures, and fluids in real time, or near real-time, to aid in the treatment or diagnosis of disease, or the performance of other medical procedures.

“Focal spot” means the region of the anode target in an x-ray tube where electrons from the cathode interact to produce x-rays.

“General purpose radiographic x-ray system” means any radiographic x-ray system that, by design, is not limited to radiographic examination of a specific anatomical region.

“Gonadal shield” means a protective barrier for the testes or ovaries.

“Grid” means a device used to improve the image detail in a radiograph by reducing the intensity of x-ray scatter radiation exiting the film side of the patient.

“Half-value layer” or “HVL” means the thickness of a specified material that attenuates the beam of radiation to an exposure rate that is one-half of its original value. In this definition, the contribution of any scattered radiation, other than that which is present initially in the beam, is excluded.

“Healing arts radiography” means the application of x-radiation to human patients for diagnostic or therapeutic purposes by a licensed practitioner or a person certified in accordance with R9-7-603(B)(1), at the direction of a licensed practitioner. Healing arts radiography includes:

Positioning the x-ray beam with respect to the patient,

Anatomical positioning of the patient,

Selecting exposure factors, or

Initiating the exposure.

“Healing arts screening” means the application of radiation from an x-ray machine to a human for the detection or evaluation of health indications when the tests are not specifically and individually ordered by a licensed practitioner.

“Image intensifier” means an electronic device, installed in an x-ray system housing, which instantaneously converts an x-ray pattern into a corresponding light image of higher intensity.

“Image receptor” means any device, such as a fluorescent screen or radiographic film, which transforms incident x-ray photons either into a visible image or into another form which can be made into a visible image by further transformation.

“Inherent filtration” means the filtration of the useful beam by permanently installed components of the tube housing assembly.

“Kilovolts peak” or “kVp” (See “Peak tube potential”)

“Lateral fluoroscope” means the x-ray tube and image receptor combination in a biplane system dedicated to the lateral projection. It consists of the lateral x-ray tube housing assembly and the lateral image receptor that are fixed in position relative to the table with the x-ray beam axis parallel to the plane of the table.

“Lead equivalent” means the thickness of lead affording the same attenuation, under specified conditions, as the material in question.

“Leakage radiation” means all radiation emanating from the tube housing except the useful beam and radiation produced when the exposure switch or timer is not activated.

“Leakage technique factors” means the technique factors associated with the diagnostic source assembly that are used in measuring leakage radiation. Included are:

For capacitor energy storage equipment, the maximum-rated peak tube potential and the maximum-rated number of exposures in an hour for operation at the maximum-rated peak tube potential with the quantity of charge per exposure being 10 millicoulombs (mAs) or the minimum obtainable from the unit, whichever is larger;

For field emission equipment rated for pulsed operation, the maximum-rated peak tube potential and maximum-rated number of x-ray pulses in an hour for operation at the maximum-rated peak tube potential; and

For all other source assemblies, the maximum-rated peak tube potential and maximum-rated continuous tube current for the maximum-rated peak tube potential.

“mA” means milliamperere.

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“Mammographic x-ray system” means an x-ray system that is specifically engineered to image human breasts.

“mAs” means milliamperere second.

“Mobile equipment” (See “X-ray equipment”)

“Peak tube potential” means the maximum value of the potential difference across the x-ray tube during an exposure.

“Phantom” means a volume of material that behaves in a manner similar to tissue with respect to the attenuation and scattering of radiation. (i.e. “Breast phantom” means an artificial test object that simulates the average composition of, and various structures in the breast.)

“Phototimer” (See “Automatic exposure control”)

“Portable equipment” (See “X-ray equipment”)

“Primary protective barrier” (See “Protective barrier”)

“Protective apron” means an apron made of radiation, absorbing material used to reduce radiation exposure.

“Protective barrier” means a barrier of radiation-absorbing material used to reduce radiation exposure.

“Primary protective barrier” means the material, excluding filters, placed in the useful beam.

“Secondary protective barrier” means the material which attenuates stray radiation.

“Protective glove” means a glove made of radiation-absorbing material used to reduce radiation exposure.

“Radiologic physicist” means an individual who:

Is certified by the American Board of Radiology, American Board of Medical Physics, or the American Board of Health Physics;

Possesses documentation of state approval;

Holds a master’s degree or higher in a physical science; and

Meets the training and certification requirements in R9-7-615(A)(1)(c).

“Scattered radiation” means radiation that, during passage through matter, has been deviated in direction. (See “Direct scattered radiation”)

“Screen” or “intensifying screen” means a device that converts the energy of the x-ray beam into visible light that interacts with the radiographic film, forming a latent image, or contains photostimulable phosphor plates that upon exposure, emit visible or nonvisible light to create an image.

“Secondary protective barrier” (See “Protective barrier”)

“Shutter” (See “Collimator”)

“Source” means the focal spot of the x-ray tube.

“Source-to-image receptor distance” or “SID” means the distance from the source to the center of the input surface of the image receptor.

“Spot check” means an abbreviated calibration procedure which is performed to assure that a previous calibration continues to be valid. Also, a spot film may be taken to improve visualization by arresting motion and to document medical observations. Note that in some cases, a film may not be created.

“Stationary equipment” (See “X-ray equipment”)

“Stray radiation” means the sum of leakage and scattered radiation.

“System” (See “X-ray system”)

“Technique chart” means a tabulation of technique factors.

“Technique factors” means the following conditions of operation:

For capacitor energy storage equipment, peak tube potential in kV and quantity of charge in mAs;

For field emission equipment rated for pulsed operation, peak tube potential in kV, and number of x-ray pulses;

For CT x-ray systems designed for pulsed operation, peak tube potential in kV, scan time in seconds, and either tube current in mA, x-ray pulse width in seconds, and number of x-ray pulses per scan, or the product of tube current, x-ray pulse width, and number of x-ray pulses in mAs;

For CT x-ray systems not designed for pulsed operation, peak tube potential in kV, and either tube current in mA and scan time in seconds, or the product of tube current, exposure time in mAs, when the scan time and exposure time are equivalent; and

For all other equipment, peak tube potential in kV, and either tube current in mA and exposure time in seconds, or the product of tube current and exposure time in mAs.

“Treatment simulator” means a diagnostic x-ray system that duplicates a medical particle accelerator or other teletherapy in terms of its geometrical, mechanical, and optical qualities; the main function of which, is to display radiation treatment fields so that the target volume may be accurately included in the area of irradiation without delivering excess radiation to surrounding normal tissue.

“Tube” means x-ray tube unless otherwise specified.

“Tube housing assembly” means the tube housing with the tube installed. It includes high-voltage or filament transformers and other elements contained within the tube housing.

“Tube rating chart” means the set of curves that specify the rated limits of operation of the tube in terms of the technique factors.

“Useful beam” means the radiation emanating from the tube housing port or the radiation head and passing through the aperture of the beam-limiting device when the exposure controls are in a mode that causes the system to produce radiation.

“Visible area” means that portion of the input surface on the image receptor over which incident x-ray photons are producing a visible image.

“X-ray equipment” means an x-ray system, subsystem, or component described further by the following terms:

“Hand-held” means x-ray equipment designed to be held by an operator while being used.

“Mobile” means x-ray equipment mounted on a permanent base with wheels or casters for moving while completely assembled.

“Portable” means x-ray equipment designed to be hand-carried, but used with a cord or delayed timer system that allows the operator to be six feet or more away from the useful beam.

“Stationary” means x-ray equipment installed in a fixed location.

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“Transportable mobile” means x-ray equipment installed in a vehicle or trailer.

“X-ray system” means an assemblage of components for the controlled production of x-rays. It includes, at minimum, an x-ray high-voltage generator, an x-ray control, a tube housing assembly, a beam-limiting device, and the necessary supporting structures. Additional components that function with the system are considered integral parts of the system.

“X-ray tube” means any electron tube that is designed for the conversion of electrical energy into x-ray energy. For purposes of the rules contained in 9 A.A.C. 7, this term is synonymous with “tube.”

**Historical Note**

New Section R9-7-602 recodified from R12-1-602 at 24 A.A.R. 813, effective March 22, 2018 (Supp. 18-1).

**R9-7-603. Operational Standards, Shielding, and Darkroom Requirements**

- A. A person shall not make, sell, lease, transfer, lend, or install x-ray equipment or the supplies used in connection with the equipment unless the supplies and equipment, when properly placed in operation and properly used, meets the requirements of 9 A.A.C. 7.
- B. A registrant shall direct the operation of x-ray machines under the registrant’s control and assure that all of the following provisions are met in the operation of x-ray machines:
  1. The registrant shall not permit any individual to engage in the practice of “Healing Arts Radiography” using equipment under the registrant’s control, unless the individual possesses, and displays in the primary employer’s facility, an official certificate issued by, or is exempt from, the Medical Radiologic Technology Board of Examiners that contains an original signature of its Director or designee. A copy of the certificate shall be posted at any secondary employment location with documentation that verifies that the employer has physically seen the official certificate and has annotated on the copy the location where the official certificate may be viewed by Department staff.
  2. The registrant shall maintain records documenting compliance with subsection (B)(1) for each individual practicing “Healing Arts Radiography” using equipment under the registrant’s control.
  3. The registrant shall provide safety rules to each individual operating x-ray equipment under the registrant’s control, including any restrictions in operating procedures necessary for the safe use of the equipment and require that the operator demonstrate familiarity with 9 A.A.C. 7.
- C. Shielding
  1. Each registrant shall provide each installation with primary and secondary protective barriers that are necessary to assure compliance with 9 A.A.C. 7, Article 4.
  2. A registrant shall ensure that attenuation provided by a protective barrier meets or exceeds the level of protection established in Report No. 147 Structural Shielding Design for Medical X-ray Imaging Facilities, November 19, 2004, by the National Council on Radiation Protection and Measurements, (NCRP), NCRP Publications, 7910 Woodmont Ave., Suite 400, Bethesda, MD 20814-3095. This report is incorporated by reference and available under R9-7-101. The incorporated material contains no future editions or amendments. Copies of the report are available from NCRP Publications: online at <http://www.ncrppublications.org>; toll free at (800) 229-2652 (Ext. 25); or e-mail at [NCRPpubs@NCRPonline.org](mailto:NCRPpubs@NCRPonline.org). Each registrant shall use this incorporated material to pro-

vide sufficient shielding to prevent a public exposure that exceeds the limits in R9-7-416.

3. A registrant shall:
  - a. Mount each lead barrier so that the barrier will not sag or cold flow because of its own weight and protect the barrier from damage;
  - b. Use barriers designed so that joints between different ends of protective material do not impair the overall protection of the barriers;
  - c. Use barriers designed so that joints at the floor and ceiling do not impair the overall protection of the barriers;
  - d. Use windows, window frames, doors, and door frames that have the same lead equivalence required in the adjacent walls; and
  - e. Cover holes in protective barriers so that overall attenuation is not impaired.
4. A registrant shall also meet the structural shielding requirements in R9-7-607(C), if the x-ray system in question is not a mobile fluoroscopic unit, dental panoramic, cephalometric, dental CT, or intraoral radiographic system.
- D. Film Processing and Darkroom Requirements. A registrant shall:
  1. Ensure that the darkroom is light-tight and use proper safe-lighting such that any film type in use exposed in a cassette to x-ray radiation sufficient to produce an optical density from 1 to 2 when processed shall not suffer an increase in density greater than 0.1 (0.05 for mammography) when exposed in the darkroom for two minutes with all safe-lights illuminated. (A processor with a daylight loader satisfies this requirement.);
  2. Ensure that film is stored in a cool, dry place and is protected from radiation exposure; and that film located in open packages is stored in a light-tight container;
  3. Ensure that film cassettes and intensifying screens are inspected annually, cleaned, and replaced as necessary;
  4. Ensure that film cassettes contain film and intensifying screens that have the same sensitivity;
  5. Ensure that automatic film processors develop film in accordance with time-temperature relationships recommended by the film manufacturer;
  6. Ensure that manually developed film is developed in accordance with the time-temperature relationships recommended by the manufacturer, and that a timer, thermometer, and a time-temperature chart are available and used in the darkroom;
  7. Ensure that film processing solutions are prepared and maintained in accordance with the directions of the manufacturer;
  8. Ensure that outdated film is not used for diagnostic radiographs;
  9. Follow manufacturer’s recommendations for cleaning or inspection of computed radiography (CR) cassettes, but not less than annually;
  10. Follow manufacturer’s recommendations for preventive maintenance on digital radiography panels or cassettes, but not less than annually; and
  11. Maintain documentation that demonstrates that requirements of this subsection are being met for three years for Department review from the date of inspection.

**Historical Note**

New Section R9-7-603 recodified from R12-1-603 at 24 A.A.R. 813, effective March 22, 2018 (Supp. 18-1).

**R9-7-604. General Procedures**

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- A. Each registrant shall ensure the following procedural requirements are met in the operation of x-ray equipment:
1. An x-ray machine which does not meet the provisions of this Chapter shall not be operated for diagnostic or therapeutic purposes, unless specifically exempted by the Department.
  2. Except for patients who cannot be moved out of the room, only the individuals required for the radiological procedure or in training may be present in the room during radiographic exposure, and all the following requirements apply:
    - a. All individuals shall be positioned such that no part of the body, including the extremities not protected by 0.5 mm lead equivalent, will be struck by the useful beam.
    - b. Staff and ancillary personnel shall be protected from the direct scatter radiation by protective aprons or whole body protective barriers of not less than 0.25 mm lead equivalent.
    - c. Individuals, other than the patient to be examined, who cannot be removed from the room during mobile or portable radiography shall be protected from the direct scatter radiation by whole body protective barriers of 0.25 millimeters lead equivalent or shall be so positioned that the nearest portion of the body is at least 2 meters (6.5 feet) from both the tube head and the nearest edge of the image receptor.
    - d. If a portion of the body of any staff or ancillary personnel is potentially subjected to stray radiation that could result in that individual receiving 10 percent of the maximum permissible dose as defined in Article 4 of this Chapter, the registrant shall provide additional protective devices as specified by the Department.
  3. An individual shall not be exposed to the useful beam except for a healing arts purpose authorized by a licensed practitioner of the healing arts. The following acts are prohibited:
    - a. Exposure of an individual without meeting the required healing art requirements and without a valid directive from a licensed practitioner;
    - b. Exposure of an individual for training, demonstration, or other non-healing arts purpose;
    - c. Exposure of an individual for the purpose of healing arts screening, except as authorized by the Department after submitting to the Department the information listed in Appendix A of this Article. (If any information submitted to the Department changes, the registrant shall immediately notify the Department of the changes.);
    - d. Routinely holding film or a patient during an exposure to x-ray radiation; or
    - e. Exposure of an individual to fluoroscopy as a positioning method for general purpose radiological procedures.
  4. All persons who are associated with the operation of an x-ray system are subject to the occupational exposure limits specified in Article 4. Exposure of a personnel monitoring device to deceptively indicate a dose delivered to an individual is prohibited.
  5. The registrant shall check radiation protective equipment for reliability and integrity defects on an annual basis, as follows:
    - a. Aprons, gloves, and shields shall be checked for holes, tears, and breaks.
    - b. If defects are found in the equipment, the registrant shall replace or remove it from service. Equipment removed from service shall not be put back into service until it is repaired.
    - c. A record of the annual reliability and integrity check and any equipment replacement shall be maintained for three years.
- B. The registrant shall maintain the following records for each x-ray machine:
1. Survey, calibration, maintenance, and modification records regarding the x-ray machine or room, which include the name of the person who performed the service; and
  2. Correspondence with the Department regarding the x-ray machine facility.

**Historical Note**

New Section R9-7-604 recodified from R12-1-604 at 24 A.A.R. 813, effective March 22, 2018 (Supp. 18-1).

**R9-7-605. X-ray Machine Standards**

- A. A registrant shall prevent leakage radiation from the diagnostic source assembly measured at a distance of 1 meter in any direction from the source assembly from exceeding 25.8  $\mu\text{C}/\text{kg}$  (100 milliroentgens) in one hour when the x-ray tube is operated at its leakage technique factors. The Department shall determine compliance by obtaining measurements averaged over an area of 100 square centimeters (15.5 square inches) with no linear dimension greater than 20 centimeters (7.9 inches).
- B. The registrant shall prevent radiation emitted by a component other than the diagnostic source assembly from exceeding 516 nC/kg (2 milliroentgens) in one hour at 5 centimeters from any accessible surface of the component when it is operated in an assembled x-ray system under any conditions for which it was designed. The Department shall determine compliance by obtaining measurements averaged over an area of 100 square centimeters (15.5 square inches) with no linear dimension greater than 20 centimeters (7.9 inches).
- C. Beam quality.
1. The registrant shall prevent the useful beam half-value layer (HVL) for diagnostic x-ray given x-ray tube potential from falling below the values shown in Table I. If it is necessary to determine the HVL at an x-ray tube potential that is not listed in Table I, the registrant shall use linear interpolation or extrapolation to make the determination.

**Table I**

Design operating range (kilovolts peak)	Measured potential (kilovolts peak)	HVL (millimeters of aluminum) Dental Intraoral Units manufactured after December 1, 1980	Medical X-ray Units manufactured before June 10, 2006 and Dental Intraoral Units manufactured on or before December 1, 1980	Medical X-ray Units manufactured on or after June 10, 2006
Below 51	30	1.5	0.3	0.3
	40	1.5	0.4	0.4



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	50	1.5	0.5	0.5
51 to 70	51	1.5	1.2	1.3
	60	1.5	1.3	1.5
	70	1.5	1.5	1.8
Above 70	71	2.1	2.1	2.5
	80	2.3	2.3	2.9
	90	2.5	2.5	3.2
	100	2.7	2.7	3.6
	110	3.0	3.0	3.9
	120	3.2	3.2	4.3
	130	3.5	3.5	4.7
	140	3.8	3.8	5.0
	150	4.1	4.1	5.4

2. If the registrant demonstrates that the aluminum equivalent of the total filtration in the primary beam is not less than that shown in Table II, the registrant is considered to have met the criteria in subsection (C)(1).

**Table II - Filtration Required vs. Operating Voltage**

<i>Operating Voltage (kVp)</i>	<i>Total Filtration (inherent plus added) (millimeters aluminum equivalent)</i>
Below 51	0.5 millimeters
51 - 70	1.5 millimeters
Above 70	2.5 millimeters

3. The registrant shall use beryllium window tubes that have a minimum of 0.5 millimeters aluminum equivalent filtration permanently mounted in the useful beam.
  4. For capacitor energy storage equipment, the Department shall determine compliance with the maximum quantity of charge per exposure.
  5. When determining the minimum aluminum equivalent filtration, the registrant shall include the filtration contributed by all materials that are always present between the focal spot of the tube and the patient (for example, a tabletop when the tube is mounted "under the table" and inherent filtration of the tube).
- D.** Multiple tubes. If two or more radiographic tubes are controlled by one exposure switch, the operator shall clearly indicate which tube or tubes have been selected before initiation of the exposure, activating one light on the x-ray control panel and a second light at or near the tube housing assembly, each indicating the tube or tubes that have been selected.
- E.** Mechanical support of tube head. The registrant shall adjust the tube housing assembly supports so that the tube housing assembly will remain stable during an exposure, unless the tube housing movement is a designed function of the x-ray system.
- F.** Exposure reproducibility. The coefficient of variation shall not exceed 0.10 when all technique factors are held constant. This requirement is satisfied if the value of the average exposure (E) is greater than or equal to five times the difference between the maximum exposure (E<sub>max</sub>) and minimum exposure (E<sub>min</sub>) when four exposures are made at identical technique factors,  $[E \geq 5(E_{\text{max}} - E_{\text{min}})]$ .
- G.** Accuracy deviation. A registrant shall not use an x-ray machine if the measured technique factors for kVp and time duration are not within the limits specified by the manufac-

turer. In the absence of the manufacturer's specifications, a registrant shall not use an x-ray machine if the measured kVp is not within 10 percent of the indicated kVp value and the measured time duration is not within 20 percent of the indicated time.

**Historical Note**

New Section R9-7-605, including Tables I and II, recodified from R12-1-605, Tables I and II, at 24 A.A.R. 813, effective March 22, 2018 (Supp. 18-1).

**R9-7-606. Fluoroscopic and Fluoroscopic Treatment Simulator Systems**

- A.** Useful beam limitation. A registrant shall:
1. Provide beam-limiting devices that restrict the entire cross section of the useful beam to less than the area of the primary barrier at any Source-to-Image Receptor Distance (SID);
  2. Ensure that the x-ray field size produced by fluoroscopic systems without image intensification does not extend beyond the visible area of the image receptor at any SID;
  3. Ensure that the x-ray field size produced by fluoroscopic systems with image intensification and automatic shutter control does not exceed the diameter of the image receptor at any SID;
  4. Ensure that the x-ray field size produced by fluoroscopic systems with image intensification and manual shutter control does not exceed the diameter of the image receptor with the fluoroscopic imaging assembly positioned at the maximum usable distance above the table top; and
  5. Ensure that the x-ray field size produced by fluoroscopic systems with image intensification and manual shutter control, where the fluoroscopic tube is above the table top, does not exceed the diameter of the image receptor with the shutters open to the fullest extent, and at the maximum SID which the fluoroscopic tube is capable of producing radiation.
- B.** Fluoroscopic primary protective barrier. A registrant shall:
1. Provide the fluoroscopic imaging assembly with a primary protective barrier that always intercepts the entire cross section of the useful beam at any SID.
  2. Ensure that the fluoroscopic tube is not capable of producing radiation unless the primary protective barrier is in a position to intercept the entire cross section of the useful beam.
  3. Ensure that fluoroscopic radiation production automatically terminates if the primary protective barrier is removed from the useful beam.

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4. Ensure that the fluoroscopic primary protective barrier meets the following requirements for attenuation of the useful beam:
  - a. For equipment installed before November 15, 1967, the required lead equivalent of the barrier is not less than 1.5 millimeters for fluoroscopes that produce less than 100 kVp, 1.8 millimeters for fluoroscopes that produce at least 100 kVp but less than 125 kVp, and 2.0 millimeters for fluoroscopes that produce 125 or more kVp. (For conventional fluoroscopes, these requirements may be assumed to have been met if the exposure rate measured at the viewing surface of the fluorescent screen does not exceed 12.9 microcoulombs per kilogram (50 milliroentgens) per hour with the screen in the primary beam of the fluoroscope without a patient, under normal operating conditions.) For equipment installed or reinstalled, the required lead equivalent of the barrier is 2.0 millimeters for fluoroscopes that produce less than 125 kVp or 2.7 millimeters for fluoroscopes that produce 125 or more kVp.
  - b. For fluoroscopic systems that use image intensification, the exposure rate, due to transmission through the primary protective barrier, does not exceed 516 nC/kg (2 milliroentgens) per hour at 10 centimeters (4 inches) from any accessible surface of the fluoroscopic imaging assembly, beyond the plane of the image receptor for each 258  $\mu$ C/kg (1 roentgen) per minute of entrance exposure rate.
  - c. Compliance with subsections (B)(4)(a) and (b) is determined with the image receptor positioned 35.5 centimeters (14 inches) from the panel or table top, at normal operating technical factors and with the attenuation block in the useful beam for systems with image intensification.
- C. Entrance exposure rate limits. A registrant shall ensure that:
  1. The exposure rate, measured at the point where the center of the useful beam enters the patient does not exceed 2.6 mC/kg (10 roentgens) per minute at any combination of tube potential and current, except during recording of fluoroscopic images or if provided with optional high-level control.
  2. If provided with optional high-level control, the equipment is not operable at any combination of tube potential and current that will result in an exposure rate in excess of 2.6 mC/kg (10 roentgens) per minute at the point where the center of the useful beam enters the patient, unless the high-level control is activated, in which case an exposure rate in excess of 5.2 mC/kg (20 roentgens) per minute is prohibited.
    - a. Special means of activation of high-level controls, such as additional pressure applied continuously by the operator, are required to avoid accidental use.
    - b. A continuous signal audible to the fluoroscopist is required to indicate that the high-level control is being employed.
  3. The Department shall determine compliance with subsections (C)(1) and (2) as follows:
    - a. Remove grids and compression devices from the useful beam during the measurement;
    - b. If the source is below the table, measure the exposure rate 1 centimeter above the table top or cradle; and
    - c. If the source is above the table, measure the exposure rate 30 centimeters (11.8 inches) above the table top with the end of the beam-limiting device or spacer positioned as closely as possible to the point of measurement;
- d. For fluoroscopy involving a mobile C-arm x-ray system, measure the exposure rate 30 centimeters (11.8 inches) from the input surface of the fluoroscopic imaging assembly;
- e. For fluoroscopy involving a C-arm x-ray system, measure the exposure rate 30 centimeters (11.8 inches) from the input surface of the fluoroscope imaging assembly, with the x-ray source positioned at any available SID, provided that the end of the beam-limiting device or spacer is not closer than 30 centimeters (11.8 inches) from the input surface of the fluoroscopic image assembly; and
- f. For a lateral fluoroscope, measure the exposure rate 15 centimeters (5.9 inches) from the centerline of the x-ray table and in the direction of the x-ray source with the end of the beam-limiting device or spacer positioned as closely as possible to the point of measurement. If the tabletop is movable, it shall be positioned as closely as possible to the lateral x-ray source, with the end of the beam-limiting device or spacer no closer than 15 centimeters (5.9 inches) to the centerline of the x-ray table.
- D. The registrant shall ensure that the source-to-skin distance is not less than:
  1. 38 centimeters (15 inches) on stationary fluoroscopes installed after January 2, 1996;
  2. 35.5 centimeters (14 inches) on stationary fluoroscopes which are in operation before January 2, 1996;
  3. 30 centimeters (11.8 inches) on all mobile fluoroscopes; and
  4. 20 centimeters (8 inches) for image-intensified fluoroscopes used for a specific surgical application. The registrant shall follow any precautionary measures in the users operating manual.
- E. Each fluoroscopic system installation is subject to all of the following requirements for the control of stray radiation. A registrant shall:
  1. Provide a shielding device of at least 0.25 millimeter lead equivalent for covering the Bucky-slot during fluoroscopy;
  2. Except for fluoroscopy performed using portable or mobile C-arm x-ray systems or during surgical procedures or cardiac catheterization, provide protective drapes, or hinged or sliding panels of at least 0.25 millimeters lead equivalent, between the patient and fluoroscopist to intercept scattered radiation that would otherwise reach the fluoroscopist and others near the machine, but not substitute drapes and panels for a protective apron; and
  3. Ensure that protective aprons of at least 0.25 millimeter lead equivalent are worn in the fluoroscopy room by each person, except the patient, whose body is likely to be exposed to 50  $\mu$ Sv/hr (5 mR/hr) or more.
- F. Exposure control. A registrant shall:
  1. Ensure that activation of the fluoroscopic tube is controlled by a "dead-man" switch;
  2. Provide a manual reset cumulative timing device, which is activated only during production of radiation in the fluoroscopic mode, to indicate elapsed time by an audible signal or terminate production of radiation;
  3. Provide a device for exposure control in the "spot film" mode that terminates exposure either automatically, or after a preset time interval, preset number of pulses, preset product of current and time, or preset exposure; and

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4. Ensure that the x-ray tube potential and current are continuously indicated.
- G. A registrant shall provide systems used for mobile fluoroscopy with image intensification.
- H. Fluoroscopic treatment simulators. Simulators are exempt from subsections (A) through (G). A registrant shall:
  1. Use a beam limiting device that restricts the beam to the area of clinical interest.
  2. Include and label devices for settings or physical factors, such as kVp, mA, or exposure time on the control panel;
  3. Ensure that the fluoroscopic exposure switch or switches are of the "deadman" type;
  4. Ensure that each person whose presence is necessary is in the simulator room during exposure and protected with a lead apron of at least 0.5 millimeter lead equivalent or a portable shield. Any person who places their hands in the useful x-ray beam shall wear leaded gloves; and
  5. Ensure that the operator stands behind a barrier and is able to observe the patient during simulator exposures.

**Historical Note**

New Section R9-7-606 recodified from R12-1-606 at 24 A.A.R. 813, effective March 22, 2018 (Supp. 18-1).

**R9-7-607. Additional X-ray Machine Standards, Shielding Requirements, and Procedures, Except Mobile Fluoroscopic, Dental Panoramic, Cephalometric, Dental CT, or Dental Intra-oral Radiographic Systems**

- A. Useful beam limitation. A registrant shall:
  1. Provide a means to restrict the useful beam to the area of clinical interest for any combination of SID and image receptor size employed.
  2. Ensure that beam-limiting devices meet the following requirements:
    - a. Devices that project a circular radiation field restrict the diameter of the useful beam, not to exceed the diagonal dimension of the image receptor by greater than 2 percent of the SID;
    - b. Devices that project a rectangular or square radiation field restrict the useful beam to the longitudinal and transverse dimensions of the image receptor to within 2 percent of the SID;
    - c. Beam limiting devices that do not incorporate light beams to define the projected radiation field are clearly labeled, indicating the SID and image receptor size at which each device complies with the applicable requirements of subsection (A)(2)(a) or (b);
    - d. Adjustable beam-limiting devices installed after July 31, 1971, incorporate light beams to define the projected dimensions of the useful beam and provide an average illumination of not less than 100 lux (9 foot-candles) at 1 meter (3.3 feet) or at the maximum SID, whichever is less. The average illumination shall be based upon measurements made in the approximate center of each quadrant of the light field; and
    - e. All beam-limiting devices installed, on general purpose fixed and mobile radiographic systems, provide stepless means of continuous adjustment of the projected radiation field size.
  3. Provide a means to align the center of the radiation field to the center of the image receptor to within 2 percent of the SID.
- B. Radiation exposure control. A registrant shall:
  1. Provide a means to terminate the exposure at a preset time interval, preset product of current and time, preset number of pulses, or a preset exposure to the image receptor. The registrant shall ensure that it is not possible to make an exposure when the exposure control device is set to a "zero" or "off" position if either position is provided.
  2. Ensure that the exposure switch is a "dead-man" switch, and except for those used with "spot-film" devices in fluoroscopy, is arranged so that it cannot be conveniently operated outside a shielded area.
  3. Provide x-ray systems with automatic exposure control, which indicates at the control panel when this mode is selected, and a visual and audible signal, which indicates termination of the exposure.
  4. Use a control panel that includes:
    - a. A device (usually a milliamp meter) that will give a positive indication during radiation production; and
    - b. Control setting indicators or meters that indicate the appropriate technical factors: kVp, mAs, mA, or exposure time, and any special mode selected for the exposure.
- C. Structural shielding. A registrant shall:
  1. Ensure that all wall, floor and ceiling areas struck by the useful beam have primary protective barriers. Primary protective barriers in walls shall extend from the finished floor to a minimum height of 2.13 meters (7 feet);
  2. Ensure that secondary protective barriers are provided in all wall, floor, and ceiling areas that do not have primary protective barriers or where the primary protective barrier requirements are lower than the secondary barrier requirements;
  3. Ensure that the operator's station is behind a protective barrier sufficient to ensure compliance with R9-7-408, R9-7-414, and R9-7-416, and the operator is able to communicate with the patient from the operator's station.
  4. Provide a window of transparent material equal in attenuation to that required by the adjacent barrier, or a mirror system, that is large enough and placed so that the operator can see the patient during exposure without having to leave the protected area.
- D. Operating procedures. A registrant shall:
  1. Use mechanical supporting or restraining devices, if a patient must be held in position for radiography. If the patient must be held by an individual, the registrant shall ensure that the individual is protected with appropriate shielding devices, such as protective gloves and apron, and is positioned so that no part of the body of the individual holding the patient is struck by the useful beam;
  2. Ensure that only individuals required for the radiographic procedure are in the radiographic room during exposure, and, except for the patient, all these individuals are equipped with protective devices;
  3. Restrict the useful beam to the clinical area of interest;
  4. Provide a chart in the vicinity of the diagnostic x-ray system's control panel that specifies, for all routine examinations performed with the system, the following information:
    - a. Patient's anatomical size and technique factors;
    - b. Type and size of the film or film screen combination;
    - c. Type and focal distance of the grid, if any;
    - d. X-ray source-to-image receptor distance; and
    - e. Type and location of gonad shielding.
  5. Provide documentation of the following items:
    - a. The patient's identity;
    - b. The x-ray examination, as recorded in a radiographic log;

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- c. The date the examination is performed;
  - d. The number of projections (if applicable), or on-time, or dose factors depending upon the unit; and
  - e. A method of identifying the individual who performed the examination.
6. The registrant shall maintain in chronological order, the documentation required in subsection (D)(5) in written or readily available electronic form. The documentation shall be maintained for three years from the date the examination is performed.

**Historical Note**

New Section R9-7-607 recodified from R12-1-607 at 24  
A.A.R. 813, effective March 22, 2018 (Supp. 18-1).

**R9-7-608. Mobile Diagnostic Radiographic and Mobile Fluoroscopic Systems, Except Dental Panoramic, Cephalometric, Dental CT, or Dental Intraoral Radiographic Systems****A. Equipment**

- 1. All requirements of R9-7-607(A) and (B) apply.
- 2. For mobile radiographic units the registrant shall provide a “dead-man” switch, together with an electrical cord of sufficient length so that the operator can stand out of the useful beam and at least 1.82 meters (6 feet) from the patient during all x-ray exposures.
- 3. A registrant shall ensure that a cone, spacer frame, or inherent provision is made so that the equipment is not operated at source-skin distances of less than 20.3 centimeters (8 inches).

**B. Structural shielding.** If a mobile unit is used routinely in one location, it is considered a fixed installation subject to the shielding requirements in R9-7-603(C), and R9-7-607(C).**C. Operating procedures**

- 1. All provisions of R9-7-607(D) apply.
- 2. An individual who operates a mobile x-ray system shall comply with R9-7-419(B).

**Historical Note**

New Section R9-7-608 recodified from R12-1-608 at 24  
A.A.R. 813, effective March 22, 2018 (Supp. 18-1).

**R9-7-609. Chest Photofluorographic Systems**

Use of chest photofluorographic systems for diagnosis of human disease is prohibited.

**Historical Note**

New Section R9-7-609 recodified from R12-1-609 at 24  
A.A.R. 813, effective March 22, 2018 (Supp. 18-1).

**R9-7-610. Dental Intraoral Radiographic Systems****A. Equipment.** A registrant shall:

- 1. Use a protective tube housing of diagnostic type;
- 2. Use diaphragms or cones for restricting the useful beam and to provide the same degree of protection as the housing. The diameter of the useful beam at the end of the cone or spacer frame shall not be more than 7.6 centimeters (3 inches) for intraoral radiography;
- 3. Ensure that a cone or spacer frame provides a source-to-skin distance of not less than 17.8 centimeters (7 inches) with apparatus operating above 50 kVp or 10 centimeters (4 inches) with apparatus operating at 50 kVp or below for intraoral radiography;
- 4. Provide a timer to terminate the exposure at a preset time interval, a preset product of current and time, a preset number of pulses, or a preset radiation exposure to the image receptor;
- 5. Ensure that it is not possible to make an exposure if the timer is set to the “zero” or “off” position;

- 6. Ensure that the tube head remains stationary if placed in the exposure position;
- 7. Ensure that the exposure initiating device is a “dead-man” switch;
- 8. Use a control panel that includes:
  - a. A means to provide visual or audible indication, detectable at or from the operator’s position, during x-ray production or exposure termination; and
  - b. Indication of technique factors for kVp, mA, exposure time, and any special mode that may be selected for the exposure;
- 9. Use technique factors, where deviation of measured values from indicated values for kVp and exposure time do not exceed the limits specified by the manufacturer. In the absence of the manufacturer’s specifications, the deviation shall not exceed plus or minus 10 percent of the indicated value for kVp and plus or minus 20 percent for exposure time duration;
- 10. For a digital system that uses an electronic sensor, use digital radiography techniques that permit reducing x-ray beam on-time to 25 percent of the exposure time required for “D” speed film or lower, reducing radiation to the patient by the same rate; and
- 11. For a computed radiography (imaging plate (IP) made of photostimulable phosphor) system that uses an imaging plate, use radiography techniques that permit reducing x-ray beam on-time to 50 percent of the exposure time required for “D” speed film or lower, reducing radiation to the patient by the same rate.

**B. Structural shielding.** The registrant shall:

- 1. Provide dental installations with primary and secondary barriers to ensure compliance with the personnel exposure requirements in Article 4 of this Chapter; (Note: In many cases, structural materials of ordinary walls suffice as a protective barrier without addition of special shielding material.)
- 2. Install primary protective barriers between rooms or areas if dental x-ray units are used in adjacent rooms or areas;
- 3. Provide each installation with a protective barrier for the operator or arrange the installation so that the operator can stand at least 1.82 meters (6 feet) from the patient and well away from the useful beam;
- 4. Arrange the operator’s position to allow visual contact with the patient during exposure; and
- 5. Comply with fixed installation requirements, if a mobile unit is used routinely in one location.

**C. Operating procedures**

- 1. A dentist or other persons shall not hold patients or films during exposure. Only persons required for the radiographic procedure are allowed in the radiographic room during exposures.
- 2. An operator shall stand at least 1.82 meters (6 feet) from the patient or behind a protective barrier during each exposure.
- 3. An operator shall ensure that only the patient is in the useful beam.
- 4. The licensed practitioner or other person shall not hold the tube housing or the cone during the exposure.
- 5. A registrant shall not perform dental fluoroscopy without an image intensifier.

**Historical Note**

New Section R9-7-610 recodified from R12-1-610 at 24  
A.A.R. 813, effective March 22, 2018 (Supp. 18-1).

**R9-7-610.01. Hand-held Intraoral Dental Radiographic Unit Requirements For Use**

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- A. Registrants are subject to the following requirements for Intraoral dental radiographic units designed to be operated as a hand-held unit:
- For all uses:
    - Operators of hand-held intraoral dental radiographic units shall be specifically trained to operate such equipment.
    - A hand-held intraoral dental radiographic unit shall be held without any motion during a patient examination. A tube stand may be utilized to immobilize a hand-held intraoral dental radiographic unit during patient examination.
    - The operator shall ensure there are no bystanders within a radius of at least six feet from the patient being examined with a hand-held intraoral radiographic unit.
  - Additional requirements for operatories in permanent facilities:
    - Hand-held intraoral dental radiographic units shall be used for patient examinations in dental operatories that meet the structural shielding requirements specified by the Department or by a qualified health or medical physicist.
    - Hand-held intraoral dental radiographic units shall not be used for patient examinations in hallways and waiting rooms.
- B. Hand-held units may only be used in a manner as specified on the registration issued by the Department.

**Historical Note**

New Section R9-7-610.01 recodified from R12-1-610.01 at 24 A.A.R. 813, effective March 22, 2018 (Supp. 18-1).

**R9-7-611. Therapeutic X-ray Systems of Less Than 1 MeV**

- A. Equipment requirements.
- Leakage radiation. When the x-ray tube is operated at its maximum rated tube current for the maximum kVp, the leakage air kerma rate shall not exceed the value specified at the distance specified for that classification of therapeutic radiation machine. For each therapeutic radiation machine, the registrant shall determine, or obtain from the manufacturer, the leakage radiation existing at the positions specified:
    - 5-50 kVp Systems. The leakage air kerma rate measured at any position 5 centimeters from the tube housing assembly shall not exceed 1 mGy (100 mrad) in any one hour.
    - Greater than 50 kVp and less than 1MeV Systems. The leakage air kerma rate measured at a distance of 1 meter from the target in any direction shall not exceed 1 centigray (1 rad) in any 1 hour. This air kerma rate measurement may be averaged over areas no larger than 100 square centimeters (100 cm<sup>2</sup>). In addition, the air kerma rate at a distance of 5 centimeters from the surface of the tube housing assembly shall not exceed 30 centigray (30 rad) per hour.
  - Permanent beam limiting devices. A registrant shall ensure that fixed diaphragms or cones used for limiting the useful beam provide the same or higher degree of attenuation as required for the tube housing assembly.
  - Removable and adjustable beam-limiting devices. A registrant shall ensure that:
    - Removable and adjustable beam-limiting devices, for the portion of the useful beam to be blocked by these devices, transmit not more than 1 percent of the original x-ray beam at the maximum kilovoltage and maximum treatment filter; and
    - When adjustable beam limiting devices are used, the position and shape of the radiation field shall be indicated by a light beam.
  - Filter system. A registrant shall ensure that the filter system is designed so that:
    - Filters cannot be accidentally displaced from the useful beam at any possible tube orientation;
    - For equipment installed after January 1, 2011, an interlock system prevents irradiation if the proper filter is not in place;
    - The air kerma rate escaping from the filter slot shall not exceed 1 centigray (1 rad) per hour at one (1) meter under any operating conditions; and
    - Each filter is marked regarding its material of construction and its thickness or wedge angle for wedge filters.
  - X-ray tube immobilization. A registrant shall ensure that the tube housing assembly is capable of being immobilized during stationary treatments and the x-ray tube shall be so mounted that it cannot accidentally turn or slide with respect to the housing aperture.
  - Focal spot marking. A registrant shall ensure that the tube housing assembly is marked so that it is possible to determine the location of the focal spot to within 5 millimeters, and the marking is readily accessible for use during calibration procedures.
  - Therapy treatment timers. A registrant shall:
    - Provide a timer that has a display at the treatment control panel. The timer shall have a preset time selector and an elapsed time indicator;
    - Ensure that the timer is a cumulative timer that activates with the radiation, retains its reading after irradiation is interrupted or terminated, and requires the operator to reset the preset time selector after irradiation is terminated and before irradiation can be reinitiated;
    - Ensure that the timer terminates irradiation when a preselected time has elapsed;
    - Ensure that the timer permits accurate presetting and determination of exposure times as short as one second;
    - Ensure that the timer does not permit an exposure if set at zero; and
    - Ensure that the timer does not activate until the shutter is opened if irradiation is controlled by a shutter mechanism.
  - Control panel functions. In addition to the displays required in other provisions of this Section, a registrant shall ensure that a control panel has:
    - An indication of whether electrical power is available at the control panel and if activation of the x-ray tube is possible;
    - An indication of whether x-rays are being produced;
    - A means for indicating kVp and x-ray tube current;
    - A means for terminating an exposure at any time;
    - A locking device that will prevent unauthorized use of the x-ray system; and
    - For x-ray equipment installed after January 2, 1996, a positive display of specific filters in the beam.
  - Multiple tubes. If one control panel is used to energize more than one x-ray tube a registrant shall ensure that:
    - It is possible to activate only one x-ray tube during any time interval,
    - There is an indication at the control panel that identifies which x-ray tube is energized, and

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- c. There is an indication at the tube housing assembly when that tube is energized.
  - 10. Source-to-patient distance. A registrant shall ensure that there is a means of determining the source-to-patient distance to within 1 centimeter.
  - 11. Shutters. Unless it is possible to bring the x-ray output to the prescribed exposure parameters within five seconds, a registrant shall ensure that the entire useful beam is automatically attenuated by a shutter with a lead equivalency not less than that of the tube housing assembly. In addition the registrant shall ensure that:
    - a. After the unit is at operating parameters, the operator controls the shutter electrically from the control panel; and
    - b. An indication of shutter position appears at the control panel.
  - 12. Low filtration x-ray tubes. A registrant shall ensure that each x-ray system equipped with a beryllium or other low-filtration window is clearly labeled as low-filtration equipment on the tube housing assembly and at the control panel.
- B. Facility design requirements.** In addition to shielding necessary to meet the requirements of Article 4 of this Chapter, a registrant shall ensure that:
  - 1. Warning lights. A treatment room to which access is possible through more than one entrance has a warning light, in a readily observable position near the outside of any access doors, which will indicate when the useful beam is "on."
  - 2. Voice communication. Two-way oral communication is possible between the patient and the operator at the control panel; or where excessive noise levels make oral communication impractical, another effective method of communication.
  - 3. Viewing systems. Windows, mirrors, closed-circuit television, or an equivalent system, permits continuous observation of the patient during irradiation and is located so that the operator can observe the patient from the control panel. If the primary viewing system is by electronic means (for example, television), the registrant shall have an alternate viewing system for use in the event of electronic failure.
  - 4. Systems above 150 kVp. For treatment rooms that contain an x-ray system capable of operating above 150 kVp a registrant shall ensure that:
    - a. All necessary shielding, except for any beam interceptor, is provided by fixed barriers;
    - b. The control panel is within a protective booth equipped with an interlocked door, or located outside the treatment rooms;
    - c. All doors of the treatment room are electrically connected to the control panel so that x-ray production cannot occur unless all doors are closed; and
    - d. Opening of any door to the treatment room during exposure results in automatic termination of x-ray production or reduction of radiation levels to an average of no more than 516 nC/kg (2 milliroentgens) per hour and a maximum of 2.6  $\mu$ C/kg (10 milliroentgens) per hour at a distance of 1 meter (3.3 feet) from the target in any direction, and restoration of the machine to full operation is possible only from the control panel after the termination or reduction.
- C. Surveys.** A registrant shall ensure that:
  - 1. All facilities, both new and existing, or not previously surveyed, are surveyed before being put into service for the treatment of patients by, or under the direction of, a person trained and experienced in the principles of radiation protection, and perform additional surveys of a facility after any change in the facility or a facility's equipment that might cause a significant increase in radiation hazard, before being put into service for the treatment of patients.
  - 2. The person conducting the survey reports the survey findings in writing to the individual in charge of the facility and maintains a copy of the survey report for inspection by the Department.
  - 3. The installation is operated in compliance with any limitations indicated by the protection survey required by subsection (C)(1).
- D. Calibrations.** A registrant shall ensure that:
  - 1. The calibration of a therapeutic x-ray system includes, but is not limited to, the following determinations:
    - a. Verification that the x-ray system is operating in compliance with the design specifications;
    - b. The dose rate equivalent for each combination of field size, technique factors, filter, and treatment distance used;
    - c. The degree of congruence between the radiation field and the field indicated by the localizing device if a localizing device is used; and
    - d. An evaluation of the uniformity of the radiation field symmetry for the field sizes used and any dependence upon source housing assembly orientation;
  - 2. The calibration of an x-ray system is performed at intervals not to exceed annually and after any change or replacement of components that could cause a change in the radiation output;
  - 3. The calibration of the radiation output of the x-ray system is performed by, or under the direction of, a person trained and experienced in performing calibrations, who is physically present at the facility during calibration;
  - 4. Calibration of the radiation output of an x-ray system is performed with a calibrated instrument. The registrant shall ensure that calibration of the instrument is directly traceable to the National Institute of Standards and Technology (NIST) and that the instrument has been calibrated within the preceding 24 months;
  - 5. Records of calibration performed under subsection (D)(3) are maintained for at least three years after completion of the calibration and are made available for inspection by the Department; and
  - 6. A copy of the most recent calibration is available for use by the operator at the control panel.
- E. Spot checks.** A registrant shall ensure that spot checks are performed on therapeutic x-ray systems capable of operation at greater than 150 kVp. The registrant shall ensure that spot checks meet the following requirements:
  - 1. The spot-check procedures are in writing and have been developed by a qualified expert;
  - 2. The measurements taken during the spot checks demonstrate the degree of consistency of the operating characteristics that can affect the radiation output of the x-ray system;
  - 3. The written spot-check procedure specifies the frequency of the tests or measurements, made at intervals not to exceed monthly;
  - 4. The spot-check procedure identifies conditions that require recalibration of the system in accordance with subsection (D)(1); and
  - 5. Records of spot-check measurements performed as required by subsection (E)(3) are maintained, available

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for inspection by the Department, for three years following the measurements.

**F. Operating procedures.** A registrant shall ensure that:

1. Therapeutic x-ray systems are not left unattended unless the system is secured according to subsection (A)(8)(e);
2. If a patient must be held in position for radiation therapy, mechanical supporting or restraining devices are used;
3. The tube housing assembly is not held by an individual during exposures; and
4. At 150 kVp or more the patient is the only person in the treatment room during production of radiation. At less than 150 kVp an individual may be in the room with patient, provided the individual is protected by a barrier sufficient to meet the requirements of Article 4 of this Chapter.

**G. Electronic Brachytherapy units** are exempt from the requirements of this Section.

**Historical Note**

New Section R9-7-611 recodified from R12-1-611 at 24 A.A.R. 813, effective March 22, 2018 (Supp. 18-1).

**R9-7-611.01. Electronic Brachytherapy to Deliver Interstitial and Intracavitary Therapeutic Radiation Dosage**

**A.** Electronic brachytherapy devices used to deliver interstitial and intracavitary therapeutic radiation dosage shall be subject to the requirements of this Section, and unless otherwise specified in this Section shall be exempt from the requirements of R9-7-611.

1. An electronic brachytherapy device that does not meet the requirements of this Section shall not be used for irradiation of patients; and
2. An electronic brachytherapy device shall only be utilized for human use applications specifically approved by the U.S. Food and Drug Administration (FDA), unless participating in a research study approved by the registrant's Institutional Review Board (IRB).

**B.** Each facility location authorized to use an electronic brachytherapy device in accordance with this Section shall possess appropriately calibrated portable monitoring equipment. At a minimum, such equipment shall include a portable survey instrument capable of measuring dose rates over the range 10  $\mu$ Sv (1 mrem) per hour to 10 mSv (1000 mrem) per hour. The survey instrument shall be capable of measuring as low as 10  $\mu$ Sv (1 mrem) per hour in the energy range of the electronic brachytherapy unit for which the survey instrument is to be used. Published correction factors utilized in conjunction with the instrument's readings may be used to achieve sensitivity. The survey instrument or instruments shall be operable and calibrated before first use, at intervals not to exceed 12 months, and after survey instrument repairs.

**C.** Facility Design Requirements for Electronic Brachytherapy Devices. In addition to shielding adequate to meet requirements of R9-7-603(C), the treatment room shall meet the following design requirements:

1. If applicable, provision shall be made to prevent simultaneous operation of more than one therapeutic radiation machine in a treatment room.
2. Access to the treatment room shall be controlled by a door at each entrance.
3. Each treatment room shall have provisions to permit continuous oral communication and visual observation of the patient from the treatment control panel during irradiation. The electronic brachytherapy device shall not be used for patient irradiation unless the patient can be observed.

4. For electronic brachytherapy devices capable of operating below 150 kVp, radiation shielding for the staff in the treatment room may be available, either as a portable shield or as localized shielded material around the treatment site or both, in lieu of the requirements for room shielding. The shielding shall meet the requirements of R9-7-603(C).

5. For electronic brachytherapy devices capable of operating at or greater than 150 kVp, the facility must meet the requirements of R9-7-611(B)(4).

**D. Control Panel Functions.** The control panel, in addition to the displays required by other provisions in this Section, shall:

1. Provide an indication of whether electrical power is available at the control panel and if activation of the electronic brachytherapy source is possible;
2. Provide an indication of whether x-rays are being produced;
3. Provide a means for indicating electronic brachytherapy source potential and current;
4. Provide the means for terminating an exposure at any time; and
5. Include an access control (locking) device that will prevent unauthorized use of the electronic brachytherapy device.

**E. Timer.** A suitable irradiation control device (timer) shall be provided to terminate the irradiation after a pre-set time interval or integrated charge on a dosimeter-based monitor.

1. A timer shall be provided at the treatment control panel. The timer shall indicate the planned setting and the time elapsed or remaining;
2. The timer shall not permit an exposure if set at zero;
3. The timer shall be a cumulative device that activates with an indication of "BEAM-ON" that retains its reading after irradiation is interrupted or terminated. After irradiation is terminated and before irradiation can be reinitiated, it shall be necessary to reset the elapsed time indicator;
4. The timer shall terminate irradiation when a pre-selected time has elapsed, if any dose monitoring system has not previously terminated irradiation.
5. The timer shall permit setting of exposure times as short as 0.1 second; and
6. The timer shall be accurate to within one percent of the selected value or 0.1 second, whichever is greater.

**F. Qualified Medical Physicist Support.**

1. The services of a Qualified Medical Physicist shall be required in facilities having electronic brachytherapy devices. The Qualified Medical Physicist shall be responsible for:
  - a. Evaluation of the output from the electronic brachytherapy source;
  - b. Generation of the necessary dosimetric information;
  - c. Supervision and review of treatment calculations prior to initial treatment of any treatment site;
  - d. Establishing the periodic and day-of-use quality assurance checks and reviewing the data from those checks as required in subsection (J);
  - e. Consultation with the authorized user in treatment planning, as needed; and
  - f. Performing calculations/assessments regarding patient treatments that may constitute a medical event.
2. If the Qualified Medical Physicist is not a full-time employee of the registrant, then the operating procedures required by subsection (G) shall also specifically address how the Qualified Medical Physicist is to be contacted for

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problems or emergencies, as well as the specific actions, if any, to be taken until the Qualified Medical Physicist can be contacted.

**G. Operating Procedures.**

1. Only individuals approved by the authorized user, Radiation Safety Officer, or Qualified Medical Physicist shall be present in the treatment room during treatment;
2. Electronic brachytherapy devices shall not be made available for medical use unless the requirements of subsections (A), (H), and (I) have been met;
3. The electronic brachytherapy device shall be inoperable, either by hardware or password, when unattended by qualified staff or service personnel;
4. During operation, the electronic brachytherapy device operator shall monitor the position of all persons in the treatment room, and all persons entering the treatment room, to prevent entering persons from unshielded exposure from the treatment beam;
5. If a patient must be held in position during treatment, mechanical supporting or restraining devices shall be used;
6. Written procedures shall be developed, implemented, and maintained for responding to an abnormal situation. These procedures shall include:
  - a. Instructions for responding to equipment failures and the names of the individuals responsible for implementing corrective actions; and
  - b. The names and telephone numbers of the authorized users, the Qualified Medical Physicist, and the Radiation Safety Officer to be contacted if the device or console operates abnormally.
7. A copy of the current operating and emergency procedures shall be physically located at the electronic brachytherapy device control console;
8. Instructions shall be maintained with the electronic brachytherapy device control console to inform the operator of the names and telephone numbers of the authorized users, the Qualified Medical Physicist, and the Radiation Safety Officer to be contacted if the device or console operates abnormally; and
9. The Radiation Safety Officer, or the Radiation Safety Officer's designee, and an authorized user shall be notified immediately if the patient has a medical emergency, suffers injury or dies. The Radiation Safety Officer or the Qualified Medical Physicist shall inform the manufacturer of the event.

**H. Safety Precautions for Electronic Brachytherapy Devices.**

1. Any person in the treatment room, other than the person being treated, shall wear personnel monitoring devices;
2. An authorized user and a Qualified Medical Physicist shall be physically present during the initiation of all new patient treatments involving the electronic brachytherapy device;
3. After the first treatment one of the following individuals shall be physically present during continuation of all patient treatments involving the electronic brachytherapy device:
  - a. A Qualified Medical Physicist, or
  - b. An authorized user, or
  - c. A certified therapy technologist (CTT) certified by the Arizona Medical Radiologic Technology Board of Examiners, under the direct supervision of an authorized user, who has been trained in the operation and emergency response for the electronic brachytherapy device;

4. When shielding is required by subsection (C)(4), surveys shall be conducted to ensure that the requirements of R9-7-408, R9-7-414, and R9-7-416 are met. Alternatively, a Qualified Medical Physicist shall designate shield locations sufficient to meet the requirements of R9-7-603(C) and R9-7-607(C) for any individual, other than the patient, in the treatment room; and
5. All personnel in the treatment room are required to remain behind shielding during treatment. A Qualified Medical Physicist shall approve any deviation from this requirement and shall designate alternative radiation safety protocols, compatible with patient safety, to provide an equivalent degree of protection.

**I. Electronic Brachytherapy Source Calibration Measurements.**

1. Calibration of the electronic brachytherapy source output shall be performed by, or under the direct supervision of, a Qualified Medical Physicist. If the control console is integral to the electronic brachytherapy device, the required procedures shall be kept where the operator is located during electronic brachytherapy device operation;
2. Calibration of the electronic brachytherapy source output shall be made for each electronic brachytherapy source, or after any repair affecting the x-ray beam generation, or when indicated by the electronic brachytherapy source quality assurance checks;
3. Calibration of the electronic brachytherapy source output shall utilize a dosimetry system appropriate for the energy output of the unit and calibrated by the National Institute for Standards and Technology (NIST) or by an American Association of Physicists in Medicine (AAPM) Accredited Dosimetry Calibration Laboratory (ADCL). The calibration shall have been performed within the previous 24 months and after any servicing that may have affected system calibration;
4. Calibration of the electronic brachytherapy source output shall include, as applicable, determination of:
  - a. The output within two percent of the expected value, if applicable, or determination of the output if there is no expected value;
  - b. Timer accuracy and linearity over the typical range of use;
  - c. Proper operation of back-up exposure control devices;
  - d. Evaluation that the relative dose distribution about the source is within five percent of that expected; and
  - e. Source positioning accuracy to within one millimeter within the applicator;
5. Calibration of the x-ray source output required shall be in accordance with current published recommendations from a recognized national professional association with expertise in electronic brachytherapy (when available). In the absence of a calibration protocol published by a national professional association, the manufacturer's calibration protocol shall be followed.
6. The registrant shall maintain a record of each calibration in an auditable form for the duration of the registration. The record shall include: the date of the calibration; the manufacturer's name, model number and serial number for the electronic brachytherapy device and a unique identifier for its electronic instrument or instruments brachytherapy source; the model numbers and serial numbers of the instrument or instruments used to calibrate the electronic brachytherapy device; and the name and signature of the Qualified Medical Physicist responsible for performing the calibration.



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- J. Periodic and Day-of-Use Quality Assurance Checks for Electronic Brachytherapy Devices.**
1. Quality assurance checks shall be performed on each electronic brachytherapy device:
    - a. At the beginning of each day of use;
    - b. Each time the device is moved to a new room or site; and
    - c. After each x-ray tube installation.
  2. The registrant shall perform periodic quality assurance checks required in accordance with procedures established by the Qualified Medical Physicist;
  3. To satisfy the requirements of this subsection, radiation output quality assurance checks shall include at a minimum:
    - a. Verification that output of the electronic brachytherapy source falls within three percent of expected values, as appropriate for the device, as determined by:
      - i. Output as a function of time, or
      - ii. Output as a function of setting on a monitor chamber.
    - b. Verification of the consistency of the dose distribution to within three percent (or the manufacturer's or Qualified Medical Physicist's documented recommendation not to exceed five percent), observed at the source calibration required by subsection (I); and
    - c. Validation of the operation of positioning methods to ensure that the treatment dose exposes the intended location within one millimeter; and
  4. The registrant shall use a dosimetry system that has been intercompared within the previous 12 months with the dosimetry system described in this Section to make the quality assurance checks required in subsection (J)(3);
  5. The registrant shall review the results of each radiation output quality assurance check to ensure that:
    - a. An authorized user and Qualified Medical Physicist is immediately notified if any parameter is not within its acceptable tolerance, and the electronic brachytherapy device is not used until the Qualified Medical Physicist has determined that all parameters are within their acceptable tolerances;
    - b. If all radiation output quality assurance check parameters appear to be within their acceptable range, the acceptable quality assurance checklist shall be reviewed and signed by either the authorized user or Qualified Medical Physicist prior to the next patient use of the unit. In addition, the Qualified Medical Physicist shall review and sign the results of each radiation output quality assurance check at intervals not to exceed 30 days.
  6. To satisfy the requirements of subsection (J)(1), safety device quality assurance checks shall, at a minimum, assure:
    - a. Proper operation of radiation exposure indicator lights on the electronic brachytherapy device and on the control console;
    - b. Proper operation of viewing and intercom systems in each electronic brachytherapy facility, if applicable;
    - c. Proper operation of radiation monitors, if applicable;
    - d. The integrity of all cables, catheters or parts of the device that carry high voltages; and
    - e. Connecting guide tubes, transfer tubes, transfer-tube-applicator interfaces, and treatment spacers are free from any defects that interfere with proper operation.
  7. If the results of the safety device quality assurance checks required in subsection (J)(6) indicate the malfunction of any system, a registrant shall secure the control console in the OFF position and not use the electronic brachytherapy device except as may be necessary to repair, replace, or check the malfunctioning system.
  8. The registrant shall maintain a record of each quality assurance check required by this Section in a legible form for three years.
    - a. The record shall include the date of the quality assurance check; the manufacturer's name, model number and serial number for the electronic brachytherapy device; the name and signature of the individual who performed the periodic quality assurance check and the name and signature of the Qualified Medical Physicist who reviewed the quality assurance check;
    - b. For radiation output quality assurance checks required by subsection (J)(3), the record shall also include the unique identifier for the electronic brachytherapy source and the manufacturer's name; model number and serial number for the instrument or instruments used to measure the radiation output of the electronic brachytherapy device.
- K. Therapy-related Computer Systems.** The registrant shall perform acceptance testing on the treatment planning system of electronic brachytherapy-related computer systems in accordance with current published recommendations from a recognized national professional association with expertise in electronic brachytherapy (when available). In the absence of an acceptance testing protocol published by a national professional association, the manufacturer's acceptance testing protocol shall be followed.
1. Acceptance testing shall be performed by, or under the direct supervision of a Qualified Medical Physicist. At a minimum, the acceptance testing shall include, as applicable, verification of:
    - a. The source-specific input parameters required by the dose calculation algorithm;
    - b. The accuracy of dose, dwell time, and treatment time calculations at representative points;
    - c. The accuracy of isodose plots and graphic displays;
    - d. The accuracy of the software used to determine radiation source positions from radiographic images; and
    - e. If the treatment planning system is different from the treatment delivery system, the accuracy of electronic transfer of the treatment delivery parameters to the treatment delivery unit from the treatment planning system.
  2. The position indicators in the applicator shall be compared to the actual position of the source or planned dwell positions, as appropriate, at the time of commissioning.
  3. Prior to each patient treatment regimen, the parameters for the treatment shall be evaluated for correctness and approved by the authorized user and the Qualified Medical Physicist through means independent of that used for the determination of the parameters.
- L. Training for e-brachytherapy Authorized Users.**
1. The registrant for any therapeutic radiation machine subject to this Section shall require the authorized user to be a physician who is:
    - a. Certified in:
      - i. Radiation oncology or therapeutic radiology by the American Board of Radiology or radiology (combined diagnostic and therapeutic radiology program) by the American Board of Radiology prior to 1976; or

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- ii. Radiation oncology by the American Osteopathic Board of Radiology; or
  - iii. Radiology, with specialization in radiotherapy, as a British "Fellow of the Faculty of Radiology" or "Fellow of the Royal College of Radiology"; or
  - iv. Therapeutic radiology by the Canadian Royal College of Physicians and Surgeons; or
- b. In the active practice of therapeutic radiology, and has completed 200 hours of instruction in basic radiation techniques applicable to the use of an external beam radiation therapy unit, 500 hours of supervised work experience, and a minimum of three years of supervised clinical experience.
- 2. To satisfy the requirement in subsection (L)(1)(b) for:
  - a. Instruction, the classroom and laboratory training shall include:
    - i. Radiation physics and instrumentation;
    - ii. Radiation protection;
    - iii. Mathematics pertaining to the use and measurement of ionization radiation; and
    - iv. Radiation biology;
  - b. Supervised work experience, training shall be under the supervision of an authorized user and shall include:
    - i. Review of the full calibration measurements and periodic quality assurance checks;
    - ii. Evaluation of prepared treatment plans and calculation of treatment times or patient treatment settings or both;
    - iii. Using administrative controls to prevent medical events as described in R9-7-444;
    - iv. Implementing emergency procedures to be followed in the event of the abnormal operation of an external beam radiation therapy unit or console; and
    - v. Checking and using radiation survey meters; and
  - c. A period of supervised clinical experience, training shall include one year in a formal training program approved by the Residency Review Committee for Radiology of the Accreditation Council for Graduate Medical Education or the Committee on Postdoctoral Training of the American Osteopathic Association and an additional two years of clinical experience in therapeutic radiology under the supervision of an authorized user. The supervised clinical experience shall include:
    - i. Examining individuals and reviewing their case histories to determine their suitability for external beam radiation therapy treatment, and any limitations or contraindications or both;
    - ii. Selecting proper dose and how it is to be administered;
    - iii. Calculating the therapeutic radiation machine doses and collaborating with the authorized user in the review of patients' progress and consideration of the need to modify originally prescribed doses or treatment plans as warranted by patients' reaction to radiation or both; and
    - iv. Post-administration follow-up and review of case histories.
- 3. A physician shall not act as an authorized user until such time as the physician's training has been reviewed and approved by the Department.
- 4. Notwithstanding the requirements of subsections (L)(1) through (L)(3), the registrant for any therapeutic radiation machine subject to this Section may also submit the training of the prospective authorized user physician for Department review on a case-by-case basis if the training includes substantially equivalent training as that listed in subsections (L)(1)(b) and (L)(2) and the training includes dosimetry calculation training and experience.
- M. Training for Qualified Medical Physicist. The registrant for any therapeutic radiation machine subject to this Section shall require the Qualified Medical Physicist to:
  - 1. Be certified with the Department, as a provider of radiation services in the area of calibration and compliance surveys of external beam radiation therapy units; and
  - 2. Be certified by the American Board of Radiology in:
    - a. Therapeutic radiological physics; or
    - b. Roentgen-ray and gamma-ray physics; or
    - c. X-ray and radium physics; or
    - d. Radiological physics; or
  - 3. Be certified by the American Board of Medical Physics in Radiation Oncology Physics; or
  - 4. Be certified by the Canadian College of Physicists in Medicine; or
  - 5. Hold a master's or doctor's degree in physics, medical physics, other physical science, engineering, or applied mathematics from an accredited college or university, and have completed one year of full-time training in medical physics and an additional year of full-time work experience under the supervision of a Qualified Medical Physicist at a medical institution. This training and work experience shall be conducted in clinical radiation facilities that provide high-energy external beam radiation therapy (photons and electrons with energies greater than or equal to one MV/one MeV). To meet this requirement, the individual shall have performed the tasks listed in this subsection under the supervision of a Qualified Medical Physicist during the year of work experience.
- N. Qualifications of Operators. Individuals who will be operating a therapeutic radiation machine for medical use shall be certified by the Department as a CTT by the Arizona Medical Radiologic Technology Board of Examiners.
- O. Additional training requirements.
  - 1. A registrant shall provide instruction, initially and at least annually, to all individuals who operate the electronic brachytherapy device, as appropriate to the individual's assigned duties, in the operating procedures identified in subsection (G). If the interval between patients exceeds one year, retraining of the individuals shall be provided.
  - 2. In addition to the requirements of subsection (L) for therapeutic radiation machine authorized users and subsection (M) for Qualified Medical Physicists, these individuals shall also receive device-specific instruction initially from the manufacturer, and annually from either the manufacturer or other qualified trainer. The training shall be of a duration recommended by a recognized national professional association with expertise in electronic brachytherapy (when available). In the absence of any training protocol recommended by a national professional association, the manufacturer's training protocol shall be followed. The training shall include, but not be limited to:
    - a. Device-specific radiation safety requirements;
    - b. Device operation;
    - c. Clinical use for the types of use approved by the FDA;

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- d. Emergency procedures, including an emergency drill; and
- e. The registrant's quality assurance program.
- 3. A registrant shall retain a record of individuals receiving manufacturer's instruction for three years. The record shall include a list of the topics covered, the date of the instruction, the name or names of the attendee or attendees, and the name or names of the individual or individuals who provided the instruction.
- P. Mobile Electronic Brachytherapy Service. A registrant providing mobile electronic brachytherapy service shall, at a minimum:
  - 1. Check all survey instruments before medical use at each address of use or on each day of use, whichever is more restrictive;
  - 2. Account for the electronic brachytherapy x-ray tube in the electronic brachytherapy device before departure from the client's address; and
  - 3. Perform, at each location on each day of use, all of the required quality assurance checks specified in this Section to assure proper operation of the device.
- Q. Medical events shall be reported to the Department. For purposes of this Section "medical event" means a therapeutic radiation dose from a machine:
  - 1. Delivered to the wrong patient;
  - 2. Delivered using the wrong mode of treatment;
  - 3. Delivered to the wrong treatment site; or
  - 4. Delivered in one week to the correct patient, using the correct mode, to the correct therapy site, but greater than 130 percent of the prescribed weekly dose; or
- R. A therapeutic radiation dose from a machine with errors in the calibration, time of exposure, or treatment geometry that result in a calculated total treatment dose differing from the final, prescribed total treatment dose by more than 20 percent, except for treatments given in 1 to 3 fractions, in which case a difference of more than 10 percent constitutes a medical event.
- S. Reports of therapy medical events:
  - 1. Within 24 hours after discovery of a medical event, a registrant shall notify the Department by telephone by speaking to a Department staff member. The registrant shall also notify the referring physician of the affected patient and the patient or a responsible relative or guardian, unless the referring physician personally informs the registrant either that he or she will inform the patient, or that in his or her medical judgment, telling the patient or the patient's responsible relative or guardian would be harmful to one or the other, respectively. If the Department staff member, referring physician, or the patient's responsible relative or guardian cannot be reached within 24 hours, the registrant shall notify them as soon as practicable. The registrant shall not delay medical care for the patient because of notification problems.
  - 2. Within 15 days following the verbal notification to the Department, the registrant shall report, in writing, to the Department and individuals notified under subsection (S)(1). The written report shall include the registrant's name, the referring physician's name, a brief description of the event, the effect on the patient, the action taken to prevent recurrence, whether the registrant informed the patient or the patient's responsible relative or guardian, and if not, why not. The report shall not include the patient's name or other information that could lead to identification of the patient.
  - 3. Each registrant shall maintain records of all medical events for Department inspection. The records shall:
    - a. Contain the names of all individuals involved in the event, including:
      - i. The physician,
      - ii. The allied health personnel,
      - iii. The patient,
      - iv. The patient's referring physician,
      - v. The patient's identification number if one has been assigned,
      - vi. A brief description of the event,
      - vii. The effect on the patient, and
      - viii. The action taken to prevent recurrence.
    - b. Be maintained for three years beyond the termination date of the affected registration.

**Historical Note**

New Section R9-7-611.01 recodified from R12-1-611.01 at 24 A.A.R. 813, effective March 22, 2018 (Supp. 18-1).

Amended by final expedited rulemaking at 24 A.A.R. 2151, effective July 12, 2018 (Supp. 18-3).

**R9-7-611.02. Other Use of Electronically-Produced Radiation to Deliver Superficial Therapeutic Radiation Dosage**

A person shall not utilize any device which is designed to electrically generate a source of ionizing radiation to deliver superficial therapeutic radiation dosage, and which is not appropriately regulated under any existing category of therapeutic radiation machine, until:

- 1. The applicant or registrant has, at a minimum, provided the Department with:
  - a. A detailed description of the device and its intended application or applications;
  - b. Facility design requirements, including shielding and access control;
  - c. Documentation of appropriate training for authorized user physician or physicians and qualified medical physicist or physicists;
  - d. Methodology for measurement of dosages to be administered to patients or human research subjects;
  - e. Documentation regarding calibration, maintenance, and repair of the device, as well as instruments and equipment necessary for radiation safety;
  - f. Radiation safety precautions and instructions; and
  - g. Other information requested by the Department in its review of the application; and
- 2. The applicant or registrant has received written approval from the Department to utilize the device in accordance with the regulations and specific conditions the Department considers necessary for the medical use of the device; and
- 3. The applicant or registrant has submitted the application information and forms required by Article 2.
- 4. In addition to the requirements of this Section, a registrant using a device for x-ray radiation therapy shall meet the requirements of R9-7-611.01(Q), (R), and (S).

**Historical Note**

New Section R9-7-611.02 recodified from R12-1-611.02 at 24 A.A.R. 813, effective March 22, 2018 (Supp. 18-1).

**R9-7-612. Computed Tomography Systems**

- A. Definitions:
  - 1. "CT" means computed tomography.
  - 2. "CT conditions of operation" means all selectable parameters governing the operation of a CT including nominal tomographic section thickness, and technique factors.
  - 3. "CTDI" means computed tomography dose index, the integral of the dose profile along a line perpendicular to the tomographic plane divided by the product of the nom-

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- inal tomographic thickness and the number of tomogram produced in a single scan.
4. "CTDI vol" means a value of a volume-weighted tomography dose index. The unit of the CTDI vol is Gray or subunits of the Gray. The value of the CTDI vol for patient scan is used to trigger a notification when the value exceeds or will exceed a threshold value.
  5. "CTN" means CT number, the number used to represent the x-ray attenuation associated with each elemental area of the CT image.
  6. "Dose profile" means the dose as a function of position along a line.
  7. "DLP" means the dose-length product. The DLP is the mathematical product of the CTDI vol and the length of the scan. The unit DLP is the Gray-cm of subunits of the Gray-cm. The DLP is used to trigger a notification when the value exceeds or will exceed a threshold value.
  8. "Elemental area" means the smallest area within a tomogram for which the x-ray attenuation properties of a body are depicted.
  9. "Multiple tomogram system" means a CT system that obtains x-ray transmissions data simultaneously during a single scan to produce more than one tomogram.
  10. "Nominal tomographic section thickness" means the full width at half-maximum of the sensitivity profile taken at the center of the cross section volume over which x-ray transmission data are collected.
  11. "Reference plane" means a plane that is displaced from and parallel to the tomographic plane.
  12. "Scan" means the complete process of collecting x-ray transmission data for the production of a tomogram. Data can be collected simultaneously during a single scan for the production of one or more tomograms.
- B. Facility:** A registrant shall ensure that a CT facility has:
1. An operable two-way communication system between the patient and the operator in each CT room.
  2. A viewing system that will allow the operator to continuously view the patient from the control panel during each examination. If the viewing system malfunctions the CT shall not be used until the viewing system is repaired.
- C. Equipment.** A registrant shall ensure that:
1. There is a means to terminate x-ray exposure automatically in the event of equipment failure by:
    - a. De-energizing the x-ray source, or
    - b. Shuttering the x-ray beam.
  2. The equipment shall provide the operator the ability to terminate the x-ray exposure at any time during the examination, provided the scan or series of scans is greater than one-half second duration.
    - a. If an operator terminates an x-ray exposure, the operator shall reset the CT conditions of operation before the initiation of another scan.
    - b. A visible signal shall indicate when an x-ray exposure has been terminated because of equipment failure.
  3. A means is provided to permit visual determination of the tomographic plane for a single tomogram system, or the location of a reference plane offset from a single tomograph or multiple tomogram system.
    - a. If a light source is used to satisfy this requirement, it shall provide illumination of the tomographic plane or reference plane under ambient light conditions.
    - b. The difference between the actual plane location and the indicated location of a tomographic plane or reference plane shall not exceed 5 millimeters.
  - c. The deviation of indicated scan increment versus actual increment shall not exceed plus or minus 1 millimeter with any mass from 0 to 100 kilograms resting on the patient support device.
  4. The control panel and gantry provides a visual indication, if x-rays are produced.
  5. Emergency buttons and switches are marked by function.
  6. Parameters of CT operation used during a patient examination are visible to the operator upon initiation of the scan. If an operational parameter is not adjustable by the operator, this subsection may be met by indicating on the control panel the parameter is not adjustable by the operator.
  7. Radiation exposure does not exceed 100 mR in one hour at one meter in any direction from the tube port of an operating CT.
  8. The angular position or positions where the maximum surface CTDI occurs is identified to allow for reproducible positioning of a CT dosimetry phantom, except in those cases where the x-ray tubes are designed to move, in which case, the maximum dose and associated tube position shall be evaluated according to manufacturer recommendations.
- D. Operating Procedures.** A registrant shall ensure that:
1. Operating procedures are available at the control panel, or by electronic means, regarding the operation of a CT and evaluation of a CT's operation.
  2. The operating procedures contain the following information:
    - a. A copy of the latest evaluation of the CT's operation, to include output for each CT procedure, performed by a qualified expert;
    - b. Instructions on the use of the CT performance phantom by the qualified expert, a schedule of quality control tests with the results of the most recent quality control test, and the allowable variations for the indicated parameters;
    - c. The distance in millimeters between the tomographic plane and the reference plane if a reference plane is used; and
    - d. A current technique chart that contains the information required in R9-7-607(D)(4)(a) for both adult and pediatric patients, as applicable, is available at the CT operating console, and a procedure for determining whether a CT has been performed according to instructions of a physician.
    - e. A written or electronic log that contains the information required in R9-7-607(D)(5) as well as an entry in the record of any displayed values for the exam from either a CTDI vol or DLP measurement for each patient exam completed on equipment manufactured on or after January 1, 2011.
  3. If the evaluation of the CT's operation or quality control test identifies a parameter exceeding the tolerance established by a qualified expert, the use of a CT for patient examination is limited to those uses established in written instructions from the qualified expert.
- E. Quality control tests.** A registrant shall have a written quality control test procedure, developed by a qualified expert, and ensure that the quality control test procedure:
1. Incorporates the use of a CT performance phantom that is compatible with an approved accreditation program approved by the Medicare Improvements for Patients and Providers Act (MIPPA) or supplied by or approved for use by the manufacturer of the unit.

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2. Is followed in the evaluation of the CT's operation, that the interval between tests does not exceed those set forth in the application for accreditation or quarterly if not accredited by an organization approved by (MIPPA), and that system conditions are specified by the registrant's qualified expert.
  3. Includes obtaining quality control test images with the CT performance phantom using the same processing mode and CT conditions of operation that are used to perform the evaluation of the CT's operation.
  4. Requires that images obtained under subsection (E)(3) be retained until a new evaluation of the CT's operation is performed.
  5. Requires that any Alerts and Notification settings using CTDI vol or DLP are reviewed against preloaded techniques in the system and any missing fields are reviewed with the staff radiologist and noted in the annual report.
  6. Requires the quality control test procedure and records of quality control tests performed be maintained for three years for Department inspection.
- F. Evaluation of a CT's operation. A registrant shall ensure that:**
1. The evaluation of a CT's operation is performed by, or under the direct supervision of, a qualified expert who is physically present at the facility during the evaluation of the CT's operation.
  2. The evaluation of a CT's operation:
    - a. Is performed before initial patient use and annually (within two months of the annual due date) and after any change or replacement of components that could, in the opinion of the qualified expert, cause a change in radiation output; and
    - b. Shall measure the CTDI in a dosimetry phantom along the two axes specified in subsection (F)(4)(b).
    - c. A complete evaluation of a CT unit, performed before the annual due date shall clearly list if the new survey changes the annual due date for the unit. It shall be clearly noted on all documentation for the next three years that the survey has established a new annual due date based upon the date of the new survey.
  3. The evaluation of a CT's x-ray system is performed with a calibrated dosimetry system that:
    - a. Has been calibrated using a method that is traceable to the National Institute of Standards and Technology (NIST), and
    - b. Has been calibrated within the preceding two years.
  4. CT dosimetry phantoms used in determining radiation output are compatible with an approved accreditation program approved by (MIPPA) or supplied by or approved for use by the manufacturer of the unit; and
    - a. Are constructed in a way that the parameters used to image the most commonly imaged parts of the human body are evaluated; and
    - b. At a minimum, provide means for placement of a dosimeter along the axis of rotation and along a line parallel to the axis of rotation 1.0 centimeter from the outer surface and within the phantom.
  5. Any effects on the measured dose due to the removal of phantom material to accommodate the dosimeter are accounted for in the reported data or included in the statement of maximum deviation for the measured values.
- G. CT units designated for simulator use, veterinary use, dental use, podiatry use, and non-diagnostic use on humans are exempt from the annual requirements in subsections (E) and (F) provided an initial evaluation is conducted by a qualified expert and the output does not exceed the manufacturers specified limits. The initial evaluation shall be maintained for Department review.**
- Historical Note**
- New Section R9-7-612 recodified from R12-1-612 at 24 A.A.R. 813, effective March 22, 2018 (Supp. 18-1).
- R9-7-613. Veterinary Medicine Radiographic Systems**
- A. Equipment. A registrant shall ensure that:**
1. The total filtration permanently in the useful beam is not less than 1.5 millimeters aluminum-equivalent for equipment operating at up to 70 kVp and 2.0 millimeters aluminum-equivalent for equipment operating in excess of 70 kVp;
  2. A device is provided to terminate the exposure after a preset time or exposure;
  3. Each radiographic system has a "dead-man" exposure switch with an electrical cord of sufficient length to allow the operator to stand at least 1.82 meters (six feet) away from the useful beam during x-ray exposures.
- B. Procedures: A registrant shall ensure that:**
1. Unless required to restrain an animal, the operator stands at least 1.82 meters (6 feet) away from the useful beam and the animal during a radiographic exposure;
  2. An individual other than the operator is not in the x-ray room or area while an exposure is being made, unless the individual's assistance is required;
  3. If possible, an animal is held in position during an x-ray exposure using mechanical supporting or restraining devices;
  4. An individual holding an animal during an x-ray exposure is:
    - a. Wearing protective gloves and an apron of not less than 0.5 millimeter lead equivalent or positioned behind a whole-body protective barrier;
    - b. Wearing required personnel monitoring devices; and
    - c. Positioned so that no part of the person's body, except hands and arms, will be struck by the useful beam;
  5. If an individual holds or supports an animal or a film during an x-ray exposure, the name of the individual is recorded in an x-ray log that contains the animal's name, the type of x-ray procedure, the number of exposures, and the date of the procedure; and
  6. As a condition of employment an individual is not required to routinely hold or support animals, or hold film during radiation exposures.
- Historical Note**
- New Section R9-7-613 recodified from R12-1-613 at 24 A.A.R. 813, effective March 22, 2018 (Supp. 18-1).  
Amended by final expedited rulemaking at 24 A.A.R. 2151, effective July 12, 2018 (Supp. 18-3).
- R9-7-614. Mammography Systems**
- A. Equipment. A registrant shall ensure that:**
1. Only radiation machines specifically designed for mammographic examinations are used;
  2. The film processor used in the registrant's facility is maintained in accordance with the film processor's and film manufacturer's recommendations;
  3. Each facility has an image development system onsite unless the Department has approved an alternate system;
  4. If used with screen-film image receptors, and the contribution to filtration made by the compression device is included, the useful beam has a half-value layer between the values of: "measured kVp/100 and measured kVp/100

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- + L millimeters” of aluminum equivalent, where  $L = 0.12$  for Mo/Mo,  $L = 0.19$  for Mo/Rh,  $L = 0.22$  for Rh/Rh,  $L = 0.30$  for W/Rh target filtration combinations and  $L = 0.33$  for other target filtration combinations not otherwise specified.
5. The combination of focal spot size, source-to-image distance and magnification produces a radiograph with a resolution of at least 12 line pairs per millimeter at an object-to-image receptor distance of 4.5 centimeters; or the standards in Table 3-3 of the American Association of Physicists in Medicine (AAPM), Report No. 29, Equipment Requirements and Quality Control for Mammography, August 1990, published by the American Institute of Physics, Suite 1N01, 2 Huntington Quadrangle, Melville, NY 11747 (This report is incorporated by reference and available under R9-7-101. The incorporated material contains no future editions or amendments. The report is available online at: <http://www.aapm.org/pubs/reports>; print copies may be purchased from Medical Physics Publishing, 4513 Vernon Blvd., Madison, WI 53705; toll free at (800) 442-5778.);
  6. The compression device used with the mammographic unit, unless specifically manufactured otherwise, is parallel to the imaging plane, not varying at any spot by more than 1 centimeter;
  7. The mammographic x-ray system with initial power drive:
    - a. Has compression paddles compatible with each size of image receptor;
    - b. Is capable of compressing the breast with a force of at least 25 pounds, but not more than 45 pounds, and maintaining the compression for at least three seconds; and
    - c. Is used in a manner so that the chest wall edge of the compression device is aligned just beyond the chest wall edge of the image receptor so that the chest wall edge of the compression device does not appear on the image receptor;
  8. A mammographic x-ray system using screen-film image receptors has:
    - a. At least two different sizes of moving anti-scatter grids, including one for each size of image receptor utilized; and
    - b. Automatic exposure control;
  9. All mammographic x-ray systems indicate or provide a means of determining, the mAs resulting from each exposure made with automatic exposure control;
  10. The collimation provided limits the useful beam to the image receptor so that the beam does not extend beyond any edge of the image receptor at any designated source to image receptor distance by more than 2 percent of the source to image receptor distance;
  11. The accuracy of the indicated kVp is within plus or minus 2kVp;
  12. Mammographic x-ray systems operating with automatic exposure control are capable of maintaining a film density within plus or minus 0.15 optical density units over the clinical range of kVp used, for a breast having an equivalent phantom thickness from 2 to 6 centimeters. If a technique chart is used, the operator shall maintain the film density within plus or minus 0.15 optical density units of the mean optical density;
  13. At a kVp of 28, the mammographic x-ray system is capable of generating at least  $2.0 \mu\text{C/kg/mAs}$  ( $8\text{mR/mAs}$ ) and at least  $200 \mu\text{C/kg/second}$  ( $800\text{mR/second}$ ), measured at a point 4.5 centimeters above the surface of the patient support device when the Source-image receptor distance is at its maximum;
  14. Screens are not used for mammography if one or more areas of greater than 1 centimeter squared of poor screen-film contact are seen when tested, using a 40 mesh screen test;
  15. Mammographic image quality meets the minimum mammography film standards for phantom performance in Mammography Quality Control Manual, 1999 edition, published by the American College of Radiology (ACR). (This manual is incorporated by reference and available under R9-7-101. The incorporated material contains no future editions or amendments. The manual is available from ACR Publication Sales, P.O. Box 533, Annapolis Junction, MD 20701; toll free at (800) 227-7762; e-mail at: [acr@brightkey.net](mailto:acr@brightkey.net)).
  16. The mean glandular dose for one cranio-caudal view of a 4.2 centimeter (1.8 inch) compressed breast, composed of 50 percent adipose and 50 percent glandular tissue, does not exceed 300 millirads (3 milligray); and
  17. A radiologic physicist who meets the requirements in R9-7-615(A)(1)(c) evaluates the operation of a mammographic x-ray system:
    - a. When first installed and annually thereafter,
    - b. Following any major change in equipment or replacement of parts, and
    - c. When quality assurance tests indicate calibration is necessary.
- B. Operating Procedures.** A registrant shall ensure that:
1. Each mammographic facility has a quality assurance program, and that the quality assurance program includes performance and documentation of the quality control tests in subsection (B)(2), conducted at the required time intervals. Test results shall fall within the specified limits in subsection (B)(2) or the registrant shall take corrective action and maintain documentation that the results are within specified limits before performing or processing any further examinations using the system that failed. A radiologic physicist, as defined in R9-7-615(A)(1)(c), shall review the program and make any recommendations necessary for the facility to comply with this Section;
  2. The quality assurance program meets federal requirements (Contained in 21 CFR 900.12(d)(1), and (e)(1) through (e)(10), revised April 1, 2013, incorporated by reference and available under R9-7-101. This incorporated material contains no future editions or amendments.); or the following requirements:
    - a. Daily sensitometric and densitometric evaluation of the image processing system demonstrates that Base + Fog  $< +0.03$  optical density of operating level, Mid Density  $\pm 0.15$  optical density of operating level, and Density Difference  $\pm 0.15$  optical density of operating level;
    - b. Weekly phantom image quality evaluations demonstrate the visualization of at least four fibers, three speck groups, and three masses with a background of greater than 1.40 optical density, not varying by 0.20 optical density of operating level;
    - c. Monthly technique chart evaluations demonstrate updates for all equipment changes and that all examinations are being performed according to a physicist's density control recommendation;
    - d. Quarterly fixer retention evaluations demonstrate an acceptable limit of less than or equal to 5.0 micrograms per square centimeter;

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- e. Quarterly repeat analysis demonstrates an acceptable limit of less than 2 percent increase in repeats;
- f. Semiannual darkroom fog evaluations meet the limit of less than or equal to 0.05 optical density of fog, using the two minute exposed film method;
- g. Semiannual screen film contact evaluations meet the limit of less than one area of poor contact of 1 centimeter squared, using a 40 mesh screen on all clinically-used screens;
- h. Semiannual automatic compression force evaluations meet the limit of greater than or equal to 25 pounds (111 Newtons) and less than 45 pounds (200 Newtons);
- i. A survey shall be conducted annually and whenever indicated for installation, major repairs, parts replacement, or as deemed necessary by a qualified expert when quality control test results indicate a survey is necessary; the survey shall include all of the following tests:
  - i. Automatic exposure control performance and thickness response;
  - ii. Accuracy and reproducibility of kVp;
  - iii. System resolution;
  - iv. Breast entrance air kerma and automatic exposure control reproducibility;
  - v. Average glandular dose;
  - vi. X-ray field, light field, and image receptor alignment;
  - vii. Compression paddle alignment;
  - viii. Uniformity of screen speed;
  - ix. System artifacts;
  - x. Radiation output;
  - xi. Decompression;
  - xii. Beam quality and half value layer;
- j. For systems with image receptor modalities other than screen film:
  - i. The quality assurance and quality control program for the acquisition system meets or exceeds the recommendations by the manufacturer;
  - ii. The quality assurance and quality control program for the printer meets or exceeds the recommendations by the image receptor manufacturer. In the absence of recommendations by the image receptor manufacturer for the specified printer, the quality control and assurance program meets or exceeds the recommendations of the printer manufacturer; and
  - iii. The quality assurance and quality control program for the interpretation monitors meets or exceeds the recommendations by the image receptor manufacturer. In the absence of recommendations by the image receptor manufacturer for the specified monitor or monitors, the quality control and assurance program meets or exceeds the recommendations of the interpretation monitor or monitors manufacturer; and
- k. The registrant maintains records documenting compliance with the provisions in this subsection for three years from the date each requirement is met. The records shall be made available for Department inspection.

**C. Mammographic films and reports.**

- 1. A registrant shall maintain films and reports for a minimum of five years. In those cases where no subsequent mammographic procedures are performed, the registrant

shall maintain films and associated reports for 10 years. If the mammographic facility is closed, the registrant shall make arrangements for storage of the films and associated reports for five years after the closure; and

- 2. A registrant shall make films and reports available for comparison upon request for temporary or permanent transfer to other mammographic facilities.

**Historical Note**

New Section R9-7-614 recodified from R12-1-614 at 24

A.A.R. 813, effective March 22, 2018 (Supp. 18-1).

**R9-7-615. Mammography Personnel****A. Personnel.**

- 1. Each registrant shall require personnel who perform mammography, which includes the production, processing, and interpretation of mammograms and related quality assurance activities, to meet the following requirements:
  - a. An interpreting physician shall meet federal requirements (Contained in 21 CFR 900.12(a)(1), revised April 1, 2013, incorporated by reference, and available under R9-7-101. This incorporated material contains no future editions or amendments.); or
    - i. Be licensed under A.R.S. Title 32, Chapters 13 or 17;
    - ii. Have initially completed 40 hours of medical education credits in mammography;
    - iii. Be certified by the American Board of Radiology or the American Osteopathic Board of Radiology or meet the requirements of the mammography quality standards act regulations for quality standards of interpreting physicians;
    - iv. Have interpreted or reviewed an average of 300 mammograms per year during the preceding two years or have completed a radiology residency that included mammogram image interpretation in the preceding two years;
    - v. Have completed 15 hours of continuing medical education credits in mammography during the preceding three years; and
    - vi. Have received at least eight hours of training specific to each mammographic modality before engaging in independent interpretation.
  - b. A mammographic technologist shall meet federal requirements (Contained in 21 CFR 900.12(a)(2), revised April 1, 2013, incorporated by reference, and available under R9-7-101. This incorporated material contains no future editions or amendments.); or
    - i. Possess a valid mammographic technologist certificate issued by the Medical Radiologic Technology Board of Examiners, as required in A.R.S. § 32-2841, or be pursuing mammography certification by training under the direct supervision of a technologist who possesses a valid mammographic technologist certificate;
    - ii. Have performed at least 200 mammographic examinations in the preceding two years;
    - iii. Have completed 15 hours of continuing medical education credits in mammography during the preceding three years; and
    - iv. Have received at least eight hours of training specific to each mammographic modality to be used by the technologist in performing mammographic examinations.

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- c. A radiologic physicist shall meet federal requirements (Contained in 21 CFR 900.12(a)(3), revised April 1, 2013, incorporated by reference and available under R9-7-101. This incorporated material contains no future editions or amendments.); or
  - i. Be certified by the American Board of Radiology, American Board of Medical Physics, or the American Board of Health Physics;
  - ii. Possess documentation of state approval;
  - iii. Hold a master's degree or higher in a physical science;
  - iv. Have, upon initial employment as a radiologic physicist, experience conducting, at least one mammographic facility survey and evaluating at least 10 mammographic units;
  - v. Have, after completing the experience requirements in subsection (A)(1)(c)(iv), continuing experience surveying two mammographic facilities and evaluating six mammographic units during the preceding two years;
  - vi. Have completed 15 hours of continuing medical education credits in mammography during the three preceding years; or
  - vii. Have received at least eight hours of training specific to any modality surveyed; and
- 2. Each registrant shall maintain records documenting the requirements in subsection (A)(1) for three years from the date the requirement is met and make the records available for Department inspection.

- B. Radiologic physicists shall apply for and renew their certification on Department-approved forms. In addition to the Department-approved forms, applicants must also submit documentation showing education, mammography specific training, education, and board certification. Upon renewal, an applicant must submit documentation showing current continuing education requirements are met.

**Historical Note**

New Section R9-7-615 recodified from R12-1-615 at 24 A.A.R. 813, effective March 22, 2018 (Supp. 18-1).

**Appendix A. Information Submitted to the Department According to R9-7-604(A)(3)(c)**

- A. Name and address of the applicant and, if applicable, the name and address of any person within this state that is authorized to act on behalf of the applicant;
- B. Disease or conditions to be diagnosed using the proposed x-ray examination;
- C. A detailed description of each x-ray examination that will be used in the diagnosis;
- D. A description of the population to be examined in the screening program, using characteristics such as age, sex, physical condition, and other descriptive information;
- E. An evaluation of any known alternative diagnostic modalities not involving ionizing radiation that could achieve the same diagnosis as a screening program and why these modalities have not been chosen;
- F. An evaluation by a qualified expert of the x-ray equipment used in the screening program, which demonstrates that the x-ray equipment satisfies the requirements of this Article;
- G. A description of the quality control program;
- H. A copy of the technique chart for the planned x-ray examination;
- I. The qualifications of each individual who will be operating the x-ray equipment;
- J. The qualifications of the individual who will be supervising each operator of the x-ray equipment;

- K. The name and address of the individual who will interpret each radiographic image;
- L. A description of the planned procedures for advising a screened individual and the screened individual's physician of the screening procedure results, and the need for further medical care, and
- M. A description of the procedures for retention or disposition of the radiographic images and other records pertaining to the x-ray examination.

**Historical Note**

New Appendix A, recodified from 12 A.A.C. 1, Article 6, Appendix A at 24 A.A.R. 813, effective March 22, 2018 (Supp. 18-1).

**ARTICLE 7. MEDICAL USES OF RADIOACTIVE MATERIAL****R9-7-701. License Required**

- A. A person may manufacture, produce, acquire, receive, possess, prepare, use, or transfer radioactive material for medical use only in accordance with a specific license issued by the Department, the NRC, or another Agreement State, or as allowed in subsection (B)(1) or (B)(2).
- B. A specific license is not needed for an individual who:
  - 1. Receives, possesses, uses, or transfers radioactive material in accordance with the rules in this Chapter under the supervision of an authorized user as provided in R9-7-706, unless prohibited by license condition; or
  - 2. Prepares unsealed radioactive material for medical use in accordance with the rules in this Chapter under the supervision of an authorized nuclear pharmacist or authorized user.

**Historical Note**

New Section R9-7-701 recodified from R12-1-701 at 24 A.A.R. 813, effective March 22, 2018 (Supp. 18-1).

**R9-7-702. Definitions**

"Authorized medical physicist" means an individual who meets the requirements in R9-7-711. For purposes of ensuring that personnel are adequately trained, an authorized medical physicist is a "qualified expert" as defined in Article 1.

"Authorized nuclear pharmacist" means a pharmacist who meets the requirements in R9-7-712.

"Authorized user" means a physician, dentist, or podiatrist who meets the requirements in R9-7-719, R9-7-721, R9-7-723, R9-7-727, R9-7-728, or R9-7-744.

"Brachytherapy" means a method of radiation therapy in which a sealed source or group of sealed sources is utilized to deliver beta or gamma radiation at a distance of up to a few centimeters, by surface, intracavitary, intraluminal, or interstitial application.

"CT" means computerized tomography.

"High dose rate afterloading brachytherapy" means the treating of human disease using the radiation from a radioactive sealed source containing more than 1 curie of radioactive material. The radioactive material is introduced into a patient's body using a device that allows the therapist to indirectly handle the radiation source during the treatment. For purposes of the requirements in this Article "pulse dose rate afterloading brachytherapy" is included in this definition.

"Human research subject" means an individual who is or becomes a participant in research overseen by an IRB, either as a recipient of the test article or as a control. A



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subject may be either a healthy human, in research overseen by the RDRC, or a patient.

“Institutional review board” (IRB) is defined in R9-7-704(B).

“Manual brachytherapy” means a type of brachytherapy in which the brachytherapy sources (e.g., seeds, ribbons) are manually placed topically on or inserted either into the body cavities that are in close proximity to a treatment site or directly into the tissue volume.

“Medical event” means an event that meets the criteria in R9-7-745.

“Medical institution” means an organization in which several medical disciplines are practiced.

“Medical use” means the intentional internal or external administration of radioactive material, or the radiation from it, to an individual under the supervision of an authorized user.

“Nuclear cardiology” means the diagnosis of cardiac disease using radiopharmaceuticals.

“PET” means positron emission tomography.

“Physically present” means that a supervising medical professional is in proximity to the patient during a radiation therapy procedure so that immediate emergency orders can be communicated to ancillary staff, should the occasion arise.

“Prescribed dosage” means the specified activity or range of activity of unsealed radioactive material as documented:

In a written directive; or

In accordance with the directions of the authorized user for procedures performed in accordance with the uses described in Exhibit A.

“Prescribed dose” means:

For gamma stereotactic radiosurgery, the total dose as documented in the written directive;

For teletherapy, the total dose and dose per fraction as documented in the written directive;

For manual brachytherapy, either the total source strength and exposure time or the total dose, as documented in the written directive; or

For remote brachytherapy afterloaders, the total dose and dose per fraction as documented in the written directive.

“Radiation Safety Officer” (RSO) for purposes of this Article, and in addition to the definition in Article 1 means an individual who:

Meets the requirements in R9-7-710, or

Is identified as a radiation safety officer on:

A specific medical use license issued by the NRC or Agreement State; or

A medical use permit issued by a NRC master material license.

“Radioactive drug” is defined in 21 CFR 310.3(c) and includes a “radioactive biological product” as defined in 21 CFR 600.3, April 1, 2006, both of which are incorporated by reference, published by the Office of Federal Register, National Archives and Records Administration, Washington, DC 20408, and on file with the Department. These incorporated materials contain no future editions or amendments.

“Radioactive Drug Research Committee” (RDRC) means the committee established by the licensee to review all basic research involving the administration of a radioactive drug to human research subjects, taken from 21 CFR 361.1, April 1, 2006, which is incorporated by reference, published by the Office of Federal Register, National Archives and Records Administration, Washington, DC 20408, and on file with the Department. This incorporation by reference contains no future editions or amendments. Research is considered basic research if it is done for the purpose of advancing scientific knowledge, which includes basic information regarding the metabolism (including kinetics, distributions, dosimetry, and localization) of a radioactive drug or regarding human physiology, pathophysiology, or biochemistry. Basic research is not intended for immediate therapeutic or diagnostic purposes and is not intended to determine the safety and effectiveness of a radioactive drug in humans.

“Radiopharmaceutical” means any drug that exhibits spontaneous disintegration of unstable nuclei with the emission of nuclear particles or photons and includes any nonradioactive reagent kit or nuclide generator that is intended to be used in the preparation of any such substance. For purposes of this Article radiopharmaceutical is equivalent to radioactive drug.

“Remote afterloading brachytherapy device” means a device used in radiation therapy that allows the authorized user to insert, from a remote location, a radiation source into an applicator that has been previously inserted in an individual requiring treatment.

“Sealed Source and Device Registry” means the national registry that contains all the registration certificates, generated by both NRC and the Agreement States, that summarize the radiation safety information for the sealed sources and devices and describe the licensing and use conditions approved for the product.

“Stereotactic radiosurgery” means the use of external radiation in conjunction with a stereotactic guidance device to very precisely deliver a dose.

“Teletherapy” means therapeutic irradiation in which the sealed source of radiation is at a distance from the body.

“Therapeutic dosage” means a dosage of unsealed radioactive material that is intended to deliver a radiation dose to a patient or human research subject for palliative or curative treatment.

“Therapeutic dose” means a radiation dose delivered from a source containing radioactive material to a patient or human research subject for palliative or curative treatment.

“Treatment site” means the anatomical description of the tissue intended to receive a radiation dose, as described in a written directive.

“Unit dosage” means a dosage prepared for medical use for administration as a single dosage to a patient or human research subject without any further manipulation of the dosage after it is initially prepared.

“Written directive” means an authorized user’s written order for the administration of radioactive material or radiation from radioactive material to a specific patient or human research subject, as specified in R9-7-707.

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**Historical Note**

New Section R9-7-702 recodified from R12-1-702 at 24  
A.A.R. 813, effective March 22, 2018 (Supp. 18-1).

**R9-7-703. License for Medical Use of Radioactive Material**

**A.** In addition to the requirements set forth in R9-7-309, the Department shall issue a specific license for medical use of radioactive material if:

1. The applicant has appointed a radiation safety committee, meeting the requirements in R9-7-705, that will oversee the use of licensed material throughout the licensee's facility and associated radiation safety program;
2. The applicant possesses facilities for the clinical care of patients or human research subjects; and
3. The individual designated on the application as an authorized user has met the training and experience requirements in R9-7-719, R9-7-721, R9-7-723, R9-7-727, R9-7-728, or R9-7-744.

**B.** Specific licenses to individual authorized users for medical use of radioactive material:

1. The Department shall approve an application by a prospective individual authorized user or prospective group of authorized users for a specific license governing the medical use of radioactive material if:
  - a. The applicant satisfies the general requirements in R9-7-309;
  - b. The application is for use in the applicant's practice at an office outside of a medical institution;
  - c. The applicant meets the training and experience requirements in subsection (A)(3); and
  - d. The applicant has a radiation safety committee, if the criteria in R9-7-705 are applicable and a RDRC, if the use is basic research involving humans.
2. The Department shall not approve an application by a prospective authorized user or group of prospective authorized users for a specific license to receive, possess, or use radioactive material on the premises of a medical institution unless:
  - a. The use of radioactive material is limited to:
    - i. The administration of radiopharmaceuticals for diagnostic or therapeutic purposes;
    - ii. The performance of diagnostic studies on patients or human research subjects to whom a radiopharmaceutical has been administered;
    - iii. The performance of in vitro diagnostic studies; or
    - iv. The calibration and quality control checks of radioactive assay instrumentation, radiation safety instrumentation, or diagnostic instrumentation;
  - b. The authorized user brings the radioactive material and removes the radioactive material upon departure; and
  - c. The medical institution does not hold a radioactive materials license under subsection (A).

**C.** Specific licenses for certain groups of medical uses of radioactive material:

1. The Department shall approve an application for a specific license under subsections (A) or (B), for any medical use or uses of radioactive material specified in Groups 100 through 1,000, in Exhibit A of this Article, for all of the materials within each group requested in the application if:
  - a. The applicant satisfies the requirements of subsections (A) and (B);
  - b. Each person involved in the preparation and use of the radioactive material is an authorized user, an

authorized nuclear pharmacist, or certified as a nuclear medicine technologist by the Medical Radiologic Technology Board of Examiners (MRTBE);

- c. The applicant's radiation detection and measuring instrumentation is adequate for conducting the procedures involved in the authorized uses selected from Group 100 through Group 1,000; and
  - d. The applicant's radiation safety operating procedures are adequate for handling and disposal of the radioactive material involved in the authorized uses selected from Group 100 through Group 1,000.
2. Any licensee who is authorized to use radioactive material:
- a. In unsealed form under Groups 100, 200, 300 or 1,000 listed in Exhibit A of this Article, shall do so using radiopharmaceuticals prepared in accordance with R9-7-311(I); or
  - b. In sealed source form under Groups 400, 500, 600, or 1,000 listed in Exhibit A of this Article, shall do so using sealed sources that have been manufactured and distributed in accordance with R9-7-311(K);
  - c. In any form under group 1,000 listed in Exhibit A of this Article, shall do so using sealed and unsealed sources that have been manufactured and distributed in accordance with the specific license issued by the Department.
3. Any licensee who is licensed according to subsection (C)(1), for one or more of the medical use groups in Exhibit A also is authorized to use radioactive material under the general license in R9-7-306(E) for the specified in vitro uses without filing Form ARRA-9 as required by R9-7-306(E)(2); provided, that the licensee is subject to the other provisions of R9-7-306(E).
- D.** In addition to the other license application requirements in this Section, each applicant shall include in the radiation safety program required under subsection (A)(1) a system for ensuring that each syringe and vial that contains unsealed radioactive material is labeled in accordance with R9-7-431(D).

**Historical Note**

New Section R9-7-703 recodified from R12-1-703 at 24  
A.A.R. 813, effective March 22, 2018 (Supp. 18-1).

**R9-7-704. Provisions for the Protection of Human Research Subjects**

**A.** A licensee may conduct basic research involving human research subjects and research involving patients receiving investigational new drugs or devices if the licensee only uses the radioactive material specified on the license for the uses authorized on the license.

**B.** If research is conducted, funded, supported, or regulated by a federal agency that has implemented the federal Policy for Protection of Human Research Subjects (45 CFR 46, June 23, 2005, which is incorporated by reference, published by the Office of Federal Register, National Archives and Records Administration, Washington, DC 20408, on file with the Department, and contains no future editions or amendments), the licensee shall:

1. Obtain review and approval of the research from an Institutional Review Board (IRB); and
2. Obtain informed consent from the human research subject.

**C.** If research will not be conducted, funded, supported, or regulated by a federal agency that has implemented the federal policy in subsection (B), a medical licensee shall, before conducting research, apply for and receive a specific amend-

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ment to its use license. The amendment request shall include a written commitment that the licensee will, before conducting research:

1. Obtain review and approval of the research from an IRB, as defined and described in the federal policy; and
2. Obtain informed consent from the human research subject.

**D.** Before conducting the research described in subsection (A) the licensee shall apply to the Department for and receive a specific amendment to its medical use license. The amendment request shall include a written commitment that the licensee will, before conducting research:

1. Obtain any review and approval required by this Section, and
2. Obtain informed consent from the human research subject if applicable.

**E.** Nothing in this Section relieves a licensee from complying with the other requirements in this Article.

**Historical Note**

New Section R9-7-704 recodified from R12-1-704 at 24 A.A.R. 813, effective March 22, 2018 (Supp. 18-1).

**R9-7-705. Authority and Responsibilities for the Radiation Protection Program**

- A.** A licensee's management shall appoint in writing a Radiation Safety Officer, who agrees, in writing, to be responsible for implementing the radiation protection program. The licensee, through the Radiation Safety Officer, shall ensure that radiation safety activities are being performed in accordance with licensee-approved procedures and regulatory requirements. A licensee's management may appoint, in writing, one or more Associate Radiation Safety Officers to support the Radiation Safety Officer. The Radiation Safety Officer, with written agreement of the licensee's management, must assign the specific duties and tasks to each Associate Radiation Safety Officer. These duties and tasks are restricted to the types of use for which the Associate Radiation Safety Officer is listed on a license. The Radiation Safety Officer may delegate duties and tasks to the Associate Radiation Safety Officer but shall not delegate the authority or responsibilities for implementing the radiation protection program. Each time the Radiation Safety Officer is changed, the licensee shall provide to the Department within 30 days an amendment request and a copy of the correspondence between the licensee's management and the candidate, accepting the position of Radiation Safety Officer.
- B.** Licensees that are authorized for two or more different types of uses of radioactive material listed in Groups 300, 400, 600, and 1,000, or two or more types of units under group 600 or 1,000, shall establish a Radiation Safety Committee (RSC) to oversee all uses of radioactive material permitted by the license. At a minimum, the RSC shall include an authorized user of each type of use permitted by the license, the Radiation Safety Officer, a representative of the nursing service, and a representative of management who is neither an authorized user nor a Radiation Safety Officer.
- C.** If a licensee or applicant is not a health care institution and is unable to meet the RSC membership requirements in subsection (B), the licensee or applicant may request an exemption in accordance with A.R.S. § 30-654(B)(13). The request for exemption shall be made to the Department in writing and list the reasons why the health care institution is unable to meet the requirements.
- D.** A licensee shall ensure that the RSC meets, at a minimum, on an annual basis and maintain the RSC meeting minutes for Department review for three years after the date of the RSC meeting.

**E.** A licensee shall notify the Department no later than 30 days after:

1. An authorized user, an authorized nuclear pharmacist, a Radiation Safety Officer, an Associate Radiation Safety Officer, an authorized medical physicist, or ophthalmic physicist permanently discontinues performance of duties under the license or has a name change;
2. The licensee permits an individual qualified to be a Radiation Safety Officer under R9-7-710 to function as a temporary Radiation Safety Officer and to perform the functions of a Radiation Safety Officer;
3. The licensee's mailing address changes;
4. The licensee's name changes, but the name change does not constitute a transfer of control of the license as described in R9-7-313(B);
5. The licensee has added to or changed the areas of use identified in the application or on the license where byproduct material is used in accordance with R9-7-301, if the change does not include addition or relocation of either an area where PET radionuclides are produced or a PET radioactive drug delivery line from the PET radionuclide/PET radioactive drug production area; or
6. The licensee obtains a sealed source for use in manual brachytherapy from a different manufacturer or with a different model number than authorized by its license for which it did not require a license amendment as provided in R9-7-701. The notification must include the manufacturer and model number of the sealed source, the isotope, and the quantity per sealed source.

**Historical Note**

New Section R9-7-705 recodified from R12-1-705 at 24 A.A.R. 813, effective March 22, 2018 (Supp. 18-1).  
Amended by final expedited rulemaking at 25 A.A.R. 3561, effective December 3, 2019 (Supp. 19-4).

**R9-7-706. Supervision**

- A.** For purposes of this rule, "supervision" means the exercise of control over or direction of the use of radioactive material in the practice of medicine by an authorized user named on a radioactive material license. Supervision does not require a supervising physician's constant physical presence if the supervising physician can be easily contacted by radio, telephone, or telecommunication.
- B.** A physician may use radioactive material if the person is licensed by the Arizona Medical Board or Board of Osteopathic Examiners in Medicine and Surgery and is listed as an authorized user on the Arizona radioactive material license under which the radioactive material is obtained.
- C.** A licensee that permits the receipt, possession, use, or transfer of radioactive material by an individual under the supervision of an authorized user, shall:
1. Instruct the supervised individual in the licensee's written radiation protection procedures, written directive procedures, rules, and license conditions with respect to the use of radioactive material; and
  2. Require the supervised individual to follow the instructions of the supervising authorized user for medical uses of radioactive material, written radiation protection procedures established by the licensee, written directive procedures, rules, and license conditions with respect to the medical use of radioactive material.
- D.** A licensee that permits the preparation of radioactive material for medical use by an individual who is supervised by an authorized nuclear pharmacist or a physician, who is an authorized user, shall:

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1. Instruct the supervised individual in the preparation of radioactive material for medical use, as appropriate to that individual's involvement with radioactive material; and
  2. Require the supervised individual to follow the instructions of the supervising authorized user or authorized nuclear pharmacist regarding the preparation of radioactive material for medical use, written radiation protection procedures established by the licensee, the rules, and license conditions.
- E. A licensee that permits supervised activities under subsections (C) and (D) is responsible for the acts and omissions of the supervised individual.
- F. A limited-service nuclear pharmacy licensee shall dispense radiopharmaceuticals only to a physician listed as an authorized user on a valid radioactive material license issued by the Department, an Agreement State, or the NRC. For purposes of this rule "limited-service nuclear pharmacy" is defined in R4-23-110.

**Historical Note**

New Section R9-7-706 recodified from R12-1-706 at 24 A.A.R. 813, effective March 22, 2018 (Supp. 18-1).

**R9-7-707. Written Directives**

- A. A licensee shall ensure that a written directive is dated and signed by an authorized user before the administration of I-131 sodium iodide greater than 1.11 MBq (30 microcuries ( $\mu\text{Ci}$ )), any therapeutic dosage of unsealed radioactive material or any therapeutic dose of radiation from radioactive material. If, because of the emergent nature of the patient's condition, a delay in order to provide a written directive would jeopardize the patient's health, an oral directive is acceptable. The information contained in the oral directive shall be documented as soon as possible in writing in the patient's record. A written directive shall be prepared within 48 hours of the oral directive.
- B. A written directive shall contain the patient or human research subject's name and the following information:
1. For any administration of quantities greater than 1.11 MBq (30  $\mu\text{Ci}$ ) of sodium iodide I-131: the dosage;
  2. For an administration of a therapeutic dosage of unsealed radioactive material other than sodium iodide I-131: the radiopharmaceutical, dosage, and route of administration;
  3. For gamma stereotactic radiosurgery: the total dose, treatment site, and values for the target coordinate settings per treatment for each anatomically distinct treatment site;
  4. For teletherapy: the total dose, dose per fraction, number of fractions, and treatment site;
  5. For high dose-rate remote afterloading brachytherapy: the radionuclide, treatment site, dose per fraction, number of fractions, and total dose;
  6. For permanent implant brachytherapy:
    - a. Before implantation: the treatment site, radionuclide, and total strength; and
    - b. After implantation but before the patient leaves the post-treatment recovery area: the treatment site, number of sources implanted, total source strength implanted, and date; or
  7. For all other brachytherapy, including low, medium, and pulsed dose rate remote afterloaders:
    - a. Before implantation: the treatment site, radionuclide, and dose; and
    - b. After implantation but before completion of the procedure: the radionuclide, treatment site, number of sources, total source strength and exposure time (or the total dose), and date.

- C. The licensee shall retain a copy of the written directive for three years after creation of the record.

**Historical Note**

New Section R9-7-707 recodified from R12-1-707 at 24 A.A.R. 813, effective March 22, 2018 (Supp. 18-1).  
Amended by final expedited rulemaking at 25 A.A.R. 3561, effective December 3, 2019 (Supp. 19-4).

**R9-7-708. Procedures for Administrations Requiring a Written Directive**

For any administration requiring a written directive, the licensee shall develop, implement, and maintain written procedures to provide high confidence that:

1. The patient's or human research subject's identity is verified before each administration; and
2. Each administration is in accordance with the written directive.

**Historical Note**

New Section R9-7-708 recodified from R12-1-708 at 24 A.A.R. 813, effective March 22, 2018 (Supp. 18-1).

**R9-7-709. Sealed Sources or Devices for Medical Use**

A licensee may only use:

1. Sealed sources, including teletherapy sources, or devices manufactured, labeled, packaged, and distributed in accordance with a license issued under Article 3 of this Chapter, equivalent regulations of the NRC or equivalent requirements of an Agreement State; or
2. Sealed sources or devices noncommercially transferred from another medical licensee; or
3. Teletherapy sources manufactured and distributed in accordance with a license issued by the Department, the NRC, or another Agreement State.

**Historical Note**

New Section R9-7-709 recodified from R12-1-709 at 24 A.A.R. 813, effective March 22, 2018 (Supp. 18-1).

**R9-7-710. Radiation Safety Officer and Associate Radiation Safety Officer Training**

- A. A licensee shall require an individual fulfilling the responsibilities of the Radiation Safety Officer, described in R9-7-705, to be an individual who:
1. Is certified by a specialty board whose certification process includes all of the requirements in subsection (A)(2)(a) and (B) and whose certification has been recognized by the Department, the NRC, or an Agreement State. To have its certification process recognized, a specialty board shall require all candidates for certification to:
    - a. Meet the following minimum requirements:
      - i. Hold a bachelor's or graduate degree from an accredited college or university in physical science or engineering or biological science with a minimum of 20 college credits in physical science;
      - ii. Have five or more years of professional experience in health physics (graduate training may be substituted for no more than two years of the required experience) including at least three years in applied health physics; and
      - iii. Pass an examination administered by diplomates of the specialty board, which evaluates knowledge and competence in radiation physics and instrumentation, radiation protection, mathematics pertaining to the use and measure-

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- ment of radioactivity, radiation biology, and radiation dosimetry; or
- b. Meet the following minimum requirements:
    - i. Hold a master's or doctor's degree in physics, medical physics, other physical science, engineering, or applied mathematics from an accredited college or university;
    - ii. Have two years of full-time practical training and/or supervised experience in medical physics;
      - (1) Under the supervision of a medical physicist who is certified in medical physics by a specialty board recognized by the Department, the NRC, or another Agreement State; or
      - (2) In clinical nuclear medicine facilities providing diagnostic and/or therapeutic services under the direction of physicians who meet the requirements for authorized users qualified under subsection (B), R9-7-721, or R9-7-723; and
    - iii. Pass an examination, administered by diplomates of the specialty board, that assesses knowledge and competence in clinical diagnostic radiological or nuclear medicine physics and in radiation safety;
  2. Has:
    - a. Completed a structured educational program consisting of both:
      - i. 200 hours of didactic and laboratory training in the following areas:
        - (1) Radiation physics and instrumentation;
        - (2) Radiation protection;
        - (3) Mathematics pertaining to the use and measurement of radioactivity;
        - (4) Radiation biology; and
        - (5) Radiation dosimetry; and
      - ii. One year of full-time radiation safety experience under the supervision of the individual identified as the Radiation Safety Officer on a Department, a NRC, or an Agreement State license or permit issued by a NRC master material licensee that authorizes similar type(s) of use(s) of radioactive material involving the following:
        - (1) Shipping, receiving, and performing related radiation surveys;
        - (2) Using and performing checks for proper operation of instruments used to determine the activity of dosages, survey meters, and instruments used to measure radionuclides;
        - (3) Securing and controlling radioactive material;
        - (4) Using administrative controls to avoid mistakes in the administration of radioactive material;
        - (5) Using procedures to prevent or minimize radioactive contamination and using proper decontamination procedures;
        - (6) Using emergency procedures to control radioactive material; and
        - (7) Disposing of radioactive material; and
    - b. Obtained written certification, signed by a preceptor Radiation Safety Officer or Associate Radiation Safety Officer, that the individual has satisfactorily completed the requirements in subsection (A)(2)(a) and has achieved a level of radiation safety knowledge sufficient to function independently as a Radiation Safety Officer or as an Associate Radiation Safety Officer for a medical use licensee;
  3. Is:
    - a. A medical physicist who has been certified by a specialty board whose certification process has been recognized by the Department, the NRC, or another Agreement State under R9-7-711(A) or equivalent, has experience with radiation safety aspects of similar types of use of radioactive material for which the licensee seeks the approval of the individual as Radiation Safety Officer or an Associate Radiation Safety Officer, and meets the requirements in subsection (B); or
    - b. An authorized user, authorized medical physicist, or authorized nuclear pharmacist identified on the licensee's license and has experience with the radiation safety aspects of similar types of use of radioactive material for which the individual has Radiation Safety Officer responsibilities; or
  4. Has experience with the radiation safety aspects of the types of use of radioactive material for which the individual is seeking simultaneous approval both as the Radiation Safety Officer and the authorized user on the same new medical license and meets the requirements in subsection (B).
- B.** A licensee shall require an individual fulfilling the responsibilities of the Radiation Safety Officer to have training in the radiation safety, regulatory issues, and emergency procedures for the types of use for which the licensee seeks approval. This training requirement may be satisfied by completing training that is supervised by a Radiation Safety Officer, an Associate Radiation Safety Officer, authorized medical physicist, authorized nuclear pharmacist, or authorized user, as appropriate, who is authorized for the type(s) of use for which the licensee is seeking approval.
- C.** Exceptions.
1. An individual identified as a Radiation Safety Officer or as an Associate Radiation Safety Officer on a Department, a NRC, or another Agreement State license or a permit issued by the NRC or an Agreement State broad scope licensee or master material license permit or by a master material license permittee of broad scope May 5, 2007 need not comply with the training requirements in subsections (A)(1) through (4).
  2. A physician, dentist, or podiatrist identified as an authorized user for the medical use of radioactive material on a license issued by the Department, the NRC, or an Agreement State, a permit issued by a NRC master material licensee, a permit issued by the Department, the NRC, or an Agreement State broad scope licensee, or a permit issued by a NRC master material license broad scope permittee May 5, 2007 need not comply with the training requirements in this Article.
- D.** The training and experience required in this Section shall be obtained within the seven years preceding the date of application or the individual shall have had related continuing education and experience since the required training and experience was completed.
- E.** Individuals who, under subsection (C), need not comply with training requirements described in this Section may serve as preceptors for, and supervisors of, applicants seeking authorization on Department licenses for the same uses for which these individuals are authorized.

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## F. Records Retention.

1. The licensee shall retain both a copy of the authority, duties, and responsibilities of the Radiation Safety Officer, as required by this Section, and a signed copy of each Radiation Safety Officer's agreement to be responsible for implementing the radiation safety program for the duration of the license. The records must include the signature of the Radiation Safety Officer and licensee management.
2. For each Associate Radiation Safety Officer appointed under this Section, the licensee shall retain, for five years after the Associate Radiation Safety Officer is removed from the license, a copy of the written document appointing the Associate Radiation Safety Officer, signed by the licensee's management.

**Historical Note**

New Section R9-7-710 recodified from R12-1-710 at 24 A.A.R. 813, effective March 22, 2018 (Supp. 18-1). Amended by final expedited rulemaking at 24 A.A.R. 2151, effective July 12, 2018 (Supp. 18-3). Amended by final expedited rulemaking at 25 A.A.R. 3561, effective December 3, 2019 (Supp. 19-4).

**R9-7-711. Authorized Medical Physicist Training**

## A. A licensee shall require an authorized medical physicist to be an individual who:

1. Is certified by a specialty board whose certification process includes all of the training and experience requirements in subsections (A)(2)(a) and (B) and whose certification has been recognized by the Department, the NRC, or an Agreement State. To have its certification process recognized, a specialty board shall require all candidates for certification to:
  - a. Hold a master's or doctor's degree in physics, medical physics, other physical science, engineering, or applied mathematics from an accredited college or university;
  - b. Have two years of full-time practical training and/or supervised experience in medical physics:
    - i. Under the supervision of a medical physicist who is certified in medical physics by a specialty board recognized by the NRC or an Agreement State; or
    - ii. In clinical radiation facilities providing high-energy, external beam therapy (photons and electrons with energies greater than or equal to 1 million electron volts) and brachytherapy services under the direction of physicians who meet the requirements for authorized users in R9-7-710, R9-7-719, R9-7-721, R9-7-723, R9-7-727, R9-7-728, or R9-7-744; and
  - c. Pass an examination, administered by diplomates of the specialty board, that assesses knowledge and competence in clinical radiation therapy, radiation safety, calibration, quality assurance, and treatment planning for external beam therapy, brachytherapy, and stereotactic radiosurgery; or
2. Meets the following alternative training requirements:
  - a. Holds a master's or doctor's degree in physics, medical physics, other physical science, engineering, or applied mathematics from an accredited college or university; and has completed one year of full-time training in medical physics and an additional year of full-time work experience under the supervision of an individual who meets the requirements for an authorized medical physicist for the type(s) of use

for which the individual is seeking authorization. This training and work experience must be conducted in clinical radiation facilities that provide high-energy, external beam therapy (photons and electrons with energies greater than or equal to 1 million electron volts) and brachytherapy services and must include:

- i. Performing sealed source leak tests and inventories;
  - ii. Performing decay corrections;
  - iii. Performing full calibration and periodic spot checks of external beam treatment units, stereotactic radiosurgery units, and remote afterloading units as applicable; and
  - iv. Conducting radiation surveys around external beam treatment units, stereotactic radiosurgery units, and remote afterloading units as applicable; and
- b. Has obtained written attestation that the individual has satisfactorily completed the requirements in both subsections (A)(2)(a) and (B); and has achieved a level of competency sufficient to function independently as an authorized medical physicist for each type of therapeutic medical unit for which the individual is requesting authorized medical physicist status. The written attestation must be signed by a preceptor authorized medical physicist who meets the requirements in this Section, or equivalent Agreement State or NRC requirements for an authorized medical physicist for each type of therapeutic medical unit for which the individual is requesting authorized medical physicist status.

- B. A licensee shall require an authorized medical physicist to be an individual who has training for the type(s) of use for which authorization is sought that includes hands-on device operation, safety procedures, clinical use, and the operation of a treatment planning system. This training requirement may be satisfied by satisfactorily completing either a training program provided by the vendor or by training supervised by an authorized medical physicist authorized for the type(s) of use for which the individual is seeking authorization.
- C. Exceptions. An individual identified as a teletherapy or medical physicist on a Department, a NRC, or another Agreement State license or a permit issued by the NRC or another Agreement State broad scope licensee or master material license permit or by a master material license permittee of broad scope before May 5, 2007 need not comply with the training requirements in subsection (A).
- D. The training and experience required in this Section shall be obtained within the seven years preceding the date of application or the individual shall have had related continuing education and experience since the required training and experience was completed.
- E. Individuals who, under subsection (C), need not comply with training requirements described in this Section may serve as preceptors for, and supervisors of, applicants seeking authorization on Department licenses for the same uses for which these individuals are authorized.

**Historical Note**

New Section R9-7-711 recodified from R12-1-711 at 24 A.A.R. 813, effective March 22, 2018 (Supp. 18-1). Amended by final expedited rulemaking at 24 A.A.R. 2151, effective July 12, 2018 (Supp. 18-3). Amended by

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final expedited rulemaking at 25 A.A.R. 3561, effective December 3, 2019 (Supp. 19-4).

**R9-7-712. Authorized Nuclear Pharmacist Training**

A. A licensee shall require the authorized nuclear pharmacist to be a pharmacist who:

1. Is certified as a nuclear pharmacist by a specialty board whose certification process has been recognized by the Department, the NRC, or an Agreement State. To have its certification process recognized, a specialty board shall require all candidates for certification to:
  - a. Have graduated from a pharmacy program accredited by the American Council on Pharmaceutical Education (ACPE) or have passed the Foreign Pharmacy Graduate Examination Committee (FPGEC) examination;
  - b. Hold a current, active license to practice pharmacy in Arizona;
  - c. Provide evidence of having acquired at least 4000 hours of training/experience in nuclear pharmacy practice. Academic training may be substituted for no more than 2000 hours of the required training and experience; and
  - d. Pass an examination in nuclear pharmacy administered by diplomates of the specialty board, that assesses knowledge and competency in procurement, compounding, quality assurance, dispensing, distribution, health and safety, radiation safety, provision of information and consultation, monitoring patient outcomes, research and development; or
2. Has completed 700 hours in a structured educational program consisting of both:
  - a. 200 hours of classroom and laboratory training in the following areas:
    - i. Radiation physics and instrumentation;
    - ii. Radiation protection;
    - iii. Mathematics pertaining to the use and measurement of radioactivity;
    - iv. Chemistry of radioactive material for medical use; and
    - v. Radiation biology; and
  - b. Supervised practical experience in a nuclear pharmacy involving:
    - i. Shipping, receiving, and performing related radiation surveys;
    - ii. Using and performing checks for proper operation of instruments used to determine the activity of dosages, survey meters, and, if appropriate, instruments used to measure alpha- or beta-emitting radionuclides;
    - iii. Calculating, assaying, and safely preparing dosages for patients or human research subjects;
    - iv. Using administrative controls to avoid medical events in the administration of radioactive material; and
    - v. Using procedures to prevent or minimize radioactive contamination and using proper decontamination procedures; and
3. Has obtained written attestation, signed by a preceptor authorized nuclear pharmacist, that the individual has satisfactorily completed the requirements in subsection (A)(2) and has achieved a level of competency sufficient to function independently as an authorized nuclear pharmacist.

B. Exceptions. An individual identified as a nuclear pharmacist on a Department, a NRC, or an Agreement State license or a

permit issued by the NRC or an Agreement State broad scope licensee or master material license permit or by a master material license permittee of broad scope before the effective date of these rules need not comply with the training requirements in subsections (A)(1) through (A)(3).

- C. The training and experience required in this Section shall be obtained within the seven years preceding the date of application or the individual shall have had related continuing education and experience since the required training and experience was completed.
- D. Individuals who, under subsection (B), need not comply with training requirements described in this Section may serve as preceptors for, and supervisors of, applicants seeking authorization on Department licenses for the same uses for which these individuals are authorized.

**Historical Note**

New Section R9-7-712 recodified from R12-1-712 at 24 A.A.R. 813, effective March 22, 2018 (Supp. 18-1).

**R9-7-713. Determination of Prescribed Dosages, and Possession, Use, and Calibration of Instruments**

- A. A licensee shall determine and record the activity of each dosage before medical use.
- B. For a unit dosage, this determination shall be made by:
  1. Direct measurement of radioactivity; or
  2. Decay correction, based on the activity or activity concentration determined by:
    - a. A manufacturer or preparer licensed under R9-7-311 or equivalent NRC or Agreement State requirements; or
    - b. A Department, a NRC, or an Agreement State licensee for use in research in accordance with a Radioactive Drug Research Committee-approved protocol or an Investigational New Drug (IND) protocol accepted by FDA or;
    - c. A PET radioactive drug producer licensed under 1 R9-7-311 or equivalent NRC or Agreement State requirements.
- C. For other than unit dosages, this determination shall be made by:
  1. Direct measurement of radioactivity;
  2. Combination of measurement of radioactivity and mathematical calculations; or
  3. Combination of volumetric measurements and mathematical calculations based on the measurement made by a manufacturer or preparer licensed under R9-7-311, or equivalent NRC or Agreement State requirements.
- D. Unless otherwise directed by the authorized user, a licensee may not use a dosage if the dosage does not fall within the prescribed dosage range or if the dosage differs from the prescribed dosage by more than 20 percent.
- E. A licensee shall retain a record of the dosage determination required by this Section for Department inspection for three years.
- F. For direct measurements performed in accordance with subsection (B)(1), a licensee shall possess and use instrumentation to measure the activity of the dosage before it is administered to each patient or human research subject.
- G. A licensee shall calibrate the instrumentation required in subsection (F) in accordance with nationally recognized standards, the manufacturer's instructions, or the following procedures.
  1. The procedures that may be followed are:
    - a. Check each dose calibrator for constancy with a dedicated check source at the beginning of each day of use;

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- b. Test each dose calibrator for accuracy upon installation and at least annually thereafter by assaying at least two sealed sources containing different radionuclides whose activity the manufacturer has determined within 5 percent of its stated activity, whose activity is at least 10 microcuries for radium-226 and 50 microcuries for any other photon-emitting radionuclide, and at least one of which has a principal photon energy between 100 keV and 500 keV;
  - c. Test each dose calibrator for linearity upon installation and at least quarterly thereafter over a range from the highest dosage that will be administered to a patient or human research subject to 1.1 megabecquerels (30 microcuries);
  - d. Test each dose calibrator for geometry dependence upon installation over the range of volumes and volume configurations for which it will be used. The licensee shall keep a record of this test for the duration of the use of the dose calibrator;
  - e. Perform appropriate checks and tests required by this Section following adjustment or repair of the dose calibrator; and
  - f. Mathematically correct dosage readings for any geometry or linearity error that exceeds 10 percent if the dosage is greater than 10 microcuries and shall repair or replace the dose calibrator if the accuracy or constancy error exceeds 10 percent.
- 2. A licensee shall maintain the dose calibrator in accordance with this subsection, even though the dose calibrator is only used to “verify” a dosage prepared by a supplier authorized in subsection (B)(2).
  - 3. A licensee shall maintain on file for Department review nationally recognized standards or manufacturer’s instructions used to maintain a dose calibrator and meet the requirements of subsection (G).
- H.** A licensee shall calibrate the survey instruments before first use, annually, and following a repair that affects the calibration. A licensee shall:
- 1. Calibrate all scales with readings up to 10 mSv (1000 mrem) per hour with a radiation source;
  - 2. Calibrate two separated readings on each scale or decade that will be used to show compliance; and
  - 3. Conspicuously note on the instrument the date of calibration.
- I.** A licensee may not use survey instruments if the difference between the indicated exposure rate and the calculated exposure rate is more than 20 percent.
- J.** A licensee shall retain records of instrument calibration for three years following the calibration.

**Historical Note**

New Section R9-7-713 recodified from R12-1-713 at 24 A.A.R. 813, effective March 22, 2018 (Supp. 18-1).

**R9-7-714. Authorization for Calibration, Transmission, and Reference Sources**

Any person authorized by R9-7-703 for medical use of radioactive material may receive, possess, and use any of the following radioactive material for check, calibration, transmission, and reference use.

- 1. Sealed sources, not exceeding 1.11 GBq (30 mCi) each, manufactured and distributed by a person licensed under Article 3 of this Chapter or equivalent NRC or Agreement State regulations.
- 2. Sealed sources, not exceeding 1.11 GBq (30 mCi) each, redistributed by a licensee authorized to redistribute the sealed sources manufactured and distributed by a person

licensed under Article 3 of this Chapter, providing the redistributed sealed sources are in the original packaging and shielding and are accompanied by the manufacturer’s approved instructions.

- 3. Any radioactive material with a half-life not longer than 120 days in individual amounts not to exceed 0.56 GBq (15 mCi).
- 4. Any radioactive material with a half-life longer than 120 days in individual amounts not to exceed the smaller of 7.4 MBq (200 µCi) or 1000 times the quantities in Article 4, Appendix B of this Chapter.
- 5. Technetium-99m in amounts as needed.
- 6. A licensee is limited to five sources of radiation authorized under subsections (1) through (3), unless otherwise specified in the licensee’s radioactive material license.

**Historical Note**

New Section R9-7-714 recodified from R12-1-714 at 24 A.A.R. 813, effective March 22, 2018 (Supp. 18-1).

**R9-7-715. Requirements for Possession of Sealed Sources and Brachytherapy Sources**

- A.** A licensee in possession of any sealed source or brachytherapy source shall follow the radiation safety and handling instructions supplied by the manufacturer.
- B.** A licensee in possession of a sealed source shall test the source for leakage in accordance with R9-7-417.
- C.** A licensee in possession of sealed sources or brachytherapy sources, except for gamma stereotactic radiosurgery sources, shall conduct a physical inventory every six months of all sources in its possession. During the period of time between the inventories, the licensee shall add each acquired sealed source to the inventory record and remove from the inventory record each source that leaves the licensee’s control.
- D.** A licensee shall document the inventories conducted under subsection (C) and maintain inventory records in accordance with R9-7-450.

**Historical Note**

New Section R9-7-715 recodified from R12-1-715 at 24 A.A.R. 813, effective March 22, 2018 (Supp. 18-1).

**R9-7-716. Surveys of Ambient Radiation Exposure Rate, Surveys for Contamination, and PET Radiation Exposure Concerns**

- A.** In addition to the surveys required in Article 4 of this Chapter, a licensee shall survey with a radiation detection survey instrument at the end of each day of use all areas where unsealed radioactive material, requiring a written directive, is prepared for use or administered. In areas of routine use, that are to be released for unrestricted use, a licensee shall perform a survey of the area using an instrument appropriate for detecting contamination before releasing the area for unrestricted use.
- B.** A licensee shall obtain the services of a person, experienced in the principles of radiation protection and installation design, to design a PET facility and perform a radiation survey when the facility is ready for patient imaging. The licensee shall provide a copy of the installation radiation survey to the Department within 30 days of imaging the first patient.
- C.** The licensee shall use engineering controls or shield each PET use area with protective barriers necessary to comply with the radiation exposure limits in R9-7-408 and R9-7-416.
  - 1. At the time of application for a new license or amendment to an existing license, and before imaging of the first patient, the licensee shall provide to the Department a copy of the installation report signed by the contractor who installed the shielding material recommended by a person meeting the requirements in subsection (B) and a



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copy of the installation radiation survey required in subsection (B).

2. The licensee shall perform shielding calculations in accordance with *AAPM Task Group 108: PET and PET/CT Shielding Requirements*, in Medical Physics, Vol. 33, No. 1, January 2006, which is incorporated by reference, published by the American Association of Physicists in Medicine, One Physics Ellipse, College Park, MD 20740, and on file with the Department. This incorporation by reference contains no future editions or amendments. In lieu of these procedures, the licensee may use equivalent calculations approved by the Department.
- D. As part of the annual ALARA review required in R9-7-407, the licensee shall document a review of the PET patient workload and associated change, if any, in public exposure resulting from the installed facility shielding and other public radiation exposure controls in use at the time of the review.

**Historical Note**

New Section R9-7-716 recodified from R12-1-716 at 24 A.A.R. 813, effective March 22, 2018 (Supp. 18-1).

**R9-7-717. Release of Individuals Containing Radioactive Material or Implants Containing Radioactive Material**

- A. A licensee may authorize the release from its control of any individual who has been administered unsealed radioactive material or implants containing radioactive material, if the total effective dose equivalent to any other individual from exposure to the released individual is not likely to exceed 5 millisieverts (0.5 rem).
- B. A licensee shall provide the released individual, or the individual's parent or guardian, with instructions, including written instructions, on actions recommended to maintain doses to other individuals as low as is reasonably achievable if the total effective dose equivalent to any other individual is likely to exceed 1 millisievert (0.1 rem). If the total effective dose equivalent to a nursing infant or child could exceed 1 millisievert (0.1 rem) assuming there were no interruption of breast-feeding, the instructions shall also include:
  1. Guidance on the interruption or discontinuation of breast-feeding; and
  2. Information on the potential consequences, if any, of failure to follow the guidance.
- C. A licensee shall maintain a record of the basis for authorizing the release of an individual and instructions provided to a breast-feeding female for three years from the date of the administration performed under subsection (A). Nothing in this rule relieves the licensee from the personnel exposure requirements in Article 4.

**Historical Note**

New Section R9-7-717 recodified from R12-1-717 at 24 A.A.R. 813, effective March 22, 2018 (Supp. 18-1).

**R9-7-718. Mobile Medical Service**

- A. A licensee providing mobile medical service shall:
  1. Obtain a letter signed by the management of each client for which services are rendered that permits the use of radioactive material at the client's address and clearly delineates the authority and responsibility of the licensee and the client;
  2. Check instruments used to measure the activity of unsealed radioactive material for proper function before medical use at each client's address or on each day of use, whichever is more frequent. At a minimum, the check for proper function required by this subsection shall include a constancy check;

3. Check survey instruments for proper operation with a dedicated check source before use at each client's address; and
4. Before leaving a client's address, survey all areas of use to ensure compliance with the requirements in Article 4 of this Chapter.
- B. A mobile medical service may not have radioactive material delivered from the manufacturer or the distributor to the client unless the client has a license allowing its possession. If applicable, radioactive material delivered to the client shall be received and handled in conformance with the client's license.
- C. A licensee providing mobile medical services shall retain the letter required in subsection (A)(1) and the record of each survey required in subsection (A)(4) for three years from the date of the survey.

**Historical Note**

New Section R9-7-718 recodified from R12-1-718 at 24 A.A.R. 813, effective March 22, 2018 (Supp. 18-1).

**R9-7-719. Training for Uptake, Dilution, and Excretion Studies**

- A. Except as provided in R9-7-710, the licensee shall require an authorized user of unsealed radioactive material for the uses authorized under Group 100 in Exhibit A, Medical Use Groups of this Article to be a physician who:
  1. Is certified by a medical specialty board whose certification process has been recognized by the NRC or an Agreement State, as specified in the NRC's Medical Uses Licensee Toolkit available through <https://www.nrc.gov>, and who meets the requirements in subsection (A)(3). To have its certification process recognized, a specialty board shall require all candidates for certification to:
    - a. Complete 60 hours of training and experience in basic radionuclide handling techniques and radiation safety applicable to the medical use of unsealed radioactive material for uptake, dilution, and excretion studies as described in subsection (A)(3); and
    - b. Pass an examination, administered by diplomates of the specialty board, that assesses knowledge and competence in radiation safety, radionuclide handling, and quality control;
  2. Is an authorized user under R9-7-721, R9-7-723, the NRC, or equivalent Agreement State requirements; or
  3. Has:
    - a. Completed 60 hours of training and experience, including a minimum of eight hours of classroom and laboratory training, in basic radionuclide handling techniques applicable to the medical use of unsealed radioactive material for uptake, dilution, and excretion studies. The training and experience must include:
      - i. Classroom and laboratory training in the following areas:
        - (1) Radiation physics and instrumentation;
        - (2) Radiation protection;
        - (3) Mathematics pertaining to the use and measurement of radioactivity;
        - (4) Chemistry of radioactive material for medical use; and
        - (5) Radiation biology; and
      - ii. Work experience, under the supervision of an authorized user who meets the requirements in this Article, NRC, or equivalent Agreement State requirements, involving:
        - (1) Ordering, receiving, and unpacking radioactive materials safely and performing the

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- related radiation surveys;
- (2) Performing quality control procedures on instruments used to determine the activity of dosages and performing checks for proper operation of survey meters;
  - (3) Calculating, measuring, and safely preparing patient or human research subject dosages;
  - (4) Using administrative controls to prevent a medical event involving the use of unsealed radioactive material;
  - (5) Using procedures to contain spilled radioactive material safely and using proper decontamination procedures; and
  - (6) Administering dosages of radioactive drugs to patients or human research subjects; and
- b. Obtained written attestation that the individual has satisfactorily completed the requirements in subsection (A)(1) or subsection (A)(3)(a) and has achieved a level of competency sufficient to function independently as an authorized user for the medical uses authorized under Exhibit A, Medical Use Groups of this Article. The attestation must be obtained from either:
- i. A preceptor authorized user who meets the requirements in this Section, R9-7-721, or R9-7-723, the NRC, or equivalent Agreement State requirements; or
  - ii. A residency program director who affirms in writing that the attestation represents the consensus of the residency program faculty where at least one faculty member is an authorized user who meets the requirements in this Section, R9-7-721, or R9-7-723, the NRC, or equivalent Agreement State requirements, and concurs with the attestation provided by the residency program director. The residency training program must be approved by the Residency Review Committee of the Accreditation Council for Graduate Medical Education or the Royal College of Physicians and Surgeons of Canada or the Council on Postdoctoral Training of the American Osteopathic Association and must include training and experience specified in subsection (A)(3)(a).
- B. The training and experience in subsections (A)(1)(a) or (3)(a) shall have been obtained within the seven years preceding the date of application or the individual shall have had related continuing education and experience since the required training and experience was completed.
- C. Individuals who, under R9-7-710(B), need not comply with training requirements described in this Section may serve as preceptors for, and supervisors of, applicants seeking authorization on Department licenses for the same uses for which these individuals are authorized.

**Historical Note**

New Section R9-7-719 recodified from R12-1-719 at 24 A.A.R. 813, effective March 22, 2018 (Supp. 18-1). Amended by final expedited rulemaking at 24 A.A.R. 2151, effective July 12, 2018 (Supp. 18-3). Amended by final expedited rulemaking at 25 A.A.R. 3561, effective December 3, 2019 (Supp. 19-4).

**R9-7-720. Permissible Molybdenum-99, Strontium-82, and Strontium-85 Concentrations**

- A. A licensee may not administer to humans a radiopharmaceutical that contains more than 0.15 kilobecquerel of molybdenum-99 per megabecquerel of technetium-99m (0.15 microcurie of molybdenum-99 per millicurie of technetium-99m) or, more than 0.02 kilobecquerel of strontium-82 per megabecquerel of rubidium-82 chloride injection (0.02 microcurie of strontium-82 per millicurie of rubidium-82 chloride); or more than 0.2 kilobecquerel of strontium-85 per megabecquerel of rubidium-82 chloride injection (0.2 microcurie of strontium-85 per millicurie of rubidium-82).
- B. A licensee that uses molybdenum-99/technetium-99m generators for preparing a technetium-99m radiopharmaceutical shall measure the molybdenum-99 concentration of the first eluate after receipt of a generator to demonstrate compliance with subsection (A).
- C. A licensee that uses a strontium-82/rubidium-82 generator for preparing a rubidium-82 radiopharmaceutical shall, before the first patient use of the day, measure the concentration of radionuclides strontium-82 and strontium-85 to demonstrate compliance with subsection (A).
- D. A licensee shall maintain a record of each molybdenum-99 concentration measurement or strontium-82 and strontium-85 concentrations measurements for three years following completion of the measurement.
- E. A licensee shall notify by telephone the NRC Operations Center and the distributor of the generator within seven calendar days after discovery that an eluate exceeded the permissible concentration listed in subsection (A) at the time of generator elution. The telephone report to the NRC must include the manufacturer, model number, and serial number (or lot number) of the generator; the results of the measurement; the date of the measurement; whether dosages were administered to patients or human research subjects; when the distributor was notified; and the action taken.

**Historical Note**

New Section R9-7-720 recodified from R12-1-720 at 24 A.A.R. 813, effective March 22, 2018 (Supp. 18-1). Amended by final expedited rulemaking at 25 A.A.R. 3561, effective December 3, 2019 (Supp. 19-4).

**R9-7-721. Training for Imaging and Localization Studies Not Requiring a Written Directive**

Except as provided in R9-7-710, the licensee shall require an authorized user of unsealed radioactive material for the uses authorized under Group 200 in Exhibit A, Medical Use Groups of this Article to be a physician who:

1. Is certified by a medical specialty board whose certification process has been recognized by the NRC or an Agreement State, as specified in the NRC's Medical Uses Licensee Toolkit available through <https://www.nrc.gov>, and who meets the requirements in subsection (3). To have its certification process recognized, a specialty board shall require all candidates for certification to:
  - a. Complete 700 hours of training and experience in basic radionuclide handling techniques and radiation safety applicable to the medical use of unsealed radioactive material for imaging and localization studies as described in subsection (3); and
  - b. Pass an examination, administered by diplomates of the specialty board, that assesses knowledge and competence in radiation safety, radionuclide handling, and quality control;
2. Is an authorized user under R9-7-723, the NRC, or equivalent Agreement State requirements; or
3. Has:

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- a. Completed 700 hours of training and experience, including a minimum of 80 hours of classroom and laboratory training, in basic radionuclide handling techniques applicable to the medical use of unsealed radioactive material for imaging and localization studies. The training and experience must include:
  - i. Classroom and laboratory training in the following areas:
    - (1) Radiation physics and instrumentation;
    - (2) Radiation protection;
    - (3) Mathematics pertaining to the use and measurement of radioactivity;
    - (4) Chemistry of radioactive material for medical use; and
    - (5) Radiation biology; and
  - ii. Work experience, under the supervision of an authorized user who meets the requirements in this Section, R9-7-710, or R9-7-723 and in subsection (3)(b)(vii); the requirements of the NRC; or equivalent Agreement State requirements. An authorized nuclear pharmacist who meets the requirements in R9-7-712 may provide the supervised work experience for subsection (3)(a)(ii)(7). Work experience must involve:
    - (1) Ordering, receiving, and unpacking radioactive materials safely and performing the related radiation surveys;
    - (2) Performing quality control procedures on instruments used to determine the activity of dosages and performing checks for proper operation of survey meters;
    - (3) Calculating, measuring, and safely preparing patient or human research subject dosages;
    - (4) Using administrative controls to prevent a medical event involving the use of unsealed radioactive material;
    - (5) Using procedures to contain spilled radioactive material safely and using proper decontamination procedures;
    - (6) Administering dosages of radioactive drugs to patients or human research subjects; and
    - (7) Eluting generator systems appropriate for preparation of radioactive drugs for imaging and localization studies, measuring and testing the elate for radionuclide purity, and processing the elate with reagent kits to prepare labeled radioactive drugs; and
- b. Obtained written attestation that the individual has satisfactorily completed the requirements in subsection (3)(a) and is able to independently fulfill the radiation safety-related duties as an authorized user for the medical uses authorized under Group 200 in Exhibit A, Medical Use Groups of this Article. The attestation must be obtained from either:
  - i. A preceptor authorized user who meets the requirements in this Section, R9-7-710, or R9-7-723; NRC requirements; or equivalent Agreement State requirements; or
  - ii. A residency program director who affirms in writing that the attestation represents the consensus of the residency program faculty where at least one faculty member is an authorized

user who meets the requirements in this Section, R9-7-710, or R9-7-723; NRC requirements; or equivalent Agreement State requirements, and concurs with the attestation provided by the residency program director. The residency training program must be approved by the Residency Review Committee of the Accreditation Council for Graduate Medical Education or the Royal College of Physicians and Surgeons of Canada or the Council on Postdoctoral Training of the American Osteopathic Association and must include training and experience specified in subsection (3)(a).

**Historical Note**

New Section R9-7-721 recodified from R12-1-721 at 24 A.A.R. 813, effective March 22, 2018 (Supp. 18-1). Amended by final expedited rulemaking at 24 A.A.R. 2151, effective July 12, 2018 (Supp. 18-3). Amended by final expedited rulemaking at 25 A.A.R. 3561, effective December 3, 2019 (Supp. 19-4).

**R9-7-722. Safety Instruction and Precautions for Use of Unsealed Radioactive Material Requiring a Written Directive**

- A. A licensee shall provide radiation safety instruction, initially and at least annually, for all personnel caring for the patient or human research subject receiving radiopharmaceutical therapy and hospitalized for compliance with R9-7-717. To satisfy this requirement, the instruction shall describe the licensee's procedures for:
  1. Patient or human research subject control,
  2. Visitor control,
  3. Contamination control, and
  4. Waste control.
- B. For each patient or human research subject who cannot be released under R9-7-717, a licensee shall:
  1. Quarter the patient or the human research subject in a private room with a private sanitary facility;
  2. Visibly post the patient's or the human research subject's room with a "Radioactive Materials" sign;
  3. Note on the door or in the patient's or human research subject's chart where and how long visitors may stay in the patient's or the human research subject's room; and
  4. Monitor material and items removed from the patient's or the human research subject's room to determine that their radioactivity cannot be distinguished from the natural background radiation level with a radiation detection survey instrument set on its most sensitive scale and with no interposed shielding, or handle the material and items as radioactive waste.
- C. A licensee shall notify the Radiation Safety Officer, or his or her designee, and the authorized user as soon as possible if the patient or human research subject has a medical emergency or dies.
- D. A licensee may use any unsealed byproduct material identified in R9-7-723(A)(2)(b)(vi) prepared for medical use and for which a written directive is required that is:
  1. Obtained from:
    - a. A manufacturer or preparer licensed under R9-7-311 or equivalent Agreement State requirements, or
    - b. A PET radioactive drug producer licensed under R9-7-311 or equivalent Agreement State requirements;
  2. Excluding production of PET radionuclides, prepared by:
    - a. An authorized nuclear pharmacist;
    - b. A physician who is an authorized user and who meets the requirements specified R-7-723; or

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- c. An individual under the supervision, as specified in R9-7-712, of the authorized nuclear pharmacist in subsection (D)(2)(a) or the physician who is an authorized user in subsection (D)(2)(b);
  - 3. Obtained from and prepared by an NRC or Agreement State licensee for use in research in accordance with an Investigational New Drug (IND) protocol accepted by FDA; or
  - 4. Prepared by the licensee for use in research in accordance with an Investigational New Drug (IND) protocol accepted by FDA.
- E. A licensee shall retain records of instruction and safety procedures performed under this rule for three years from the date of the activity.

**Historical Note**

New Section R9-7-722 recodified from R12-1-722 at 24 A.A.R. 813, effective March 22, 2018 (Supp. 18-1).  
Amended by final expedited rulemaking at 25 A.A.R. 3561, effective December 3, 2019 (Supp. 19-4).

**R9-7-723. Training for Use of Unsealed Radioactive Material Requiring a Written Directive, Including Treatment of Hyperthyroidism, and Treatment of Thyroid Carcinoma**

- A. Except as provided in R9-7-710, the licensee shall require an authorized user of unsealed radioactive material for the uses authorized under Group 300 in Exhibit A, Medical Use Groups of this Article to be a physician who:
- 1. Is certified by a medical specialty board whose certification process has been recognized by the NRC or an Agreement State, as specified in the NRC's Medical Uses Licensee Toolkit available through <https://www.nrc.gov>, and who meets the requirements in subsection (A)(2). To have its certification process recognized, a specialty board shall require all candidates for certification to:
    - a. Successfully complete residency training in a radiation therapy or nuclear medicine training program or a program in a related medical specialty. These residency training programs must include 700 hours of training and experience as described in (A)(2) subsection (A)(2)(a). Eligible training programs must be approved by the Residency Review Committee of the Accreditation Council for Graduate Medical Education, the Royal College of Physicians and Surgeons of Canada, or the Committee on Post-Graduate Training of the American Osteopathic Association; and
    - b. Pass an examination, administered by diplomates of the specialty board, which tests knowledge and competence in radiation safety, radionuclide handling, and quality assurance, and clinical use of unsealed radioactive material for which a written directive is required; or
  - 2. Has:
    - a. Completed 700 hours of training and experience, including a minimum of 200 hours of classroom and laboratory training, in basic radionuclide handling techniques applicable to the medical use of unsealed radioactive material requiring a written directive. The training and experience must include:
      - i. Classroom and laboratory training in the following areas:
        - (1) Radiation physics and instrumentation;
        - (2) Radiation protection;
        - (3) Mathematics pertaining to the use and measurement of radioactivity;
        - (4) Chemistry of radioactive material for

- medical use; and
- (5) Radiation biology; and
- ii. Work experience, under the supervision of an authorized user who meets the requirements in this Article, NRC, or equivalent Agreement State requirements, involving:
  - (1) Ordering, receiving, and unpacking radioactive materials safely and performing the related radiation surveys;
  - (2) Performing quality control procedures on instruments used to determine the activity of dosages and performing checks for proper operation of survey meters;
  - (3) Calculating, measuring, and safely preparing patient or human research subject dosages;
  - (4) Using administrative controls to prevent a medical event involving the use of unsealed radioactive material;
  - (5) Using procedures to contain spilled radioactive material safely and using proper decontamination procedures;
  - (6) Administering dosages of radioactive drugs to patients or human research subjects involving a minimum of three cases in each of the following categories for which the individual is requesting authorized user status:
    - (a) Oral administration of less than or equal to 1.22 gigabecquerels (33 millicuries) of sodium iodide I-131, for which a written directive is required (Experience with at least three cases in the Category specified in subsection (A)(2)(a)(ii)(6)(b) also satisfies this requirement;
    - (b) Oral administration of greater than 1.22 gigabecquerels (33 millicuries) of sodium iodide I-131;
    - (c) Parenteral administration of any beta emitter, or a photon-emitting radionuclide with a photon energy less than 150 keV, for which a written directive is required; and/or
    - (d) Parenteral administration of any other radionuclide, for which a written directive is required; and
- b. Obtained written attestation, that the individual has satisfactorily completed the requirements in subsection (A)(2)(a) and is able to independently fulfill the radiation safety-related duties as an authorized user for the medical uses authorized under Group 300 in Exhibit A, Medical Use Groups of this Article for which the individual is requesting authorized user status. The attestation must be obtained from either:
  - i. A preceptor authorized user who meets the requirements in this Section or equivalent Agreement State or NRC requirements and has experience in administering dosages in the same dosage category or categories as the individual requesting authorized user status; or
  - ii. A residency program director who affirms in writing that the attestation represents the consensus of the residency program faculty where at least one faculty member is an authorized user who meets the requirements in this Section

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or equivalent Agreement State or NRC requirements, has experience in administering dosages in the same dosage category or categories as the individual requesting authorized user status, and concurs with the attestation provided by the residency program director. The residency training program must be approved by the Residency Review Committee of the Accreditation Council for Graduate Medical Education or the Royal College of Physicians and Surgeons of Canada or the Council on Postdoctoral Training of the American Osteopathic Association and must include training and experience specified in subsection (A)(2)(a).

- B. Except as provided in R9-7-710, a licensee shall require an authorized user of iodine-131 for the oral administration of sodium iodide I-131 requiring a written directive in quantities less than or equal to 1.22 gigabecquerels (33 millicuries) to be a physician who has completed the training requirements in 10 CFR 35.392, January 1, 2013, incorporated by reference, and available under R9-7-101. This incorporated material contains no future editions or amendments.
- C. Except as provided in R9-7-710, a licensee shall require an authorized user of iodine-131 for the oral administration of sodium iodide I-131 requiring a written directive in quantities greater than 1.22 gigabecquerels (33 millicuries) to be a physician who has completed the training requirements in 10 CFR 35.394, January 1, 2013, incorporated by reference, and available under R9-7-101. This incorporated material contains no future editions or amendments.
- D. Except as provided in R9-7-710, a licensee shall require an authorized user for the parenteral administration of unsealed radioactive material requiring a written directive to be a physician who has completed the training requirements in 10 CFR 35.396, January 1, 2013, incorporated by reference, and available under R9-7-101. This incorporated material contains no future editions or amendments.
- E. The training and experience shall have been obtained within the seven years preceding the date of application or the individual shall have had related continuing education and experience since the required training and experience was completed.

**Historical Note**

New Section R9-7-723 recodified from R12-1-723 at 24 A.A.R. 813, effective March 22, 2018 (Supp. 18-1).  
Amended by final expedited rulemaking at 25 A.A.R. 3561, effective December 3, 2019 (Supp. 19-4).

**R9-7-724. Surveys after Brachytherapy Source Implant and Removal; Accountability**

- A. A licensee shall make a survey to locate and account for all sources that have not been implanted immediately after implanting sources in a patient or a human research subject.
- B. A licensee shall make a survey of the patient or the human research subject with a radiation detection survey instrument immediately after removing the last temporary implant source to confirm that all sources have been removed.
- C. A licensee shall maintain accountability at all times for all sources in storage or use.
- D. A licensee shall return brachytherapy sources to a secure storage area as soon as possible after removing sources from a patient or a human research subject.
- E. A licensee shall record the procedures performed in subsections (A) through (D) and retain the records for three years following completion of the record.
- F. A licensee must use only brachytherapy sources:

- 1. Approved in the Sealed Source and Device Registry for manual brachytherapy medical use. The manual brachytherapy sources may be used for manual brachytherapy uses that are not explicitly listed in the Sealed Source and Device Registry, but must be used in accordance with the radiation safety conditions and limitations described in the Sealed Source and Device Registry; or
- 2. In research to deliver therapeutic doses for medical use in accordance with an active Investigational Device Exemption (IDE) application accepted by the U.S. Food and Drug Administration, provided the requirements of R9-7-450(A) are met.

**Historical Note**

New Section R9-7-724 recodified from R12-1-724 at 24 A.A.R. 813, effective March 22, 2018 (Supp. 18-1).  
Amended by final expedited rulemaking at 25 A.A.R. 3561, effective December 3, 2019 (Supp. 19-4).

**R9-7-725. Safety Instructions and Precautions for Brachytherapy Patients that Cannot be Released Under R9-7-717**

- A. In addition to the training requirements in Article 10, a licensee shall provide radiation safety instruction, initially and at least annually, to personnel caring for patients or human research subjects who are receiving brachytherapy and cannot be released under R9-7-717. To satisfy this requirement, the instruction shall be commensurate with the duties of the personnel and include the:
  - 1. Size and appearance of the brachytherapy sources;
  - 2. Safe handling and shielding instructions;
  - 3. Patient or human research subject control;
  - 4. Visitor control, including both:
    - a. Routine visitation of hospitalized individuals in accordance with Article 4 of this Chapter,
    - b. Visitation authorized in accordance with Article 4 of this Chapter, and
  - 5. Notification of the radiation safety officer, or his or her designee, and an authorized user if the patient or the human research subject has a medical emergency or dies.
- B. For each patient or human research subject who is receiving brachytherapy and cannot be released under R9-7-717, a licensee shall:
  - 1. Not quarter the patient or the human research subject in the same room as an individual who is not receiving brachytherapy;
  - 2. Visibly post the patient's or human research subject's room with a "Radioactive Materials" sign; and
  - 3. Note on the door or in the patient's or human research subject's chart where and how long visitors may stay in the patient's or human research subject's room.
- C. A licensee shall have applicable emergency response equipment available near each treatment room to respond to a source:
  - 1. Dislodged from the patient; and
  - 2. Lodged within the patient following removal of the source applicators.
- D. A licensee shall notify the radiation safety officer, or the RSO's designee, and an authorized user as soon as possible if the patient or human research subject has a medical emergency or dies.
- E. A licensee shall record the instructions given under subsection (A) and retain the records for three years after recording the instructions.

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**Historical Note**

New Section R9-7-725 recodified from R12-1-725 at 24  
A.A.R. 813, effective March 22, 2018 (Supp. 18-1).

**R9-7-726. Calibration Measurements of Brachytherapy Sources, Decay of Sources Used for Ophthalmic Treatments, and Computerized Treatment Planning Systems**

- A.** Before the first medical use of a brachytherapy source after the effective date of this rule, a licensee shall have:
1. Determined the source output or activity using a dosimetry system that meets the requirements of R9-7-733(A);
  2. Determined source positioning accuracy within applicators; and
  3. Used published protocols currently accepted by nationally recognized bodies to meet the requirements of subsections (A)(1) and (A)(2).
- B.** A licensee may use measurements provided by the source manufacturer or by a calibration laboratory accredited by the American Association of Physicists in Medicine that are made in accordance with subsection (A).
- C.** A licensee shall mathematically correct the outputs or activities determined in subsection (A) for physical decay at intervals consistent with one percent physical decay.
- D.** Only an authorized medical physicist shall calculate the activity of each strontium-90 source that is used to determine the treatment times for ophthalmic treatments. The decay shall be based on the activity determined under subsection (A).
- E.** A licensee shall perform acceptance testing on the treatment planning system of therapy-related computer systems in accordance with published protocols accepted by nationally recognized bodies. At a minimum, the acceptance testing shall include, as applicable, verification of:
1. The source-specific input parameters required by the dose calculation algorithm;
  2. The accuracy of dose, dwell time, and treatment time calculations at representative points;
  3. The accuracy of isodose plots and graphic displays; and
  4. The accuracy of the software used to determine sealed source positions from radiographic images.
- F.** A licensee shall retain records of each source activity determination and ophthalmic source decay correction, and documentation of the acceptance testing protocol required under subsection (E) for three years after the date of the procedure required in subsections (A) and (D), and for the records created in conjunction with subsection (E), the record shall be maintained for three years from the last date of the protocol's use.

**Historical Note**

New Section R9-7-726 recodified from R12-1-726 at 24  
A.A.R. 813, effective March 22, 2018 (Supp. 18-1).

**R9-7-727. Training for Use of Manual Brachytherapy Sources and Training for the Use of Strontium-90 Sources for Treatment of Ophthalmic Disease**

- A.** Except as provided in R9-7-710, the licensee shall require an authorized user of a manual brachytherapy source for the uses authorized under this Article to be a physician who:
1. Is certified by a medical specialty board whose certification process has been recognized by the NRC or an Agreement State and who meets the requirements in subsection (A)(2). The names of board certifications that have been recognized by the NRC or an Agreement State are specified in the NRC's Medical Uses Licensee Toolkit available through <https://www.nrc.gov>. To have its certification process recognized, a specialty board shall require all candidates for certification to:

- a. Successfully complete a minimum of three years of residency training in a radiation oncology program approved by the Residency Review Committee of the Accreditation Council for Graduate Medical Education or the Royal College of Physicians and Surgeons of Canada or the Committee on Post-Graduate Training of the American Osteopathic Association; and
  - b. Pass an examination, administered by diplomates of the specialty board, that tests knowledge and competence in radiation safety, radionuclide handling, treatment planning, quality assurance, and clinical use of manual brachytherapy; or
- 2.** Has completed a structured educational program in basic radionuclide handling techniques applicable to the use of manual brachytherapy sources that includes:
- a. 200 hours of classroom and laboratory training in the following areas:
    - i. Radiation physics and instrumentation;
    - ii. Radiation protection;
    - iii. Mathematics pertaining to the use and measurement of radioactivity;
    - iv. Radiation biology;
  - b. 500 hours of work experience, under the supervision of an authorized user who meets the requirements in this Section, or equivalent NRC or Agreement State requirements at a medical institution, involving:
    - i. Ordering, receiving, and unpacking radioactive materials safely and performing the related radiation surveys;
    - ii. Checking survey meters for proper operation;
    - iii. Preparing, implanting, and removing brachytherapy sources;
    - iv. Maintaining running inventories of material on hand;
    - v. Using administrative controls to prevent a medical event involving the use of radioactive material;
    - vi. Using emergency procedures to control radioactive material;
  - c. Completing three years of supervised clinical experience in radiation oncology, under an authorized user who meets the requirements in this Section, or equivalent Agreement State requirements, as part of a formal training program approved by the Residency Review Committee for Radiation Oncology of the Accreditation Council for Graduate Medical Education or the Royal College of Physicians and Surgeons of Canada or the Committee on Postdoctoral Training of the American Osteopathic Association. This experience may be obtained concurrently with the supervised work experience required by subsection (A)(2)(b); and
  - d. Obtaining written attestation that the individual has satisfactorily completed the requirements in subsections (A)(2)(a) through (c) and is able to independently fulfill the radiation safety-related duties as an authorized user of manual brachytherapy sources for the medical uses authorized under Exhibit A, Medical Use Groups of this Article. The attestation must be obtained from either:
    - i. A preceptor authorized user who meets the requirements in this Section or equivalent Agreement State or NRC requirements; or
    - ii. A residency program director who affirms in writing that the attestation represents the con-

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sensus of the residency program faculty where at least one faculty member is an authorized user who meets the requirements in this Section or equivalent Agreement State or NRC requirements, and concurs with the attestation provided by the residency program director. The residency training program must be approved by the Residency Review Committee of the Accreditation Council for Graduate Medical Education or the Royal College of Physicians and Surgeons of Canada or the Council on Postdoctoral Training of the American Osteopathic Association and must include training and experience specified in subsection (A)(2)(a) and (b).

**B.** A licensee who uses strontium-90 for ophthalmic treatments must ensure that certain activities as specified in subsection (C) are performed by either:

1. An authorized medical physicist; or
2. An individual who:
  - a. Is identified as an ophthalmic physicist on a:
    - i. Specific medical use license issued by the Department, the NRC, or another Agreement State,
    - ii. Permit issued by an NRC or other Agreement State broad scope medical use licensee,
    - iii. Medical use permit issued by an NRC master material licensee, or
    - iv. Permit issued by an NRC master material licensee broad scope medical use permittee;
  - b. Holds a master's or doctor's degree in physics, medical physics, other physical sciences, engineering, or applied mathematics from an accredited college or university;
  - c. Has successfully completed one year of full-time training in medical physics and an additional year of full-time work experience under the supervision of a medical physicist; and
  - d. Has documented training in:
    - i. The creation, modification, and completion of written directives;
    - ii. Procedures for administrations requiring a written directive; and
    - iii. Performing the calibration measurements of brachytherapy sources as detailed in R9-7-726.

**C.** The individuals who are identified in subsection (B)(1) or (2) shall:

1. Calculate the activity of each strontium-90 source that is used to determine the treatment times for ophthalmic treatments. The decay must be based on the activity determined under R9-7-726; and
2. Assist the licensee in developing, implementing, and maintaining written procedures to provide high confidence that the administration is in accordance with the written directive. These procedures must include the frequencies that the individual meeting the requirements in paragraph (a) of this Section will observe treatments, review the treatment methodology, calculate treatment time for the prescribed dose, and review records to verify that the administrations were in accordance with the written directives.

**D.** Licensees shall retain a record of the activity of each strontium-90 source in accordance with R9-7-313.

**E.** The training and experience shall have been obtained within the seven years preceding the date of application or the individual shall have had related continuing education and experi-

ence since the required training and experience was completed.

**Historical Note**

New Section R9-7-727 recodified from R12-1-727 at 24 A.A.R. 813, effective March 22, 2018 (Supp. 18-1).  
Amended by final expedited rulemaking at 25 A.A.R. 3561, effective December 3, 2019 (Supp. 19-4).

**R9-7-728. Training for Use of Sealed Sources for Diagnosis**

**A.** Except as provided in R9-7-710, the licensee shall require the authorized user of a diagnostic sealed source for use in a device authorized under Group 500 in Exhibit A, Medical Use Groups of this Article to be a physician, dentist, or podiatrist who:

1. Is certified by a medical specialty board whose certification process has been recognized by the NRC or an Agreement State and who meets the requirements in subsections (A)(3) and (B) and whose certification has been recognized by the Department, the NRC, or another Agreement State as specified in the NRC's Medical Uses Licensee Toolkit available through <https://www.nrc.gov>;
2. Is an authorized user for uses listed in Group 200 of Exhibit A, Medical Use Groups of this Article or equivalent NRC or Agreement State requirements; or
3. Has completed eight hours of classroom and laboratory training in basic radionuclide handling techniques specifically applicable to the use of the device. The training must include:
  - a. Radiation physics and instrumentation;
  - b. Radiation protection;
  - c. Mathematics pertaining to the use and measurement of radioactivity;
  - d. Radiation biology.

**B.** A licensee shall require the authorized user of a diagnostic sealed source for use in a device authorized under Group 500 in Exhibit A, Medical Use Groups of this Article to have completed training in the use of the device for the uses requested.

**C.** The training and experience shall have been obtained within the seven years preceding the date of application or the individual shall have had related continuing education and experience since the required training and experience was completed.

**Historical Note**

New Section R9-7-728 recodified from R12-1-728 at 24 A.A.R. 813, effective March 22, 2018 (Supp. 18-1).  
Amended by final expedited rulemaking at 25 A.A.R. 3561, effective December 3, 2019 (Supp. 19-4).

**R9-7-729. Surveys of Patients and Human Research Subjects Treated with a Remote Afterloader Unit**

**A.** Before releasing a patient or a human research subject from licensee control, a licensee shall survey the patient or the human research subject and the remote afterloader unit with a portable radiation detection survey instrument to confirm that each source has been removed from the patient or human research subject and returned to the safe shielded position.

**B.** A licensee shall make records of these surveys conducted under subsection (A) and retain them for three years from the date of each survey.

**Historical Note**

New Section R9-7-729 recodified from R12-1-729 at 24 A.A.R. 813, effective March 22, 2018 (Supp. 18-1).

**R9-7-730. Installation, Maintenance, Adjustment, and Repair of an Afterloader Unit, Teletherapy Unit, or Gamma Stereotactic Radiosurgery Unit**

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- A. Only a person specifically licensed by the Department, the NRC, or an Agreement State shall install, maintain, adjust, or repair a remote afterloader unit, teletherapy unit, or gamma stereotactic radiosurgery unit that involves work on any source shielding, the source's driving unit, or other electronic or mechanical component that could expose a source, reduce the shielding around a source, or compromise the radiation safety of a unit or a source.
- B. Except for low dose-rate remote afterloader units, only a person specifically licensed by the Department, the NRC, or an Agreement State shall install, replace, relocate, or remove a sealed source or source contained in other remote afterloader units, teletherapy units, or gamma stereotactic radiosurgery units.
- C. For a low dose-rate remote afterloader unit, only a person specifically licensed by the Department, the NRC, or an Agreement State or an authorized medical physicist shall install, replace, relocate, or remove a sealed source contained in the unit.
- D. A licensee shall retain a record of the installation, maintenance, adjustment, and repair of remote afterloader units, teletherapy units, and gamma stereotactic radiosurgery units for three years from the completion date of the activity listed in this Section.
- C. A licensee shall provide instruction, initially and at least annually, to all individuals who operate the unit, as appropriate to the individual's assigned duties, in:
  - 1. The procedures identified in subsection (A)(4); and
  - 2. The operating procedures for the unit.
- D. A licensee shall ensure that operators, authorized medical physicists, and authorized users participate in drills of the emergency procedures, initially and at least annually.
- E. A licensee shall retain a record of individuals receiving instruction required by subsection (C) for three years from the date of the instruction.
- F. A licensee shall maintain a copy of the procedures required by subsections (A)(4) and (C)(2) for Department review. The copy shall be maintained for three years beyond the termination date of the activities for which the procedures were written.
- G. Prior to the first use for patient treatment of a new unit or an existing unit with a manufacturer upgrade that affects the operation and safety of the unit, a licensee shall ensure that vendor operational and safety training is provided to all individuals who will operate the unit. The vendor operational and safety training must be provided by the device manufacturer or by an individual certified by the device manufacturer to provide the operational and safety training.
- H. A licensee shall have each teletherapy unit and gamma stereotactic radiosurgery unit fully inspected and serviced during each source replacement to assure proper functioning of the source exposure mechanism and other safety components. The interval between each full-inspection servicing shall not exceed five years for each teletherapy unit and shall not exceed seven years for each gamma stereotactic radiosurgery unit.

**Historical Note**

New Section R9-7-730 recodified from R12-1-730 at 24 A.A.R. 813, effective March 22, 2018 (Supp. 18-1).

**R9-7-731. Safety Procedures and Instructions for Remote Afterloader Units, Teletherapy Units, and Gamma Stereotactic Radiosurgery Units**

- A. A licensee shall:
  - 1. Secure the unit, the console, the console keys, and the treatment room when not in use or unattended;
  - 2. Permit only individuals approved by the authorized user, Radiation Safety Officer, or authorized medical physicist to be present in the treatment room during treatment with a source;
  - 3. Prevent dual operation of more than one radiation producing device in a treatment room if applicable; and
  - 4. Develop, implement, and maintain written procedures for responding to an abnormal situation when the operator is unable to place a source in the shielded position, or remove the patient or human research subject from the radiation field with controls from outside the treatment room. These procedures shall include:
    - a. Instructions for responding to equipment failures and the names of the individuals responsible for implementing corrective actions;
    - b. The process for restricting access to and posting of the treatment area to minimize the risk of inadvertent exposure; and
    - c. The names and telephone numbers of the authorized users, the authorized medical physicist, and the Radiation Safety Officer to be contacted if the unit or console operates abnormally.
- B. A licensee shall post instructions at the unit console to inform the operator of:
  - 1. The location of the procedures required by subsection (A)(4); and
  - 2. The names and telephone numbers of the authorized users, the authorized medical physicist, and the Radiation Safety Officer to be contacted if the unit or console operates abnormally.
- I. A licensee shall:
  - 1. Ensure that inspection and servicing are performed only by persons specifically licensed to do so by the Department, the NRC or another Agreement State, and
  - 2. Keep a record of the inspection and servicing for three years after termination.
- J. A licensee shall maintain a record of safety instruction required by R9-7-722, R9-7-725 and this Section and the operational and safety instructions for three years after the date of the instruction. The record must include a list of the topics covered, the date of the instruction, the name(s) of the attendee(s), and the name(s) of the individual(s) who provided the instruction.

**Historical Note**

New Section R9-7-731 recodified from R12-1-731 at 24 A.A.R. 813, effective March 22, 2018 (Supp. 18-1).  
Amended by final expedited rulemaking at 25 A.A.R. 3561, effective December 3, 2019 (Supp. 19-4).

**R9-7-732. Safety Precautions for Remote Afterloader Units, Teletherapy Units, and Gamma Stereotactic Radiosurgery Units**

- A. A licensee shall control access at each entrance to a treatment room.
- B. A licensee shall equip each entrance to the treatment room with an electrical interlock system that will:
  - 1. Prevent the operator from initiating the treatment cycle unless each treatment room entrance door is closed;
  - 2. Cause each source to be shielded when an entrance door is opened; and
  - 3. Prevent any source from being exposed following an interlock interruption until all treatment room entrance doors are closed and the source's on-off control is reset at the console.



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- C. A licensee shall require any individual entering the treatment room to assure, through the use of appropriate radiation monitors, that radiation levels have returned to ambient levels.
- D. Except for low-dose remote afterloader units, a licensee shall construct or equip each treatment room with viewing and intercom systems to permit continuous observation of the patient or the human research subject from the treatment console during irradiation.
- E. For licensed activities where sources are placed within the patient's or human research subject's body, a licensee shall only conduct treatments which allow for expeditious removal of a decoupled or jammed source.
- F. In addition to the requirements specified in subsections (A) through (E), a licensee shall:
  - 1. For medium dose-rate and pulsed dose-rate remote afterloader units, require:
    - a. An authorized medical physicist and either an authorized user or a physician, under the supervision of an authorized user, who has been trained in the operation and emergency response for the unit, to be physically present during the initiation of all patient treatments involving the unit; and
    - b. An authorized medical physicist and either an authorized user or an individual, under the supervision of an authorized user, who has been trained to remove each source applicator in the event of an emergency involving the unit, to be immediately available during continuation of all patient treatments involving the unit.
  - 2. For high dose-rate remote afterloader units, require:
    - a. An authorized user and an authorized medical physicist to be physically present during the initiation of all patient treatments involving the unit; and
    - b. An authorized medical physicist and either an authorized user or a physician, under the supervision of an authorized user, who has been trained in the operation and emergency response for the unit, to be physically present during continuation of all patient treatments involving the unit.
  - 3. For gamma stereotactic radiosurgery units, require an authorized user and an authorized medical physicist to be physically present throughout all patient treatments involving the unit. As used in this provision, physically present means to be within hearing distance of normal voice, and does not include the use of portable communication devices, intercoms, or other devices that could be used to amplify the human voice.
  - 4. Notify the radiation safety officer, or radiation safety officer's designee, and an authorized user as soon as possible if the patient or human research subject has a medical emergency or dies.
- G. A licensee shall have applicable emergency response equipment available near each treatment room to respond to a source:
  - 1. Remaining in the unshielded position; or
  - 2. Lodged within the patient following completion of the treatment.

**Historical Note**

New Section R9-7-732 recodified from R12-1-732 at 24 A.A.R. 813, effective March 22, 2018 (Supp. 18-1).

**R9-7-733. Dosimetry Equipment**

- A. Except for low dose-rate remote afterloader sources where the source output or activity is determined by the manufacturer, a licensee shall have a calibrated dosimetry system available for

use. To satisfy this requirement, one of the following two conditions shall be met.

1. The system shall have been calibrated using a system or source traceable to the National Institute of Science and Technology (NIST) and published protocols accepted by nationally recognized bodies; or by a calibration laboratory accredited by the American Association of Physicists in Medicine (AAPM). The calibration shall have been performed within the previous two years and after any servicing that may have affected system calibration; or
  2. The system shall have been calibrated within the previous four years. Eighteen to 30 months after that calibration, the system shall have been intercompared with another dosimetry system that was calibrated within the past 24 months by NIST or by a calibration laboratory accredited by the AAPM. The results of the intercomparison shall indicate that the calibration factor of the licensee's system had not changed by more than two percent. The licensee may not use the intercomparison result to change the calibration factor. When intercomparing dosimetry systems to be used for calibrating sealed sources for therapeutic units, the licensee shall use a comparable unit with beam attenuators or collimators, as applicable, and sources of the same radionuclide as the source used at the licensee's facility.
- B. The licensee shall have a dosimetry system available for use for spot-check output measurements, if applicable. To satisfy this requirement, the system may be compared with a system that has been calibrated in accordance with subsection (A). This comparison shall have been performed within the previous year and after each servicing that may have affected system calibration. The spot-check system may be the same system used to meet the requirement in subsection (A).
  - C. The licensee shall retain, for three years from the date of the procedure, a record of each calibration, intercomparison, and comparison.

**Historical Note**

New Section R9-7-733 recodified from R12-1-733 at 24 A.A.R. 813, effective March 22, 2018 (Supp. 18-1).

**R9-7-734. Full Calibration Measurements on Teletherapy Units**

- A. A licensee authorized to use a teletherapy unit for medical use shall perform full calibration measurements on each teletherapy unit:
  1. Before the first medical use of the unit; and
  2. Before medical use under the following conditions:
    - a. Whenever spot-check measurements indicate that the output differs by more than 5 percent from the output obtained at the last full calibration corrected mathematically for radioactive decay;
    - b. Following replacement of the source or following reinstallation of the teletherapy unit in a new location;
    - c. Following any repair of the teletherapy unit that includes removal of the source or major repair of the components associated with the source exposure assembly; and
  3. At intervals not exceeding one year.
- B. To satisfy the requirement of subsection (A), full calibration measurements shall include determination of:
  1. The output within  $\pm 3$  percent for the range of field sizes and for the distance or range of distances used for medical use;
  2. The coincidence of the radiation field and the field indicated by the light beam localizing device;

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3. The uniformity of the radiation field and its dependence on the orientation of the useful beam;
  4. Timer accuracy and linearity over the range of use;
  5. On-off error; and
  6. The accuracy of all distance measuring and localization devices in medical use.
- C. A licensee shall use the dosimetry system described in R9-7-733(A) to measure the output for one set of exposure conditions. The remaining radiation measurements required in subsection (B)(1) may be made using a dosimetry system that indicates relative dose rates.
- D. A licensee shall make full calibration measurements required by subsection (A) in accordance with published protocols accepted by nationally recognized bodies.
- E. A licensee shall mathematically correct the outputs determined in subsection (B)(1) for physical decay for intervals not exceeding one month for cobalt-60, six months for cesium-137, or at intervals consistent with 1 percent decay for all other nuclides.
- F. Full calibration measurements required by subsection (A) and physical decay corrections required by subsection (E) shall be performed by an authorized medical physicist.
- G. A licensee shall retain a record of each calibration for three years from the date it was completed.

**Historical Note**

New Section R9-7-734 recodified from R12-1-734 at 24  
A.A.R. 813, effective March 22, 2018 (Supp. 18-1).

**R9-7-735. Full Calibration Measurements on Remote Afterloader Units**

- A. A licensee authorized to use a remote afterloader unit for medical use shall perform full calibration measurements on each unit:
1. Before the first medical use of the unit;
  2. Before medical use under the following conditions:
    - a. Following replacement of the source or following reinstallation of the unit in a new location outside the facility; and
    - b. Following any repair of the unit that includes removal of the source or major repair of the components associated with the source exposure assembly; and
  3. At intervals not exceeding one quarter for high dose-rate, medium dose-rate, and pulsed dose-rate remote afterloader units with sources whose half-life exceeds 75 days; and
  4. At intervals not exceeding one year for low dose-rate remote afterloader units.
- B. To satisfy the requirement of subsection (A), full calibration measurements shall include, as applicable, determination of:
1. The output within  $\pm 5$  percent;
  2. Source positioning accuracy to within  $\pm 1$  millimeter;
  3. Source retraction with backup battery upon power failure;
  4. Length of the source transfer tubes;
  5. Timer accuracy and linearity over the typical range of use;
  6. Length of the applicators; and
  7. Function of the source transfer tubes, applicators, and transfer tube-applicator interfaces.
- C. A licensee shall use the dosimetry system described in R9-7-733(A) to measure the output.
- D. A licensee shall make full calibration measurements required by subsection (A) in accordance with published protocols accepted by nationally recognized bodies.
- E. In addition to the requirements for full calibrations for low dose-rate remote afterloader units in subsection (B), a licensee

shall perform an autoradiograph of the sources to verify inventory and source arrangement at intervals not exceeding one quarter.

- F. For low dose-rate remote afterloader units, a licensee may use measurements provided by the source manufacturer that are made in accordance with subsections (A) through (E).
- G. A licensee shall mathematically correct the outputs determined in subsection (B)(1) for physical decay at intervals consistent with 1 percent physical decay.
- H. Full calibration measurements required by subsection (A) and physical decay corrections required by subsection (G) shall be performed by an authorized medical physicist.
- I. A licensee shall retain a record of each calibration for three years from the date it was completed.

**Historical Note**

New Section R9-7-735 recodified from R12-1-735 at 24  
A.A.R. 813, effective March 22, 2018 (Supp. 18-1).

**R9-7-736. Full Calibration Measurements on Gamma Stereotactic Radiosurgery Units**

- A. A licensee authorized to use a gamma stereotactic radiosurgery unit for medical use shall perform full calibration measurements on each unit:
1. Before the first medical use of the unit;
  2. Before medical use under the following conditions:
    - a. Whenever spot-check measurements indicate that the output differs by more than 5 percent from the output obtained at the last full calibration corrected mathematically for radioactive decay;
    - b. Following replacement of the sources or following reinstallation of the gamma stereotactic radiosurgery unit in a new location; and
    - c. Following any repair of the gamma stereotactic radiosurgery unit that includes removal of the sources or major repair of the components associated with the source assembly; and
  3. At intervals not exceeding one year, with the exception that relative helmet factors need only be determined before the first medical use of a helmet and following any damage to a helmet.
- B. To satisfy the requirement of subsection (A), full calibration measurements shall include determination of:
1. The output within  $\pm 3$  percent;
  2. Relative helmet factors;
  3. Isocenter coincidence;
  4. Timer accuracy and linearity over the range of use;
  5. On-off error;
  6. Trunnion centricity;
  7. Treatment table retraction mechanism, using backup battery power or hydraulic backups with the unit off;
  8. Helmet microswitches;
  9. Emergency timing circuits; and
  10. Stereotactic frames and localizing devices (trunnions).
- C. A licensee shall use the dosimetry system described in R9-7-733(A) to measure the output for one set of exposure conditions. The remaining radiation measurements required in subsection (B)(1) may be made using a dosimetry system that indicates relative dose rates.
- D. A licensee shall make full calibration measurements required by subsection (A) in accordance with published protocols accepted by nationally recognized bodies.
- E. A licensee shall mathematically correct the outputs determined in subsection (B)(1) at intervals not exceeding one month for cobalt-60 and at intervals consistent with 1 percent physical decay for all other radionuclides.

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- F. Full calibration measurements required by subsection (A) and physical decay corrections required by subsection (E) shall be performed by an authorized medical physicist.
- G. A licensee shall retain a record of each calibration for three years from the date of the procedure.

**Historical Note**

New Section R9-7-736 recodified from R12-1-736 at 24 A.A.R. 813, effective March 22, 2018 (Supp. 18-1).

**R9-7-737. Periodic Spot-checks for Teletherapy Units**

- A. A licensee authorized to use teletherapy units for medical use shall perform output spot-checks on each teletherapy unit once in each calendar month that include determination of:
  1. Timer accuracy, and timer linearity over the range of use;
  2. On-off error;
  3. The coincidence of the radiation field and the field indicated by the light beam localizing device;
  4. The accuracy of all distance measuring and localization devices used for medical use;
  5. The output for one typical set of operating conditions measured with the dosimetry system described in R9-7-733(B); and
  6. The difference between the measurement made in subsection (A)(5) and the anticipated output, expressed as a percentage of the anticipated output.
- B. A licensee shall perform measurements required by subsection (A) in accordance with written procedures established by an authorized medical physicist. That individual need not actually perform the spot-check measurements.
- C. A licensee shall have an authorized medical physicist review the results of each spot-check within 15 days. The authorized medical physicist shall notify the licensee as soon as possible in writing of the results of each spot-check.
- D. A licensee authorized to use a teletherapy unit for medical use shall perform safety spot-checks of each teletherapy facility once in each calendar month and after each source installation to assure proper operation of:
  1. Electrical interlocks at each teletherapy room entrance;
  2. Electrical or mechanical stops installed for the purpose of limiting use of the primary beam of radiation (restriction of source housing angulation or elevation, carriage or stand travel and operation of the beam on-off mechanism);
  3. Source exposure indicator lights on the teletherapy unit, on the control console, and in the facility;
  4. Viewing and intercom systems;
  5. Treatment room doors from inside and outside the treatment room; and
  6. Electrically assisted treatment room doors with the teletherapy unit electrical power turned off.
- E. If the results of the checks required in subsection (D) indicate the malfunction of any system, a licensee shall lock the control console in the off position and not use the unit except as may be necessary to repair, replace, or check the malfunctioning system.
- F. A licensee shall retain a record of each spot-check required by subsections (A) and (D) for three years from the date of the procedure, and a copy of the procedures required by subsection (B) until licensee terminates all medical activities involving the teletherapy unit.

**Historical Note**

New Section R9-7-737 recodified from R12-1-737 at 24 A.A.R. 813, effective March 22, 2018 (Supp. 18-1).

**R9-7-738. Periodic Spot-checks for Remote Afterloader Units**

- A. A licensee authorized to use a remote afterloader unit for medical use shall perform spot-checks of each remote afterloader facility and on each unit:
  1. Before the first use of a high dose-rate, medium dose-rate, or pulsed dose-rate remote afterloader unit on a given day;
  2. Before each patient treatment with a low dose-rate remote afterloader unit; and
  3. After each source installation.
- B. A licensee shall perform the measurements required by subsection (A) in accordance with written procedures established by an authorized medical physicist. That individual need not actually perform the spot-check measurements.
- C. A licensee shall have an authorized medical physicist review the results of each spot-check within 15 days. The authorized medical physicist shall notify the licensee as soon as possible in writing of the results of each spot-check.
- D. To satisfy the requirements of subsection (A), spot-checks shall, at a minimum, assure proper operation of:
  1. Electrical interlocks at each remote afterloader unit room entrance;
  2. Source exposure indicator lights on the remote afterloader unit, on the control console, and in the facility;
  3. Viewing and intercom systems in each high dose-rate, medium dose-rate, and pulsed dose-rate remote afterloader facility;
  4. Emergency response equipment;
  5. Radiation monitors used to indicate the source position;
  6. Timer accuracy;
  7. Clock (date and time) in the unit's computer; and
  8. Decayed source activity in the unit's computer.
- E. If the results of the checks required in subsection (D) indicate the malfunction of any system, a licensee shall lock the control console in the off position and not use the unit except as may be necessary to repair, replace, or check the malfunctioning system.
- F. A licensee shall retain a record of each spot-check required by subsections (A) and (D) for three years from the date of the procedure, and a copy of the procedures required by subsection (B) until licensee terminates all medical activities involving the afterloader unit.

**Historical Note**

New Section R9-7-738 recodified from R12-1-738 at 24 A.A.R. 813, effective March 22, 2018 (Supp. 18-1).

**R9-7-739. Periodic Spot-checks for Gamma Stereotactic Radiosurgery Units**

- A. A licensee authorized to use a gamma stereotactic radiosurgery unit for medical use shall perform spot-checks of each gamma stereotactic radiosurgery facility and on each unit:
  1. Monthly;
  2. Before the first use of the unit on a given day; and
  3. After each source installation.
- B. A licensee shall:
  1. Perform the measurements required by subsection (A) in accordance with written procedures established by an authorized medical physicist. That individual need not actually perform the spot-check measurements.
  2. Have the authorized medical physicist review the results of each spot-check within 15 days. The authorized medical physicist shall notify the licensee as soon as possible in writing of the results of each spot-check.
- C. To satisfy the requirements of subsection (A)(1), spot-checks shall, at a minimum:
  1. Assure proper operation of:

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- a. Treatment table retraction mechanism, using backup battery power or hydraulic backups with the unit off;
  - b. Helmet microswitches;
  - c. Emergency timing circuits; and
  - d. Stereotactic frames and localizing devices (trunnions).
- 2. Determine:
  - a. The output for one typical set of operating conditions measured with the dosimetry system described in R9-7-733(B);
  - b. The difference between the measurement made in subsection (C)(2)(a) and the anticipated output, expressed as a percentage of the anticipated output;
  - c. Source output against computer calculation;
  - d. Timer accuracy and linearity over the range of use;
  - e. On-off error; and
  - f. Trunnion centricity.
- D. To satisfy the requirements of subsections (A)(2) and (A)(3), spot-checks shall assure proper operation of:
  - 1. Electrical interlocks at each gamma stereotactic radiosurgery room entrance;
  - 2. Source exposure indicator lights on the gamma stereotactic radiosurgery unit, on the control console, and in the facility;
  - 3. Viewing and intercom systems;
  - 4. Timer termination;
  - 5. Radiation monitors used to indicate room exposures; and
  - 6. Emergency off buttons.
- E. A licensee shall arrange for the repair of any system identified in subsection (C) that is not operating properly as soon as possible.
- F. If the results of the checks required in subsection (D) indicate the malfunction of any system, a licensee shall lock the control console in the off position and not use the unit except as may be necessary to repair, replace, or check the malfunctioning system.
- G. A licensee shall retain a record of each check required by subsections (C) and (D) for three years from the date of the procedure, and a copy of the procedures required by subsection (B) until licensee terminates all medical activities involving the radiosurgery unit.

**Historical Note**

New Section R9-7-739 recodified from R12-1-739 at 24  
A.A.R. 813, effective March 22, 2018 (Supp. 18-1).

**R9-7-740. Additional Requirements for Mobile Remote Afterloader Units**

- A. A licensee providing mobile remote afterloader service shall:
  - 1. Check survey instruments before medical use at each address of use or on each day of use, whichever is more frequent; and
  - 2. Account for all sources before departure from a client's address of use.
- B. In addition to the periodic spot-checks required by R9-7-738, a licensee authorized to use mobile afterloaders for medical use shall perform checks on each remote afterloader unit before use at each address of use. At a minimum, checks shall be made to verify the operation of:
  - 1. Electrical interlocks on treatment area access points;
  - 2. Source exposure indicator lights on the remote afterloader unit, on the control console, and in the facility;
  - 3. Viewing and intercom systems;
  - 4. Applicators, source transfer tubes, and transfer tube-apPLICATOR interfaces;
  - 5. Radiation monitors used to indicate room exposures;
  - 6. Source positioning (accuracy); and

- 7. Radiation monitors used to indicate whether the source has returned to a safe shielded position.
- C. In addition to the requirements for checks in subsection (B), a licensee shall ensure overall proper operation of the remote afterloader unit by conducting a simulated cycle of treatment before use at each address of use.
- D. If the results of the checks required in subsection (B) indicate the malfunction of any system, a licensee shall lock the control console in the off position and not use the unit except as may be necessary to repair, replace, or check the malfunctioning system.
- E. A licensee shall retain a record of each check required by subsection (B) for three years from the date of the procedure.

**Historical Note**

New Section R9-7-740 recodified from R12-1-740 at 24  
A.A.R. 813, effective March 22, 2018 (Supp. 18-1).

**R9-7-741. Additional Radiation Surveys of Sealed Sources used in Radiation Therapy**

- A. In addition to the survey requirement in Article 4 of this Chapter, a person licensed to use sealed sources in the practice of radiation therapy shall make surveys to ensure that the maximum radiation levels and average radiation levels from the surface of the main source safe with each source in the shielded position do not exceed the levels stated in the Sealed Source and Device Registry.
- B. A licensee shall make the survey required by subsection (A) at installation of a new source and following repairs to any source shielding, a source's driving unit, or other electronic or mechanical component that could expose the source, reduce the shielding around a source, or compromise the radiation safety of the unit or the source.
- C. A licensee shall retain a record of the radiation surveys required by subsection (A) for three years from the date of each survey.

**Historical Note**

New Section R9-7-741 recodified from R12-1-741 at 24  
A.A.R. 813, effective March 22, 2018 (Supp. 18-1).

**R9-7-742. Five-year Inspection for Teletherapy and Gamma Stereotactic Radiosurgery Units**

- A. A licensee shall have each teletherapy unit and gamma stereotactic radiosurgery unit fully inspected and serviced during source replacement or at intervals not to exceed five years, whichever comes first, to assure proper functioning of the source exposure mechanism.
- B. This inspection and servicing may only be performed by persons specifically licensed to do so by the Department, the NRC, or an Agreement State.
- C. A licensee shall keep a record of each five-year inspection for three years from the date of the inspection, if the inspection determined that service was unnecessary, and three years from the date of the completed service if the inspection determined that service was needed.

**Historical Note**

New Section R9-7-742 recodified from R12-1-742 at 24  
A.A.R. 813, effective March 22, 2018 (Supp. 18-1).

**R9-7-743. Therapy-related Computer Systems**

The licensee shall perform acceptance testing on the treatment planning system of therapy-related computer systems in accordance with published protocols accepted by nationally recognized bodies. At a minimum, the acceptance testing shall include, as applicable, verification of:

- 1. The source-specific input parameters required by the dose calculation algorithm;

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2. The accuracy of dose, dwell time, and treatment time calculations at representative points;
3. The accuracy of isodose plots and graphic displays;
4. The accuracy of the software used to determine sealed source positions from radiographic images; and
5. The accuracy of electronic transfer of the treatment delivery parameters to the treatment delivery unit from the treatment planning system.

**Historical Note**

New Section R9-7-743 recodified from R12-1-743 at 24 A.A.R. 813, effective March 22, 2018 (Supp. 18-1).

**R9-7-744. Training for Use of Remote Afterloader Units, Teletherapy Units, and Gamma Stereotactic Radiosurgery Units**

- A.** Except as provided in R9-7-710, a licensee shall require an authorized user of a sealed source for a use authorized under Group 600 in Exhibit A, Medical Use Groups of this Article to be a physician who:
1. Is certified by a medical specialty board whose certification process has been recognized by the Department, the NRC or another Agreement State and who meets the requirements in subsection (A)(2)(e). The names of board certifications that have been recognized by the Department, the NRC or another Agreement State are specified in the NRC's Medical Uses Licensee Toolkit available through <https://www.nrc.gov>. To have its certification process recognized, a specialty board shall require all candidates to:
    - a. Successfully complete a minimum of three years of residency training in a radiation therapy program approved by the Residency Review Committee of the Accreditation Council for Graduate Medical Education or the Royal College of Physicians and Surgeons of Canada or the Committee on Post-Graduate Training of the American Osteopathic Association; and
    - b. Pass an examination, administered by diplomates of the specialty board, which tests knowledge and competence in radiation safety, radionuclide handling, treatment planning, quality assurance, and clinical use of stereotactic radiosurgery, remote afterloaders and external beam therapy; or
  2. Has completed a structured educational program in basic radionuclide techniques applicable to the use of a sealed source in a therapeutic medical unit that includes:
    - a. 200 hours of classroom and laboratory training in the following areas:
      - i. Radiation physics and instrumentation;
      - ii. Radiation protection;
      - iii. Mathematics pertaining to the use and measurement of radioactivity;
      - iv. Chemistry of radioactive material for medical use; and
      - v. Radiation biology;
    - b. 500 hours of work experience, under the supervision of an authorized user who meets the requirements in this Section, or equivalent Agreement State or NRC requirements at a medical institution, involving:
      - i. Reviewing full calibration measurements and periodic spot-checks;
      - ii. Preparing treatment plans and calculating treatment doses and times;
      - iii. Using administrative controls to prevent a medical event involving the use of radioactive material;
- iv. Implementing emergency procedures to be followed in the event of the abnormal operation of the medical unit or console;
  - v. Checking and using survey meters; and
  - vi. Selecting the proper dose and how it is to be administered;
- c.** Completing three years of supervised clinical experience in radiation therapy, under an authorized user who meets the requirements in this Section, or equivalent Agreement State or NRC requirements, as part of a formal training program approved by the Residency Review Committee for Radiation Oncology of the Accreditation Council for Graduate Medical Education or the Royal College of Physicians and Surgeons of Canada or the Committee on Postdoctoral Training of the American Osteopathic Association. This experience may be obtained concurrently with the supervised work experience required by subsection (A)(2)(b); and
- d.** Obtaining written attestation that the individual has satisfactorily completed the requirements in subsections (A)(2)(a) through (c) and (B), and is able to independently fulfill the radiation safety-related duties as an authorized user of each type of therapeutic medical unit for which the individual is requesting authorized user status. The written attestation must be obtained from either:
- i. A preceptor authorized user who meets the requirements in this Section, NRC requirements, or equivalent Agreement State requirements for the type(s) of therapeutic medical unit for which the individual is requesting authorized user status; or
  - ii. A residency program director who affirms in writing that the attestation represents the consensus of the residency program faculty where at least one faculty member is an authorized user who meets the requirements in this Section, NRC requirements, or equivalent Agreement State requirements, for the type(s) of therapeutic medical unit for which the individual is requesting authorized user status, and concurs with the attestation provided by the residency program director. The residency training program must be approved by the Residency Review Committee of the Accreditation Council for Graduate Medical Education or the Royal College of Physicians and Surgeons of Canada or the Council on Postdoctoral Training of the American Osteopathic Association and must include training and experience specified in subsection (A)(2)(a) through (c).
- B.** A licensee shall require an authorized user of a sealed source for a use authorized under Group 600 in Exhibit A, Medical Use Groups of this Article to receive training in device operation, safety procedures, and clinical use for the type(s) of use for which authorization is sought. This training requirement may be satisfied by satisfactory completion of a training program provided by the vendor for new users or by receiving training supervised by an authorized user or authorized medical physicist, as appropriate, who is authorized for the type(s) of use for which the individual is seeking authorization.
- C.** The training and experience shall have been obtained within the seven years preceding the date of application or the individual shall have had related continuing education and experi-

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ence since the required training and experience was completed.

**Historical Note**

New Section R9-7-744 recodified from R12-1-744 at 24 A.A.R. 813, effective March 22, 2018 (Supp. 18-1).  
Amended by final expedited rulemaking at 25 A.A.R. 3561, effective December 3, 2019 (Supp. 19-4).

**R9-7-745. Report and Notification of a Medical Event**

A. A licensee shall report any "medical" event, except for an event that results from patient intervention, in which the administration of radioactive material or radiation from radioactive material results in:

1. A dose that differs from the prescribed dose or dose that would have resulted from the prescribed dosage by more than 0.05 Sv (5 rem) effective dose equivalent, 0.5 Sv (50 rem) to an organ or tissue, or 0.5 Sv (50 rem) shallow dose equivalent to the skin; and
  - a. The total dose delivered differs from the prescribed dose by 20 percent or more;
  - b. The total dosage delivered differs from the prescribed dosage by 20 percent or more or falls outside the prescribed dosage range; or
  - c. The fractionated dose delivered differs from the prescribed dose, for a single fraction, by 50 percent or more.
2. A dose that exceeds 0.05 Sv (5 rem) effective dose equivalent, 0.5 Sv (50 rem) to an organ or tissue, or 0.5 Sv (50 rem) shallow dose equivalent to the skin from any of the following:
  - a. An administration of a wrong radiopharmaceutical containing radioactive material;
  - b. An administration of a radiopharmaceutical containing radioactive material by the wrong route of administration;
  - c. An administration of a dose or dosage to the wrong individual or human research subject;
  - d. An administration of a dose or dosage delivered by the wrong mode of treatment; or
  - e. A leaking sealed source.
3. A dose to the skin or an organ or tissue other than the treatment site that exceeds by 0.5 Sv (50 rem) to an organ or tissue and 50 percent or more of the dose expected from the administration defined in the written directive (excluding, for permanent implants, seeds that were implanted in the correct site but migrated outside the treatment site).

B. A licensee shall report any event resulting from intervention of a patient or human research subject in which the administration of radioactive material or radiation from radioactive material results or will result in unintended permanent functional damage to an organ or a physiological system, as determined by a physician.

C. The licensee shall notify by telephone the Department no later than the next calendar day after discovery of the medical event.

D. The licensee shall submit a written report to the Department within 15 days after discovery of the medical event.

1. The written report shall include:
  - a. The licensee's name;
  - b. The name of the prescribing physician;
  - c. A brief description of the event;
  - d. Why the event occurred;
  - e. The effect, if any, on each individual who received the administration;

- f. What actions, if any, have been taken or are planned to prevent recurrence; and
- g. Certification that the licensee notified each individual (or the individual's responsible relative or guardian), and if not, why not.

2. The report may not contain an individual's name or any other information that could lead to identification of the individual.

E. The licensee shall provide notification of the event to the referring physician and also notify the individual who is the subject of the medical event no later than 24 hours after its discovery, unless the referring physician personally informs the licensee either that he or she will inform the individual or that, based on medical judgment, telling the individual would be harmful. The licensee is not required to notify the individual without first consulting the referring physician. If the referring physician or the affected individual cannot be reached within 24 hours, the licensee shall notify the individual as soon as possible thereafter. The licensee may not delay any appropriate medical care for the individual, including any necessary remedial care as a result of the medical event, because of any delay in notification. To meet the requirements of this subsection, the notification of the individual who is the subject of the medical event may be made instead to that individual's responsible relative or guardian. If a verbal notification is made, the licensee shall inform the individual, or appropriate responsible relative or guardian, that a written description of the event can be obtained from the licensee upon request. The licensee shall provide such a written description if requested.

F. Aside from the notification requirement, nothing in this Section affects any rights or duties of licensees and physicians in relation to each other, to individuals affected by the medical event, or to that individual's responsible relatives or guardians.

G. A licensee shall:

1. Annotate a copy of the report provided to the Department with the:
  - a. Name of the individual who is the subject of the event; and
  - b. Social Security number or other identification number, if one has been assigned, of the individual who is the subject of the event; and
2. Provide a copy of the annotated report to the referring physician, if other than the licensee, no later than 15 days after the discovery of the event.

**Historical Note**

New Section R9-7-745 recodified from R12-1-745 at 24 A.A.R. 813, effective March 22, 2018 (Supp. 18-1).

**R9-7-746. Report and Notification of a Dose to an Embryo, Fetus, or Nursing Child**

A. A licensee shall report any dose to an embryo/fetus that is greater than 50 mSv (5 rem) dose equivalent that is a result of an administration of radioactive material or radiation from radioactive material to a pregnant individual unless the dose to the embryo/fetus was specifically approved, in advance, by the authorized user.

B. A licensee shall report any dose to a nursing child that is a result of an administration of radioactive material to a breastfeeding individual that:

1. Is greater than 50 mSv (5 rem) total effective dose equivalent; or
2. Has resulted in unintended permanent functional damage to an organ or a physiological system of the child, as determined by a physician.

C. The licensee shall notify the Department by telephone no later than the next calendar day after discovery of a dose to the

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embryo, fetus, or nursing child that requires a report in subsections (A) or (B).

- D. The licensee shall submit a written report to the Department within 15 days after discovery of a dose to the embryo, fetus, or nursing child that requires a report in subsections (A) or (B). The written report shall include:

1. The licensee's name;
2. The name of the prescribing physician;
3. A brief description of the event;
4. Why the event occurred;
5. The effect, if any, on the embryo/fetus or the nursing child;
6. What actions, if any, have been taken or are planned to prevent recurrence; and
7. Certification that the licensee notified the pregnant individual or mother (or the mother's or child's responsible relative or guardian), and if not, why not.

- E. The report, required in subsection (D), shall not contain the individual's or child's name or any other information that could lead to identification of the individual or child.

- F. The licensee shall provide notification of the event to the referring physician and also notify the pregnant individual or mother, both hereafter referred to as the mother, no later than 24 hours after discovery of an event that would require reporting under subsections (A) or (B), unless the referring physician personally informs the licensee either that he or she will inform the mother or that, based on medical judgment, telling the mother would be harmful. The licensee is not required to notify the mother without first consulting with the referring physician. If the referring physician or mother cannot be reached within 24 hours, the licensee shall make the appropriate notifications as soon as possible thereafter. The licensee shall not delay any appropriate medical care for the embryo, fetus, or for the nursing child, including any necessary remedial care as a result of the event, because of any delay in notification. To meet the requirements of this subsection, the notification may be made to the mother's or child's responsible relative or guardian instead of the mother. If a verbal notification is made, the licensee shall inform the mother, or the mother's or child's responsible relative or guardian, that a written description of the event can be obtained from the licensee upon request. The licensee shall provide the written description upon request.

- G. A licensee shall:

1. Make a copy of the report provided to the Department and include with it the:
  - a. Name of the pregnant individual or the nursing child who is the subject of the event; and
  - b. Social Security number or other identification number, if one has been assigned, of the pregnant individual or the nursing child who is the subject of the event; and
2. Provide the copy of the information required in subsection (G)(1) to the referring physician, if other than the licensee, no later than 15 days after the discovery of the event.

**Historical Note**

New Section R9-7-746 recodified from R12-1-746 at 24 A.A.R. 813, effective March 22, 2018 (Supp. 18-1).

**Exhibit A. Medical Use Groups****Group 100**

Included is the use of any unsealed radioactive material for use in uptake, dilution, or excretion studies and not requiring a written directive: The radioactive material in this group shall be:

1. Obtained from a manufacturer or preparer licensed under R9-7-703(C)(2)(a), or equivalent NRC or Agreement State requirements; or
2. Obtained from a PET radioactive drug producer licensed under R9-7-703 or equivalent NRC or an Agreement State license excluding production of PET radionuclides prepared by an authorized nuclear pharmacist who meets the requirements in R9-7-712, a physician who is an authorized user and who meets the requirements specified in R9-7-721, or R9-7-723 and R9-7-721(3)(b)(vii), or an individual under the supervision of either as specified in R9-7-706; or
3. If a research protocol:
  - a. Obtained from and prepared by an Agreement State or NRC licensee for use in research in accordance with a Radioactive Drug Research Committee-approved protocol or an Investigational New Drug (IND) protocol accepted by FDA; or
  - b. Prepared by the licensee for use in research in accordance with a Radioactive Drug Research Committee-approved application or an Investigational New Drug (IND) protocol accepted by FDA.

**Group 200**

Included is the use of any unsealed radioactive material for use in imaging and localization not requiring a written directive. PET radiopharmaceuticals may be used if the licensee meets the requirements in R9-7-716. The radioactive material in this group shall be:

1. Obtained from a manufacturer or preparer licensed under R9-7-703(C)(2)(a), or equivalent NRC or Agreement State requirements; or
2. Obtained from a PET radioactive drug producer licensed under R9-7-703 or an equivalent NRC or Agreement State license excluding production of PET radionuclides prepared by an authorized nuclear pharmacist who meets the requirements in R9-7-712, a physician who is an authorized user and who meets the requirements specified in R9-7-721, or R9-7-723 and R9-7-721(3)(b)(vii), or an individual under the supervision of either as specified in R9-7-706; or
3. If a research protocol:
  - a. Obtained from and prepared by an Agreement State or NRC licensee for use in research in accordance with a Radioactive Drug Research Committee-approved application or an Investigational New Drug (IND) protocol accepted by FDA; or
  - b. Prepared by the licensee for use in research in accordance with a Radioactive Drug Research Committee-approved application or an Investigational New Drug (IND) protocol accepted by FDA.

**Group 300**

Included is the use of any unsealed radioactive material for medical use (radiopharmaceutical) for which a written directive is required. The radioactive material in this group shall be:

1. Obtained from a manufacturer or preparer licensed under R9-7-703(C)(2)(a) or equivalent NRC or Agreement State requirements; or
2. Obtained from a PET radioactive drug producer licensed under R9-7-703 or equivalent NRC or an Agreement State license excluding production of PET radionuclides prepared by an authorized nuclear pharmacist who meets the requirements in R9-7-712, a physician who is an authorized user and who meets the requirements specified in R9-7-721 or R9-7-723, or an individual under the supervision of either as specified in R9-7-706; or
3. If a research protocol:

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- a. Obtained from and prepared by an Agreement State or NRC licensee for use in research in accordance with an Investigational New Drug (IND) protocol accepted by FDA; or
- b. Prepared by the licensee for use in research in accordance with an Investigational New Drug (IND) protocol accepted by FDA.

**Group 400**

Included is the use of any brachytherapy source for therapeutic medical use that is manufactured in accordance with R9-7-703(C)(2)(b) and:

1. Approved for therapeutic use in the Sealed Source and Device Registry; or
2. Part of a research protocol that is approved for therapeutic use under an active Investigational Device Exemption (IDE) application accepted by the FDA, and meets the requirements of R9-7-709.

**Group 500**

Included is the use of any sealed source that is manufactured in accordance with R9-7-703(C)(2)(b), and is approved for diagnostic use in the Sealed Source and Device Registry.

**Group 600**

Included is the use of sealed sources in photon emitting remote afterloader units, teletherapy units, or gamma stereotactic radiosurgery units that are manufactured in accordance with R9-7-703(C)(2)(b) and:

1. Approved for therapeutic use in the Sealed Source and Device Registry; or
2. Part of a research protocol that is approved for therapeutic use under an active Investigational Device Exemption (IDE) application accepted by the FDA and meets the requirements of R9-7-709.

**Group 1000**

A licensee may use radioactive material or a radiation source approved for medical use which is not specifically addressed in R9-7-309(4) if:

1. The applicant or licensee has submitted the information required by this Article; and
2. The applicant or licensee has received written approval from the Department in a license or license amendment and uses the material in accordance with the rules and specific conditions the Department considers necessary for the medical use of the material.

**Historical Note**

New Article 7, Exhibit A recodified from 12 A.A.C. 1., Article 7, Exhibit A at 24 A.A.R. 813, effective March 22, 2018 (Supp. 18-1). Exhibit A, Group 100, Group 200, and Group 1000 amended by final exempt rulemaking at 24 A.A.R. 2151, effective July 12, 2018 (Supp. 18-3).

**ARTICLE 8. RADIATION SAFETY REQUIREMENTS FOR ANALYTICAL X-RAY OPERATIONS****R9-7-801. Scope**

The rules in this Article establish requirements for the use of analytical x-ray equipment by persons registered under R9-7-204. The provisions of this Article supplement other applicable provisions of this Chapter.

**Historical Note**

New Section R9-7-801 recodified from R12-1-801 at 24 A.A.R. 813, effective March 22, 2018 (Supp. 18-1).

**R9-7-802. Definitions**

"Analytical x-ray equipment" means devices or machines used for x-ray diffraction or x-ray induced fluorescence analysis.

"Analytical x-ray system" means a group of components utilizing x-rays to determine the elemental composition or to examine the microstructure of materials.

"Enclosed beam x-ray system" means an analytical x-ray system constructed in such a way that access to the interior of the enclosure housing the x-ray source is precluded during operation except through bypassing of interlocks or other safety devices to perform maintenance or servicing.

"Fail-safe characteristic" means a design feature which causes beam port shutters to close, or otherwise prevents emergence of the primary beam, upon the failure of a safety or warning device.

"Local component" means part of an analytical x-ray system and includes each area that is struck by x-rays, such as radiation source housings, port and shutter assemblies, collimators, sample holders, cameras, goniometers, detectors and shielding, but does not include power supplies, transformers, amplifiers, readout devices, and control panels.

"Normal operating procedures" means instructions or procedures including, but not limited to, sample insertion and manipulation, equipment alignment, routine maintenance by the registrant, and data recording procedures which are related to radiation safety.

"Open beam x-ray system" means an analytical x-ray system which permits an individual to place some body part in the primary beam path during normal operation.

"Primary beam" means radiation which passes through an aperture of the source housing on a direct path from the x-ray tube.

**Historical Note**

New Section R9-7-802 recodified from R12-1-802 at 24 A.A.R. 813, effective March 22, 2018 (Supp. 18-1).

**R9-7-803. Enclosed-beam X-ray Systems**

- A. Enclosed beam x-ray systems are exempt from other equipment requirements contained in this Article provided the enclosed beam x-ray systems are designed and constructed so that radiation levels measured at 5 cm from any accessible surface of the enclosure housing the x-ray source do not exceed 5  $\mu$ Sv (0.5 mrem) in one hour.
- B. A registrant using enclosed beam x-ray systems shall comply with applicable provisions R9-7-804(A), R9-7-805(B), and 9 A.A.C. 7, Article 4.
- C. A person who maintains or services analytical x-ray systems, shall:
  1. Obtain permission in advance from the radiation safety officer before bypassing interlocks or other safety devices,
  2. Label equipment as "out of service" until maintenance or service is completed,
  3. Wear extremity personnel monitoring devices, and
  4. Ensure that interlocks or other safety devices are operating upon completion of maintenance or service.

**Historical Note**

New Section R9-7-803 recodified from R12-1-803 at 24 A.A.R. 813, effective March 22, 2018 (Supp. 18-1).

**R9-7-804. Open-beam X-ray Systems**



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- A. A registrant shall label open beam x-ray systems with a readily discernible sign or signs bearing the radiation symbol and the words:
1. "CAUTION -- HIGH INTENSITY X-RAY BEAM," or a similar warning, on the x-ray source housing; and
  2. "CAUTION RADIATION -- THIS EQUIPMENT PRODUCES RADIATION WHEN ENERGIZED" or a similar warning, near any switch that energizes an x-ray tube if the radiation source is an x-ray tube.
- B. A registrant shall ensure that an open beam x-ray system has all of the following warning devices:
1. X-ray tube status (On-Off) indicator in systems where the primary beam is controlled in this fashion;
  2. Shutter status (Open-Closed) indicators near each port on the radiation housing for systems which control the primary beam; and
  3. A clearly visible warning light labeled with the words "X-RAY ON," or a similar warning located near any switch that energizes an x-ray tube, illuminated only when the tube is energized; and
  4. The warning devices in subsections (B)(1) through (3) shall be labeled so that their purpose is easily identified.
- C. A registrant shall ensure that any apparatus utilized in beam alignment procedures is designed in such a way that excessive radiation will not strike the operator. Particular attention shall be given to viewing devices, in order to ascertain that lenses and other transparent components attenuate the beam to an acceptable level.
- D. A registrant shall provide an interlock device which prevents entry of any portion of an individual's body into the primary beam or causes the primary beam to be shut off upon entry into its path on all open-beam x-ray systems. A registrant may apply to the Department for an exemption from the requirements of a safety device. An application for exemption shall include:
1. A description of the various safety devices that have been evaluated;
  2. The reason each device cannot be used; and
  3. A description of the alternative methods that will be used to minimize accidental exposure, including procedures to assure that operators and others in the area will be informed of the absence of safety devices.
- E. A registrant shall use only systems constructed so that:
1. Each x-ray tube housing is equipped with an interlock that automatically shuts off the tube if the tube is removed from the radiation source housing or the housing is disassembled; and
  2. With all shutters closed, radiation measured at a distance of 5 centimeters from the surface of the system is not capable of producing a dose that exceeds 25 Sv (2.5 mRem) in one hour for the specified tube rating of the x-ray tube.
- F. A registrant shall supply each x-ray generating system with a protective cabinet that limits leakage radiation measured at a distance of 5 cm (2 in) from the cabinet surface, so that the system is not capable of producing a dose equivalent that exceeds 25  $\mu$ Sv (2.5 mrem) in one hour.
- G. A registrant shall ensure that the local components of an analytical x-ray system are located and arranged and have sufficient shielding or access control for the specified tube rating to prevent the radiation level in any area adjacent to the local component group from exceeding the dose limits in R9-7-416.
- H. A registrant shall perform a radiation survey of the local component group of each analytical x-ray system to demonstrate compliance with subsection (G) upon:
1. Installation,
  2. Change in configuration, or
  3. Maintenance that affects the radiation level in any area adjacent to the local component group.
- I. A registrant shall maintain a record of each survey for three years or until the analytical x-ray system is no longer used, whichever period is shorter.

**Historical Note**

New Section R9-7-804 recodified from R12-1-804 at 24 A.A.R. 813, effective March 22, 2018 (Supp. 18-1).

**R9-7-805. Administrative Responsibilities**

- A. A registrant shall designate a radiation safety officer who shall:
1. Establish and maintain operational procedures so that the radiation exposure of each worker is kept ALARA;
  2. Instruct all personnel who work with or near radiation producing machines in safety practices;
  3. Maintain a system of personnel monitoring;
  4. Establish radiation control areas, including placement of appropriate radiation warning signs or devices;
  5. Provide a radiation safety inspection of radiation producing machines on a routine basis;
  6. Review modifications to x-ray systems, including x-ray tube housing, cameras, diffractometers, shielding, and safety interlocks;
  7. Investigate and report proper authorities any case of excessive exposure to personnel and take remedial action; and,
  8. Be familiar with all applicable rules for control of ionizing radiation.
- B. An individual shall not be permitted to operate or maintain an open beam analytical x-ray system unless the individual has received instruction in and demonstrated competence in all of the following:
1. Identification of radiation hazards associated with the use of the equipment;
  2. Significance of all radiation warning and safety devices, interlocks incorporated into the equipment, or the reasons that devices or interlocks have not been installed on certain pieces of equipment and the extra precautions required in lieu of these precautions;
  3. Proper operating procedures for the equipment;
  4. Recognition of symptoms of acute localized radiation exposure; and
  5. Proper procedure for reporting an actual or suspected exposure.
- C. A registrant shall maintain records of instruction and competence for Department inspection for three years from the date of course completion or demonstration.

**Historical Note**

New Section R9-7-805 recodified from R12-1-805 at 24 A.A.R. 813, effective March 22, 2018 (Supp. 18-1).

**R9-7-806. Operating Requirements**

- A. A radiation safety officer shall establish written emergency procedures and post the procedures in a conspicuous location. The procedures shall include the telephone number of the radiation safety officer.
- B. A registrant shall ensure that written operating procedures are available for all analytical x-ray equipment workers. An individual shall not operate analytical x-ray equipment in any manner other than that specified in the procedures unless the individual obtains the radiation safety officer's written approval.
- C. An individual shall not bypass a safety device or interlock unless the individual has obtained Radiation Safety Officer

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approval. The approval shall be for a specific period of time. When a safety device or interlock has been bypassed, the Radiation Safety Officer shall place a readily discernible sign on the radiation source housing, warning the reader of the unsafe condition. A registrant shall maintain the written record of the bypass approval for three years after the approval expires.

- D. Except as authorized in subsection (C), an individual shall not perform an operation involving removal of covers, shielding materials, or tube housings or modification of shutters, collimators, or beam stops without ascertaining that the tube is off and that it will remain off until all protective devices have been restored to the normal operating condition. An individual repairing analytical x-ray equipment shall use the main switch, rather than interlocks, for routine shutdown in preparation for repairs.
- E. A registrant shall ensure that unused ports on radiation source housings are closed and secured against unauthorized access to the radiation source.
- F. Finger or wrist personnel monitoring devices shall be used by:
  1. Operators of open beam analytical x-ray equipment not equipped with a safety device; and
  2. Personnel performing maintenance procedures that require the presence of a primary x-ray beam when any local component is disassembled or removed.
- G. A registrant shall ensure that each safety and warning device is tested for proper operation at intervals that do not exceed one month and maintain a record of each test for three years from the date the test is completed.

**Historical Note**

New Section R9-7-806 recodified from R12-1-806 at 24 A.A.R. 813, effective March 22, 2018 (Supp. 18-1).

**R9-7-807. Surveys**

- A. To ensure that personnel exposure does not result in a dose to an individual that exceeds the dose limits specified in Article 4, a registrant shall perform a radiation survey upon:
  1. Installation of the equipment and at least once each year after installation;
  2. Change in the initial arrangement, number, or type of local components in the system;
  3. Maintenance that involves disassembly or removal of a local component in the system;
  4. Maintenance that involves alignment, if alignment requires the generation of the primary x-ray beam while any local component of the system is disassembled or removed;
  5. A visual inspection of the local components in the system that reveals an abnormal condition; or
  6. Determination that personnel are being exposed to radiation in excess of established levels recorded in monitoring records for personnel during previous monitoring periods or the occupational dose limits specified in Article 4.
- B. The radiation surveys in subsection (A) are not required if the registrant demonstrates that the local components of an analytical x-ray system are located and arranged, and have sufficient shielding or access control, to limit personnel exposure to a level that is ALARA and below the occupational dose limits in Article 4. The Department shall determine ALARA radiation levels based on the specified x-ray tube rating.

**Historical Note**

New Section R9-7-807 recodified from R12-1-807 at 24 A.A.R. 813, effective March 22, 2018 (Supp. 18-1).

**R9-7-808. Posting**

A registrant shall conspicuously post each area or room that contains analytical x-ray equipment with a sign or signs that bear the radiation symbol and the words "CAUTION – X-RAY EQUIPMENT" or words with a similar meaning.

**Historical Note**

New Section R9-7-808 recodified from R12-1-808 at 24 A.A.R. 813, effective March 22, 2018 (Supp. 18-1).

**R9-7-809. Training**

A registrant shall not be allow an individual to operate or maintain analytical x-ray equipment unless the individual has received training and demonstrated competence in:

1. Identifying radiation hazards associated with use of the equipment;
2. Recognizing and using radiation warning and safety devices, including interlocks that are incorporated into the equipment, and understanding why these devices are sometimes not installed;
3. Taking precautions associated with use of the equipment;
4. Recognizing symptoms of an acute localized exposure; and
5. Following proper procedure for reporting a suspected personnel exposure.

**Historical Note**

New Section R9-7-809 recodified from R12-1-809 at 24 A.A.R. 813, effective March 22, 2018 (Supp. 18-1).

**ARTICLE 9. PARTICLE ACCELERATORS****R9-7-901. Purpose and Scope**

- A. This Article establishes procedures and requirements for the registration and the use of particle accelerators.
- B. In addition to the requirements of this Article, all registrants are subject to the requirements of Articles 1, 2, 4 and 10. Registrants engaged in industrial radiographic operations are subject to the requirements of Article 11, and registrants engaged in the healing arts are subject to the requirements of Article 6 of this Chapter. Registrants using a particle accelerator for the production of radioactive material are subject to the requirements of Article 3, and if the radioactive material is used for medical purposes, Article 7.

**Historical Note**

New Section R9-7-901 recodified from R12-1-901 at 24 A.A.R. 813, effective March 22, 2018 (Supp. 18-1).

**R9-7-902. Definitions**

The following definitions apply in this Article, unless the context otherwise requires:

"Added filter" (See Article 6)

"Arc therapy" means radiation therapy that uses electrons to treat large, superficial volumes that follow curved surfaces, as in postmastectomy patients.

"Authorized medical physicist" means an individual who meets the requirements in R9-7-711. For purposes of ensuring that personnel are adequately trained, an authorized medical physicist is a "qualified expert" as defined in Article 1.

"Beam-limiting device" (See Article 6)

"Beam-monitoring system" means a system of devices that will monitor the useful beam during irradiation and terminate irradiation when a preselected number of monitor units has been accumulated.

"Control panel" (See Article 6)

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“Full beam detector” means a radiation detector of such size that the total cross section of the maximum size useful beam is intercepted.

“Gantry” means that part of a linear accelerator that supports the radiation source so that it can rotate about a horizontal axis.

“Interlock” (See Article 1)

“Isocenter” means the point of intersection of the collimator axis and the axis of rotation of the gantry.

“Monitor unit” means a unit response from the beam monitoring system from which the absorbed dose can be calculated.

“Moving beam therapy” means radiation therapy in which there is displacement of the useful beam relative to the patient. Moving beam therapy includes arc therapy, skip therapy, and rotational beam therapy.

“Rotational beam therapy” means radiation therapy that is administered to a patient from a radiation source that rotates around the patient’s body or the patient is rotated while the beam is held fixed.

“Skip therapy” means rotational beam therapy that is administered in a way that maximizes the dose to an area of interest and minimizes the dose to surrounding healthy tissue.

“Spot check” (See Article 6)

“Stationary beam therapy” means radiation therapy that involves a beam from a radiation source that is aimed at the patient from different directions. The distance of the source from the isocenter remains constant irrespective of the beam direction.

“Virtual source” means a point from which radiation appears to originate.

**Historical Note**

New Section R9-7-902 recodified from R12-1-902 at 24 A.A.R. 813, effective March 22, 2018 (Supp. 18-1).

**R9-7-903. General Registration Requirements**

- A. The requirements in this Section supplement the registration requirements in 9 A.A.C. 7, Article 2.
- B. The Department shall approve a registration application for use of a particle accelerator only if the Department determines that:
  1. The applicant is qualified by training and experience to use the accelerator for the purpose in the application submitted to the Department under Article 2;
  2. The applicant’s proposed equipment, facilities, and operating and emergency procedures are adequate to protect public health;
  3. The applicant satisfies any other applicable requirements in this Section; and 4. The applicant has appointed a radiation safety officer.

**Historical Note**

New Section R9-7-903 recodified from R12-1-903 at 24 A.A.R. 813, effective March 22, 2018 (Supp. 18-1).

**R9-7-904. Registration of Particle Accelerators Used in the Practice of Medicine**

- A. The requirements in this Section supplement the registration requirements in R9-7-903.
- B. An applicant that is a “medical institution,” as defined in 9 A.A.C. 7, Article 7, and performing human research shall appoint a radiation safety committee that meets the following requirements:

1. The committee shall consist of at least four individuals and shall include:
    - a. An authorized user of each type of use permitted by the registration,
    - b. The Radiation Safety Officer,
    - c. A representative of the nursing service, and
    - d. A representative of management who is neither an authorized user nor a Radiation Safety Officer, and
    - e. Any other members the registrant selects;
  2. The committee shall meet at least once in each 12-month period, unless otherwise specified by registration condition;
  3. To conduct business at least 50 percent of the membership of the committee shall be present including the Radiation Safety Officer and the management representative;
  4. The minutes of each radiation safety committee meeting shall include a reference of any discussion or documents related to the review required in R9-7-407(C);
  5. Review the radiation safety program for all sources of radiation as required in R9-7-407(C);
  6. Establish a table that contains investigational levels for occupational and public dose that, when exceeded, will initiate an investigation and consideration of actions by the Radiation Safety Officer; and
  7. Establish the safety objectives of the quality management program required by subsection (E).
- C. The applicant shall ensure that an individual designated as an authorized user is an Arizona licensed physician; approved by the radiation safety committee, if applicable; and is:
1. Certified in:
    - a. Radiology, therapeutic radiology, or radiation oncology by the American Board of Radiology; or
    - b. Radiation oncology by the American Osteopathic Board of Radiology; or
    - c. Radiology, with specialization in radiotherapy, as a British “Fellow of the Faculty of Radiology” or “Fellow of the Royal College of Radiology”; or
    - d. Therapeutic radiology by the Canadian Royal College of Physicians and Surgeons; or
  2. Engaged in the active practice of therapeutic radiology, and has completed 200 hours of instruction in basic techniques applicable to the use of a particle accelerator, 500 hours of supervised work experience, and a minimum of three years of supervised clinical experience.
    - a. To satisfy the requirement for instruction, the classroom and laboratory training shall include all of the following subjects:
      - i. Radiation physics and instrumentation,
      - ii. Radiation protection,
      - iii. Mathematics pertaining to the use and measurement of radiotherapy, and
      - iv. Radiation biology.
    - b. To satisfy the requirement for supervised work experience, training shall occur under the supervision of an authorized user at a medical institution and shall include:
      - i. Reviewing full calibration measurements and periodic spot checks,
      - ii. Preparing treatment plans and calculating treatment times,
      - iii. Using administrative controls to prevent misadministration,
      - iv. Implementing emergency procedures to be followed in the event of the abnormal operation of a particle accelerator, and
      - v. Checking and using survey meters.

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- c. To satisfy the requirement for a period of supervised clinical experience, training shall include one year in a formal training program approved by the Residency Review Committee for Radiology of the Accreditation Council for Graduate Medical Education or the Committee on Postdoctoral Training of the American Osteopathic Association and an additional two years of clinical experience in therapeutic radiology under the supervision of an authorized user at a medical institution. The supervised clinical experience shall include:
    - i. Examining individuals and reviewing their case histories to determine their suitability for treatment, noting any limitations or contraindications;
    - ii. Selecting the proper dose and how it is to be administered;
    - iii. Calculating the therapy doses and collaborating with the authorized user in the review of patients' or human research subjects' progress and consideration of the need to modify originally prescribed doses, as warranted by patients' or human research subjects' reaction to radiation; and
    - iv. Post-administration follow up and review of case histories.
  - D. With the application the applicant shall provide the name of each authorized user to the Department so the names can be listed on the registration form, and so that the Department can determine whether the authorized user's training and experience satisfies the requirements in subsection (C).
  - E. Each registrant shall establish and maintain a written quality management program to provide high confidence that the radiation produced by the particle accelerator will be administered as directed by an authorized user. The quality management program shall include, at minimum, the tests and checks listed in Appendix A.
  - F. Each registrant shall ensure that a particle accelerator is calibrated by an authorized medical physicist who meets the training and experience qualifications in R9-7-711.
  - G. At the time of application for registration or when a therapy program is expanded to multiple sites, each applicant or registrant shall provide the Department with a description of the quality management program, a listing of the professional staff assigned to the facility, and the expected ratio of patient workload to staff member for programs involving multiple therapy sites. If the staffing ratio exceeds the recommended levels in Radiation Oncology in Integrated Cancer Management, Report of the Inter-Society Council for Radiation Oncology, December 1991, the applicant shall provide to the Department for approval the justification for the larger ratio and the safety considerations that have been addressed in establishing the program. This report is incorporated by reference and available under R9-7-101. The incorporated material contains no future editions or amendments. The report is available from the American Association of Physicists in Medicine: online at <http://www.aapm.org/pubs/reports>; print copies may be purchased from Medical Physics Publishing, 4513 Vernon Blvd., Madison, WI 53705; toll free at (800) 442-5778.
1. Leakage radiation
    - a. X-ray leakage radiation from the source housing assembly shall not exceed 0.1 percent of the maximum dose equivalent rate of the unattenuated useful beam.
    - b. Neutron leakage radiation from the source housing assembly shall not exceed 0.5 percent of the maximum dose equivalent rate of the unattenuated useful beam.
    - c. Leakage radiation measurements made at any point 1 meter from the path of the charged particle between its point of origin and the target, window or scattering foil shall meet the requirements of subsection (A)(1)(a) and (b) when computed as a percentage of the dose rate equivalent of the unattenuated useful beam measured at 1 meter from the virtual source. Leakage radiation measurements at each point shall be averaged over an area up to but not exceeding 100 square centimeters (15.5 square inches).
    - d. The registrant shall maintain, for inspection by the Department, records that show leakage radiation measurements for the life of the operation.
  2. Beam limiting devices (not to include blocks or wedges). Adjustable or interchangeable beam limiting devices shall be provided and shall transmit no more than 2 percent of the useful beam for the portion of the useful beam that is to be attenuated by the beam limiting device. The neutron component of the useful beam shall not be included in this requirement. Measurements shall be averaged over an area up to but not exceeding 100 square centimeters (15.5 square inches) at the normal treatment distance.
  3. Filters. The following requirements apply to systems that use a system of wedge filters, interchangeable field flattening filters, or interchangeable beam scattering filters:
    - a. Irradiation shall not be possible until a selection of a filter has been made at the treatment control panel;
    - b. An interlock system shall be provided to prevent irradiation if the filter selected is not in the correct position;
    - c. An indication of the wedge filter orientation with respect to the treatment field shall be provided at the control panel, by direct observation, or by electronic means, when wedge filters are used;
    - d. A display shall be provided at the treatment control panel showing the filter or filters in use;
    - e. Each filter that is removable from the system shall be clearly identified as to that filter's material of construction, thickness, and the nominal wedge angle for wedge filters, or a record tracing these factors for each filter shall be maintained at the system console; and
    - f. An interlock shall be provided to prevent irradiation if any filter selection operation carried out in the treatment room does not agree with the filter selection operation carried out at the treatment control panel.
  4. Beam monitor. Equipment installed after the effective date of this Section shall be provided with at least one radiation detector in the radiation head. This detector shall be incorporated into a primary system so that all of the following criteria are met:
    - a. Each primary system shall have a detector that is a transmission detector and a full beam detector and

**Historical Note**

New Section R9-7-904 recodified from R12-1-904 at 24

A.A.R. 813, effective March 22, 2018 (Supp. 18-1).

**R9-7-905. Medical Particle Accelerator Equipment, Facility and Shielding, and Spot Checks****A. Equipment**

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- that is placed on the patient side of any fixed added filters other than a wedge filter;
- b. The detectors shall be removable only with tools and shall be interlocked to prevent incorrect positioning;
  - c. Each detector shall be capable of independently monitoring and controlling the useful beam;
  - d. Each detector shall form part of a dose-monitoring system from which the absorbed dose can be calculated at a reference point in the treatment volume;
  - e. Each dose monitoring system shall have a legible display at the treatment control panel that:
    - i. Maintains a reading until intentionally reset to zero;
    - ii. Has only one scale and no scale multiplying factors in replacement equipment; and
    - iii. Utilizes a design such that increasing dose is displayed by increasing numbers and is designed so that, in the event of an overdosage of radiation, the absorbed dose may be accurately determined under all nominal conditions of use or foreseeable failures;
  - f. In the event of power failure, the dose monitoring information required in subsection (A)(4) displayed at the control panel at the time of failure shall be retrievable in at least one system; and
  - g. Selection and display of dose monitor units;
    - i. Irradiation shall not be possible until a selection of dose monitor units has been made at the treatment control panel.
    - ii. Each primary system shall terminate irradiation when the preselected number of dose monitor units has been detected by the system.
    - iii. Each secondary system shall terminate irradiation when 110 percent of the preselected number of dose monitor units has been detected by the system.
    - iv. It shall be possible to interrupt irradiation and equipment movements at any time from the operator's position at the treatment control panel. Following an interruption, it shall be possible to restart irradiation by operator action without any reselection of operating conditions. If any change is made of a preselected value during an interruption the equipment shall go to termination condition.
    - v. It shall be possible to terminate irradiation and equipment movements, or go from an interruption condition to termination conditions at any time from the operator's position at the treatment control panel.
5. Beam monitoring system. All accelerator systems shall be provided with a beam monitoring system in the radiation head capable of monitoring and terminating irradiation.
    - a. Each beam monitoring system shall have a display at the treatment control panel that registers the accumulated monitor units.
    - b. The beam monitoring system shall terminate irradiation if the preselected number of monitor units has been detected by the system.
    - c. For units with a secondary beam monitoring system, the primary beam monitoring system shall terminate irradiation if the preselected number of monitor units has been detected. The secondary beam monitoring system shall terminate irradiation if the primary system fails.
    - d. In the event of a power failure, the display information required in subsection (A)(5)(a) shall be retained in at least one system following the power failure.
    - e. An interlock device shall prevent irradiation if any beam monitoring system is inoperable.
    - f. For purposes of this rule:
      - i. "Beam monitoring system" means a system of devices that will monitor the useful beam during irradiation and will terminate irradiation if a preselected number of monitor units is accumulated.
      - ii. "Monitor unit" means a unit response from the beam monitoring system from which the absorbed dose can be calculated.
  6. Treatment beam mode selection. In equipment capable of both x-ray and electron therapy:
    - a. Irradiation shall not be possible until a selection of radiation type is made at the treatment control panel;
    - b. An interlock system shall be provided to prevent irradiation if any selected operations carried out in the treatment room do not agree with the selected operations indicated at the treatment control panel;
    - c. An interlock system shall be available and in operating condition on a therapy machine, and shall be used to prevent unwanted x-ray or electron irradiation when preparing for, or performing radiation therapy procedures. The interlock system need not be available for use, if the therapy machine is only used to make an image of an inanimate object; and
    - d. The radiation type selected shall be displayed at the treatment control panel before and during irradiation.
  7. Treatment beam energy selection. Equipment capable of generating radiation beams of different energies shall meet all of the following requirements:
    - a. Irradiation shall not be possible until a selection of energy is made at the treatment control panel;
    - b. An interlock system shall be provided to ensure that the equipment can emit only the energy of radiation that is selected;
    - c. An interlock system shall be provided to prevent irradiation if any selected operations carried out in the treatment room do not agree with the selected operations indicated at the treatment control panel; and
    - d. The energy selected shall be displayed at the treatment control panel before and during irradiation.
  8. Selection of stationary or moving beam therapy. Equipment capable of both stationary and moving beam therapy modes shall meet all of the following requirements:
    - a. Irradiation shall not be possible until a selection of stationary beam therapy or moving beam therapy is made at the treatment control panel;
    - b. An interlock system shall be provided to ensure that the equipment can operate only in the mode that is selected;
    - c. An interlock system shall be provided to prevent irradiation if any selected operations carried out in the treatment room do not agree with the selected operations indicated at the treatment control panel;
    - d. An interlock system shall be provided to terminate irradiation if the movement stops during moving beam therapy;

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- e. Moving beam therapy shall be so controlled that the required relationship between the number of dose monitor units and movement is obtained; and
  - f. The mode of operation shall be displayed at the treatment control panel.
9. Focal spot location and beam orientation. The registrant shall determine, or obtain from the manufacturer, the location in reference to an accessible point on the radiation head of all of the following:
- a. The x-ray target or the virtual source of x-rays,
  - b. The electron window or the scattering foil, and
  - c. All possible orientations of the useful beam.
10. System checking facilities. Capabilities shall be provided for checking of all safety interlock systems.
- B. Facility and shielding requirements.**
1. In addition to protective barriers sufficient to ensure compliance with R9-7-907, all of the following design requirements apply:
    - a. Except for entrance doors or beam interceptors, all the required barriers shall be fixed barriers;
    - b. The treatment control panel shall be located outside the treatment room;
    - c. Windows, mirrors, operable closed-circuit television, or other equivalent viewing systems shall be provided to permit continuous observation of the patient during irradiation and shall be so located that the operator may observe the patient from the treatment control panel;
    - d. Provision shall be made for two-way oral communication between the patient and the operator at the treatment control panel;
    - e. Each point of entry into the treatment room shall be provided with warning lights that will indicate when the useful beam is "on" in a readily observable position outside of the room; and
    - f. Interlocks shall be provided and shall result in all entrance doors being closed before treatment can be initiated or continued. If the radiation beam is interrupted by any door opening, it shall be possible to restore the machine to operation only by closing the door and reinitiating exposure by manual action at the control panel.
  2. An authorized medical physicist, trained and experienced in the principles of radiation protection, shall perform a radiation protection survey on all installations before human use and after any change in an installation that might produce a radiation hazard. The authorized medical physicist shall provide the survey results in writing to the individual in charge of the installation and transmit a copy of the survey results to the Department.
  3. Calibrations.
    - a. Calibration of the therapy system, including radiation output calibration, shall be performed before placing new installations into operation for the purpose of irradiation of patients. Subsequent calibrations shall be made at intervals not to exceed 12 months, and after any change that may cause the calibration of the therapy system to change.
    - b. Calibration of the radiation output of the therapy beam shall be performed with an instrument that has been calibrated using a method that is traceable to the National Institute of Standards and Technology (NIST), within the preceding two years.
    - c. Calibration of a particle accelerator shall be performed by, or under the supervision of an authorized medical physicist who meets the qualification requirements specified in R9-7-711, and a copy of the calibration report shall be maintained by the registrant for inspection by the Department.
  - d. Calibration of the therapy beam shall include, but not necessarily be limited to, all of the following determinations:
    - i. Verification that the equipment is operating within the design specifications concerning the light localizer, the side light and back pointer alignment with the isocenter, when applicable, variation in the axis of rotation for the table, gantry and jaw system, and beam flatness and symmetry at specific depths;
    - ii. The exposure rate or dose rate in air or at various depths of water for the range of field sizes used for each effective energy, and for each treatment distance used for radiation therapy;
    - iii. The congruence between the radiation field and the field defined by the localizing device;
    - iv. The uniformity of the radiation field and its dependency upon the direction of the useful beam; and
    - v. The calibration determinations above shall be provided in sufficient detail, to allow the absorbed dose to tissue in the useful beam to be calculated to within plus or minus 5 percent.
  - e. Records of calibrations shall be maintained for three years following the date the calibration was performed.
  - f. A copy of the current calibration report shall be available in the therapy facility for use by the operator, and the report shall contain the following information:
    - i. The action taken by the authorized medical physicist performing the calibration if it indicates a change has occurred since the last calibration,
    - ii. A listing of the persons informed of the change in calibration results, and
    - iii. A statement as to the effect the change in calibration has had on the therapy doses prior to the current calibration finding.
- C. Spot checks.**
1. The spot check procedures shall be in writing and shall have been developed by an authorized medical physicist trained and experienced in performing calibrations.
  2. The measurements taken during spot checks shall demonstrate the degree of consistency of the operating characteristics which can affect the radiation output of the system or the radiation dose delivered to a patient during a therapy procedure.
  3. The written spot check procedure shall indicate the frequency at which tests or measurements are to be performed, not to exceed monthly.
  4. The spot check procedure shall note conditions that require recalibration of the therapy system before further human irradiation.
  5. Records of spot checks shall be maintained and available for inspection by the Department for three years following the spot check measurements. Records of spot checks not performed by an authorized medical physicist shall be signed by an authorized medical physicist within 15 days of the spot check.
- D. Operating procedures.**
1. Only the patient shall be in the treatment room during irradiation.

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2. If a patient must be held in position during treatment only, mechanical supporting or restraining devices shall be used for this purpose.

**Historical Note**

New Section R9-7-905 recodified from R12-1-905 at 24  
A.A.R. 813, effective March 22, 2018 (Supp. 18-1).

**R9-7-906. Limitations**

- A.** A registrant shall not permit an individual to act as:
1. A particle accelerator operator of any type unless the individual:
    - a. Has received copies of and instruction in this Article and the registrant's operating and emergency procedures,
    - b. Demonstrates an understanding of the material, and
    - c. Has demonstrated competence in the use the particle accelerator, related equipment, and survey instruments that will be employed during the operation of the particle accelerator;
  2. A medical particle accelerator operator unless the individual is certified as required in A.R.S. § 32-2811 or the operator meets the requirements in R9-7-603(B); or
  3. An industrial particle accelerator operator unless the individual has been instructed in radiation safety.
- B.** A registrant shall provide either the Radiation Safety Committee or the Radiation Safety Officer with the authority to terminate operations at a particle accelerator facility if this is necessary to protect health and safety or property.
- C.** If equipment is capable of both stationary and moving beam therapy, the registrant shall ensure that:
1. Irradiation is not possible unless either stationary or moving beam therapy has been selected at the control panel,
  2. An interlock is provided to ensure that the machine will operate only in the mode that has been selected,
  3. An interlock is provided that terminates irradiation if the gantry fails to move properly during moving beam therapy,
  4. A means is provided to prevent movement during stationary therapy, and
  5. The mode of operation is displayed at the control panel.

**Historical Note**

New Section R9-7-906 recodified from R12-1-906 at 24  
A.A.R. 813, effective March 22, 2018 (Supp. 18-1).

**R9-7-907. Shielding and Safety Design**

- A.** An authorized medical physicist experienced in the principles of radiation protection and installation design shall be consulted in the design of a particle accelerator installation and called upon to perform a radiation survey when the accelerator is first capable of producing radiation. The registrant shall provide a copy of the installation radiation survey to the Department before a Department inspection conducted according to R9-7-914.
- B.** The registrant shall shield each particle accelerator installation with the primary and secondary protective barriers necessary to comply with R9-7-408 and R9-7-416.
- C.** At the time of application for registration and before treatment of the first patient, the applicant shall provide to the Department a copy of an installation report, signed by the contractor who installed required shielding material recommended by the authorized medical physicist who performed the shielding calculations for the particle accelerator facility.
- D.** As part of the annual radiation protection program review required in R9-7-407(C), the registrant shall document installed facility shielding and other radiation exposure controls, review patient workload, and note associated changes, if

any, in public exposure that are the result of installed facility shielding, increased workload, and other radiation exposure controls in use at the time of the review.

**Historical Note**

New Section R9-7-907 recodified from R12-1-907 at 24  
A.A.R. 813, effective March 22, 2018 (Supp. 18-1).

**R9-7-908. Particle Accelerator Controls and Interlock Systems**

A registrant shall ensure that:

1. Instrumentation, readouts and controls on the particle accelerator control panel are clearly identified and easily discernible;
2. All entrances into the area that contains the particle accelerator room, target room, or other high radiation area, are provided with interlocks that shut down the machine if an entrance door is opened;
3. If an interlock system connected to an entrance door that provides access to the therapy suite has been tripped, it is not possible to resume operation of the particle accelerator by resetting the interlock switch at the entrance where it had been tripped;
4. Each safety interlock is on a circuit that allows it to operate independently of all other safety interlocks;
5. If possible, the interlock system is fail-safe in design, so that any defect or component failure in the interlock system prevents operation of the particle accelerator; and
6. A scram button or other emergency power cutoff switch is located and easily identifiable in the area that contains the particle accelerator. The registrant shall ensure that the scram button prevents persons from restarting the particle accelerator at the accelerator control panel without resetting the button or switch.

**Historical Note**

New Section R9-7-908 recodified from R12-1-908 at 24  
A.A.R. 813, effective March 22, 2018 (Supp. 18-1).

**R9-7-909. Warning Systems**

A registrant shall ensure that:

1. High radiation areas and entrances to the high radiation areas in medical facilities are equipped with a continuously-operating warning light system that operates when, and only when, radiation is produced;
2. High radiation areas and entrances to the high radiation areas in nonmedical facilities are equipped with an easily-observable flashing or rotating warning light system that operates when, and only when, radiation is produced;
3. High radiation areas associated with nonmedical particle accelerators have an audible warning device that is activated for 15 seconds before creation of the high radiation area; and the warning device is clearly discernible in all high radiation areas and all radiation areas; and
4. High radiation areas associated with any particle accelerator are posted according to R9-7-428 and R9-7-429.

**Historical Note**

New Section R9-7-909 recodified from R12-1-909 at 24  
A.A.R. 813, effective March 22, 2018 (Supp. 18-1).

**R9-7-910. Operating Procedures**

- A.** A registrant shall secure from use a particle accelerator when it is not being used to prevent unauthorized use.
- B.** A particle accelerator operator shall use the switch on the control panel to turn the accelerator beam on and off during normal operations. The safety interlock system may be used to turn off the accelerator beam in emergencies.

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- C. A registrant shall ensure that all safety and warning systems, including interlocks, are tested for proper operation at intervals not to exceed three months, and maintain a record of each test for Department inspection for at least three years from the date of the test.
- D. A registrant shall keep current electrical circuit diagrams of a particle accelerator and the associated interlock systems, and maintain the diagrams for inspection by the Department.
- E. A registrant shall not bypass an interlock unless the by-pass is:
  1. Authorized in writing by the Radiation Safety Committee or Radiation Safety Office,
  2. Recorded in a permanent log with a notice of the by-pass posted at any affected interlock and at the control panel, and
  3. Terminated as soon as possible.
- F. A registrant shall maintain a copy of the current operating and emergency procedures at the particle accelerator control panel.

**Historical Note**

New Section R9-7-910 recodified from R12-1-910 at 24  
A.A.R. 813, effective March 22, 2018 (Supp. 18-1).

**R9-7-911. Radiation Surveys**

- A. The registrant shall ensure that a portable survey instrument is available at all times in a particle accelerator facility.
- B. An authorized medical physicist shall:
  1. Check the operation of the portable survey instrument required in subsection (A), using a known radiation source, before each use;
  2. Perform and document a radiation protection survey when changes have been made in shielding, operation, equipment, or occupancy of adjacent areas;
  3. For particle accelerator facilities greater than 30 Mev, establish a program of radiation protection surveys that will evaluate the airborne radiation hazards, and ensure that the particulate radioactivity present in the accelerator facility will not result in personnel exposure that exceeds the limits in Article 4; and
  4. Perform radiation protection surveys, including smear surveys of the particle accelerator facility, as prescribed in the written procedures established by the Radiation Safety Officer of the particle accelerator facility and approved by the Department at the time of application for registration.
- C. The registrant shall maintain the following records:
  1. Radiation protection surveys required in subsection (B)(2), and the associated facility description, required in R9-7-202, until the registration is terminated; and
  2. Records of the surveys required in subsections (B)(3) and (4) for three years following the measurement.

**Historical Note**

New Section R9-7-911 recodified from R12-1-911 at 24  
A.A.R. 813, effective March 22, 2018 (Supp. 18-1).

**R9-7-912. Reserved****Historical Note**

Section R9-7-912 reserved when this Chapter was recodified from 12 A.A.C. 1 (Supp. 18-1).

**R9-7-913. Misadministration**

- A. For purposes of this rule "misadministration" means:
  1. A therapeutic radiation dose from a machine:
    - a. Delivered to the wrong patient;
    - b. Delivered using the wrong mode of treatment;
    - c. Delivered to the wrong treatment site; or
    - d. Delivered in one week to the correct patient, using the correct mode, to the correct therapy site, but

greater than 130 percent of the prescribed weekly dose; or

2. A therapeutic radiation dose from a machine with errors in the calibration, time of exposure, or treatment geometry that result in a calculated total treatment dose differing from the final, prescribed total treatment dose by more than 20 percent, except for treatments given in 1 to 3 fractions, in which case a difference of more than 10 percent constitutes a misadministration.

**B. Reports of therapy misadministration**

1. Within 24 hours after discovery of a misadministration, a registrant shall notify the Department by telephone. The registrant shall also notify the referring physician of the affected patient and the patient or a responsible relative or guardian, unless the referring physician personally informs the registrant either that he or she will inform the patient, or that in his or her medical judgment, telling the patient or the patient's responsible relative or guardian would be harmful to one or the other, respectively. If the referring physician or the patient's responsible relative or guardian cannot be reached within 24 hours, the registrant shall notify them as soon as practicable. The registrant shall not delay medical care for the patient because of notification problems.
2. Within 15 days following the verbal notification to the Department, the registrant shall report, in writing, to the Department and individuals notified under subsection (B)(1). The written report shall include the registrant's name, the referring physician's name, a brief description of the event, the effect on the patient, the action taken to prevent recurrence, whether the registrant informed the patient or the patient's responsible relative or guardian, and if not, why not. The report shall not include the patient's name or other information that could lead to identification of the patient.
3. Each registrant shall maintain records of all misadministrations for Department inspection. The records shall:
  - a. Contain the names of all individuals involved in the event, including:
    - i. The physician,
    - ii. The allied health personnel,
    - iii. The patient,
    - iv. The patient's referring physician,
    - v. The patient's identification number if one has been assigned,
    - vi. A brief description of the event,
    - vii. The effect on the patient, and
    - viii. The action taken to prevent recurrence.
  - b. Be maintained for three years beyond the termination date of the affected registration.

**Historical Note**

New Section R9-7-913 recodified from R12-1-913 at 24  
A.A.R. 813, effective March 22, 2018 (Supp. 18-1).

**R9-7-914. Initial Inspections of Particle Accelerators Used in the Practice of Medicine**

The Department shall inspect a particle accelerator, used in the practice of medicine, before its initial use to treat human disease.

**Historical Note**

New Section R9-7-914 recodified from R12-1-914 at 24  
A.A.R. 813, effective March 22, 2018 (Supp. 18-1).

**Appendix A. Quality Control Program**

- A. Mechanical Tests
  1. Patient support assembly motions,
  2. Gantry angle indicators,



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3. Optical distance indicators,
  4. Alignment lights,
  5. Congruence of radiation beam and light field,
  6. Accuracy of field size indicators,
  7. Mechanical isocenter-gantry and collimator,
  8. Mechanical interlocks.
- B. Radiation Beam Tests**
1. Machine operating parameters,
  2. Dose per monitor unit for x-ray and electron beams,
  3. Dose per degree for moving beam therapy,
  4. Radiation isocenter,
  5. Flatness and symmetry,
  6. Wedge transmission factors,
  7. Shadow tray transmission factors,
  8. Energy check on central axis,
  9. Radiation output versus field size.
- C. Control Panel Checks**
1. Radiation "ON" condition,
  2. Indicator lamp check,
  3. Computer control of accelerator,
  4. Interlock display,
  5. Digital display,
  6. Analog display,
  7. Status display,
  8. Reset display.
- D. Facility Checks**
1. Patient audio-visual communication,
  2. Entrance door interlock,
  3. Warning lights,
  4. Emergency off button.
- E. Dose Output Check**
1. Each registrant shall use the services of a third party authorized medical physicist or third party TLD system to verify the accelerator's radiation output every two years.
  2. If the output check is not within plus or minus 5 percent of the calibrated output, the accelerator shall be recalibrated and the discrepancy investigated.
  3. Records of output checks shall be maintained for three years.
- F. Patient Dosimetry Calculation Checks**
1. Calculation of patient treatment times,
  2. Computer calculation of patient treatment times.

**Historical Note**

New Article 9, Appendix A recodified from 12 A.A.C. 1, Article 9, Appendix A, 24 A.A.R. 813, effective March 22, 2018 (Supp. 18-1).

**ARTICLE 10. NOTICES, INSTRUCTIONS, AND REPORTS TO RADIATION WORKERS; INSPECTIONS****R9-7-1001. Purpose and Scope**

This Article establishes requirements for notices, instructions, and reports by licensees or registrants to individuals working for a licensee or registrant. This Article explains the options available to these individuals in connection with Department inspections of licensees or registrants regarding radiological working conditions. The rules in this Article apply to all persons who receive, possess, use, own, or transfer sources of radiation licensed or registered by the Department.

**Historical Note**

New Section R9-7-1001 recodified from R12-1-1001 at 24 A.A.R. 813, effective March 22, 2018 (Supp. 18-1).

**R9-7-1002. Posting of Notices for Workers**

- A.** Each licensee or registrant shall post current copies of the following documents:
1. The rules in this Chapter;

2. The license, certificate of registration, conditions, or documents incorporated into the license or registration by reference, and any amendments to the license or registration;
  3. The operating procedures applicable to work under the license or registration;
  4. Any notice of violation involving radiological working conditions, proposed imposition of a civil penalty, or order issued under 9 A.A.C. 7, Article 12, and any response from the licensee or registrant.
- B.** If posting of a document specified in subsections (A)(1), (2) and (3) is not practicable, the licensee or registrant may post a notice which describes the document and states where it may be examined.
- C.** Form ARRA-6 (shown following R9-7-1008), "Notice to Employees" shall be posted by each licensee or registrant wherever individuals work in or frequent any portion of a restricted area.
- D.** Each licensee or registrant shall post documents, notices, or forms, as required by this Section, so that they are conspicuous and appear in a sufficient number of places to permit individuals engaged in work under the license or registration to observe them on the way to or from any particular work location to which the document applies and shall replace any document if it is defaced or altered.
- E.** Department documents posted as required in subsection (A)(4) shall be posted within two working days after receipt of the documents from the Department; the licensee's or registrant's response, if any, shall be posted within two working days after dispatch from the licensee or registrant. The documents shall remain posted for a minimum of five working days or until action correcting the violation has been completed, whichever is later.

**Historical Note**

New Section R9-7-1002 recodified from R12-1-1002 at 24 A.A.R. 813, effective March 22, 2018 (Supp. 18-1).

**R9-7-1003. Instructions for Workers**

- A.** A licensee or registrant shall ensure that each individual who, in the course of employment, is likely to receive in a year an occupational dose in excess of 1 mSv (100 mrem), receives instruction in all of the following subjects:
1. Storage, transfer, or use of radiation and radioactive material;
  2. Health protection problems associated with exposure to radiation or radioactive material, precautions or procedures to minimize exposure, and purposes and functions of protective devices;
  3. Applicable provisions in Department rules, licenses, and registrations that protect of personnel from exposure to radiation or radioactive material, with an emphasis on the duties of workers;
  4. The duty to promptly report to the licensee or registrant any condition that may lead to or cause a violation of a provision in a Department rule, license, or registration or unnecessary exposure to radiation or radioactive material;
  5. Correct response to warnings in the event of any unusual occurrence or malfunction that may involve exposure to radiation or radioactive material; and
  6. Radiation exposure reports that a worker may request according to R9-7-1004.
- B.** In determining whether subsection (A) applies to an individual, a licensee or registrant shall take into consideration assigned activities during normal and abnormal situations that involve exposure to radiation or radioactive material and could reasonably be expected to occur during the life of a facility.

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The licensee or registrant shall provide instruction that is commensurate with potential radiological health protection problems present in the work place.

**Historical Note**

New Section R9-7-1003 recodified from R12-1-1003 at 24 A.A.R. 813, effective March 22, 2018 (Supp. 18-1).

**R9-7-1004. Notifications and Reports to Individuals**

- A. A licensee or registrant shall report radiation exposure data for an individual and the results of any measurements, analyses, and calculations of radioactive material deposited or retained in the body to the individual as specified in this Section. The information reported shall include data and results obtained under Department rules, orders, or license conditions, as shown in records maintained by the licensee or registrant. Each notification and report shall be in writing; include appropriate identifying data, such as the name of the licensee or registrant, the name of the individual, and the individual's Social Security number; include the individual's exposure information; and contain the following statement:

"This report is furnished to you under the provisions of 9 A.A.C. 7. You should preserve this report for future reference."

- B. Each licensee or registrant shall make dose information available to workers as shown in records maintained by the licensee or registrant under the provisions of Article 4. Each licensee or registrant shall provide annual notification of exposure to radiation or radioactive material for each worker, as shown in records maintained by the licensee or registrant under R9-7-419(E) if:
1. The individual's occupational dose exceeds 1 mSv (100 mrem) TEDE or 1 mSv (100 mrem) to any individual organ or tissue; or
  2. The individual requests his or her annual dose report.
- C. At the request of a worker formerly engaged in work controlled by the licensee or the registrant, each licensee or registrant shall furnish to the worker a report of the worker's exposure to radiation or radioactive material. The report shall be furnished within 30 days from the time the request is made, or within 30 days after the exposure of the individual has been determined by the licensee or registrant, whichever is later; the report shall cover, within the period of time specified in the request, each calendar quarter in which the worker's activities involved exposure to radiation from radioactive material licensed by, or radiation machines registered with, the Department; and the report shall include the dates and locations of work under the license or registration in which the worker participated during this period.
- D. Reports to individuals of their exposure to radiation shall be made according to R9-7-446.

**Historical Note**

New Section R9-7-1004 recodified from R12-1-1004 at 24 A.A.R. 813, effective March 22, 2018 (Supp. 18-1).

**R9-7-1005. Licensee, Registrant, and Worker Representation During Department Inspection**

- A. As a condition of licensure or registration, each licensee or registrant shall afford to the Department, at all reasonable times and without undue delay, an opportunity to inspect materials, machines, activities, facilities, premises, and records.
- B. During an inspection, the licensee or registrant shall permit Department inspectors to consult privately with workers as specified in R9-7-1006. The licensee or registrant may accompany Department inspectors during other phases of an inspection.

- C. A worker authorized to consult with an Department inspector under R9-7-1006 may authorize another individual to represent the worker's interests during the Department inspection. The licensee or registrant shall notify the inspectors of the worker's authorization and give the worker's representative an opportunity to accompany the inspectors during the inspection of physical working conditions.
- D. Each worker's representative shall be routinely engaged in work under control of the licensee or registrant or shall have received instructions under R9-7-1003.
- E. Different representatives of licensees or registrants and workers may accompany the inspectors during different phases of an inspection if there is no resulting interference with the inspection. However, only one worker's representative at a time may accompany the inspectors.
- F. With the approval of the licensee or registrant and the worker's representative an individual who is not routinely engaged in work under control of the licensee or registrant, for example, a consultant to the licensee or registrant or to the worker's representative, shall be afforded the opportunity to accompany Department inspectors during the inspection of physical working conditions.
- G. Notwithstanding the other provisions of this Section, Department inspectors are authorized to refuse to permit accompaniment by any individual who deliberately interferes with a fair and orderly inspection. With regard to any area containing proprietary information the worker's representative for that area shall be an individual previously authorized by the licensee or registrant to enter that area. With regard to areas containing information classified by an agency of the U.S. Government in the interest of national security, any individual who accompanies an inspector may have access to such information only if authorized by the classifying agency.

**Historical Note**

New Section R9-7-1005 recodified from R12-1-1005 at 24 A.A.R. 813, effective March 22, 2018 (Supp. 18-1).

**R9-7-1006. Consultation with Workers During Inspections**

- A. A licensee or registrant shall afford Department inspectors talking to a licensee or registrant representative the opportunity to consult privately with workers concerning matters of occupational radiation protection and other matters related to applicable provisions of Department rules, licenses, and registrations to the extent the inspectors deem consultation necessary for conducting an effective and thorough inspection.
- B. During the course of an inspection, any worker may privately bring to the attention of the inspectors, either orally or in writing, any past or present condition which the worker has reason to believe may have contributed to or caused any violation of the Act, these rules, or a license or registration condition, or any unnecessary exposure of an individual to radiation from licensed radioactive material or a registered radiation machine under the licensee's or registrant's control. If this notification is in writing, the worker shall comply with the requirements of R9-7-1007(A).
- C. The provisions of subsection (B) shall not be interpreted as authorization to disregard instructions required by R9-7-1003.

**Historical Note**

New Section R9-7-1006 recodified from R12-1-1006 at 24 A.A.R. 813, effective March 22, 2018 (Supp. 18-1).  
Amended by final expedited rulemaking at 24 A.A.R. 2151, effective July 12, 2018 (Supp. 18-3).

**R9-7-1007. Inspection Requests by Workers**

- A. Any worker or representative of workers who believes that a violation of the Act, these rules, license, or registration condi-

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tions exists, or has occurred with regard to radiological working conditions in which the worker is engaged, may request an inspection of the facility by the Department. Any request shall be in writing, addressed to the Director, set forth the specific grounds for the request, and be signed by the worker or representative of the workers. The Department shall provide a copy to the licensee or registrant no later than at the time of inspection except that, upon the request of the worker, the Department shall protect the worker's name and the name of individuals referred to in the request to the extent authorized by law, except for good cause shown.

- B. If, upon receipt of a request for inspection, the Department Director determines that there are reasonable grounds to believe that the alleged violation exists or has occurred, the Director shall initiate an inspection as soon as practicable, to determine if the alleged violation exists or has occurred. Inspections performed under this subsection need not be limited to matters referred to in the complaint.
- C. A licensee or registrant shall not discharge or in any manner discriminate against any worker because the worker has filed any complaint or caused to be instituted any proceeding under

these rules or has testified or is about to testify in the instituted proceeding or because the worker exercises on behalf of the worker or others, any option afforded by this Article.

**Historical Note**

New Section R9-7-1007 recodified from R12-1-1007 at 24 A.A.R. 813, effective March 22, 2018 (Supp. 18-1).

**R9-7-1008. Inspection not Warranted; Review**

If the Department determines, with respect to a complaint under R9-7-1007, that an inspection is not warranted or there are no reasonable grounds to believe that a violation exists or has occurred, the Department shall notify the complainant in writing of the determination. The complainant may obtain review of the determination by submitting a written request for hearing to the Department. The Department shall provide for a hearing before the Radiation Regulatory Hearing Board under 9 A.A.C. 7, Article 12 and A.R.S. Title 41, Chapter 6, Article 10.

**Historical Note**

New Section R9-7-1008 recodified from R12-1-1008 at 24 A.A.R. 813, effective March 22, 2018 (Supp. 18-1).

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**Exhibit A. Form ARRA-6 (2012) Notice to Employees****ARRA-6 (2012) Arizona Department of Health Services, Bureau of Radiation Control****NOTICE TO EMPLOYEES****STANDARDS FOR PROTECTION AGAINST RADIATION;  
NOTICES, INSTRUCTIONS, AND REPORTS TO WORKERS;  
INSPECTIONS**

In Article 4 of the Arizona Department of Health Services, Bureau of Radiation Control rules for the Control of Radiation, the Arizona Department of Health Services, Bureau of Radiation Control has established standards for your protection against radiation hazards. In Article 10 of the rules for the Control of Radiation, the Arizona Department of Health Services, Bureau of Radiation Control has established certain provisions for the options of workers engaged in work under a license or registration issued by the Arizona Department of Health Services, Bureau of Radiation Control.

**YOUR EMPLOYER'S RESPONSIBILITY**

Your employer is required to -

1. Apply these rules to work involving sources of radiation.
2. Post or otherwise make available to you a copy of the Arizona Department of Health Services, Bureau of Radiation Control rules, licenses, and operating procedures which apply to work you are engaged in, and explain their provisions to you.
3. Post notice of violation involving radiological working conditions, proposed imposition of civil penalties, and orders.

**YOUR RESPONSIBILITY AS A WORKER**

You should familiarize yourself with those provisions of the Arizona Department of Health Services, Bureau of Radiation Control rules and the operating procedures which apply to the work you are engaged in. You should observe their provisions for your own protection and protection of your co-workers.

**WHAT IS COVERED BY THESE RULES**

1. Limits on exposure to radiation and radioactive material in restricted and unrestricted areas;
2. Measures to be taken after accidental exposure;
3. Personnel monitoring, surveys, and equipment;
4. Caution signs, labels, and safety interlock equipment;
5. Exposure records and reports;
6. Options for workers regarding inspections by the Arizona Department of Health Services, Bureau of Radiation Control; and
7. Related matters.

**REPORTS ON YOUR RADIATION EXPOSURE HISTORY**

1. The Arizona Department of Health Services, Bureau of Radiation Control rules require that your employer give you a written report if you receive an exposure in excess of any applicable limit set forth in the rules or in the

license. The basic limits for exposure to employees are set forth in Article 4 of the rules. These Sections specify limits on exposure to radiation and exposure to concentrations of radioactive material in air and water.

2. If you work where personnel monitoring is required, and if you request information on your radiation exposures,
  - a. Your employer must give you a written report, upon termination of your employment, of your radiation exposures; and
  - b. Your employer must advise you annually of your exposure to radiation.

**INSPECTIONS**

All licensed or registered activities are subject to inspection by representatives of the Arizona Department of Health Services, Bureau of Radiation Control. In addition, any worker or representative of workers who believes that there is a violation of the regulations issued thereunder, or the terms of the employer's license or rules with regard to radiological working conditions in which the worker is engaged, may request an inspection by sending a notice of the alleged violation to the Arizona Department of Health Services, Bureau of Radiation Control. The request must set forth the specific grounds for the notice and must be signed by the worker on his own behalf or as a representative of the workers. During inspections, inspectors of the Arizona Department of Health Services, Bureau of Radiation Control may confer privately with workers, and any worker may bring to the attention of the inspectors any past or present condition which he believes contributed to or caused any violation as described above.

**INQUIRIES**

Inquiries dealing with the matters outlined above can be sent to the:  
**ARIZONA DEPARTMENT OF HEALTH SERVICES,  
BUREAU OF RADIATION CONTROL**

**POSTING REQUIREMENT**

IN ACCORDANCE WITH A.A.C. R9-7-1002, COPIES OF THIS NOTICE SHALL BE POSTED IN SUCH A MANNER TO PERMIT EMPLOYEES WORKING IN OR FREQUENTING ANY PORTION OF A RESTRICTED AREA, USED FOR ACTIVITIES LICENSED OR REGISTERED PURSUANT TO ARTICLE 2 OR ARTICLE 3 OF THE ARIZONA DEPARTMENT OF HEALTH SERVICES, BUREAU OF RADIATION CONTROL'S RULES, TO OBSERVE A COPY OR COPIES ON THE WAY TO OR FROM THEIR WORK AREA.

**Historical Note**

New Article 10, Exhibit A recodified from 12 A.A.C.1, Article 10, Exhibit A at 24 A.A.R. 813, effective March 22, 2018 (Supp. 18-1).

**ARTICLE 11. INDUSTRIAL USES OF X-RAYS, NOT  
INCLUDING ANALYTICAL X-RAY SYSTEMS****R9-7-1101. Reserved****Historical Note**

Section R9-7-1101 reserved when this Chapter was recodified (Supp. 18-1).

**R9-7-1102. Definitions**

"Access point" means any door or cover that is designed to be removed or opened for maintenance or service purposes, opened using tools, and used to provide access to the interior of a cabinet x-ray unit.

"Annual refresher safety training" means a review provided by the registrant for its employees on radiation safety aspects of industrial radiography. The review shall include, as applicable, the results of internal inspections, new procedures or equipment, new or revised statutes or rules, accidents, or errors that

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have occurred, and provide opportunities for employees to ask safety questions.

“Aperture” means any opening in the outside surface of a cabinet x-ray unit, other than a port, which remains open during generation of x-radiation.

“Door” means any barrier that is designed to be movable or opened for routine operation purposes, rather than opened using tools, and used to provide access to the interior of the cabinet x-ray unit.

“Ground fault” means an accidental electrical grounding of an electrical conductor.

“Hands-on experience” means the accumulation of knowledge or skill in any area relevant to radiography.

“Port” means any opening in the outside surface of a cabinet x-ray unit that is designed to remain open, during generation of x-rays, for conveying material that is being irradiated into and out of the cabinet, or for partial insertion of an object for irradiation if the dimensions of the object do not permit complete insertion into the cabinet x-ray unit.

“Practical examination” means a demonstration, through practical application of safety rules and principles of industrial radiography, which includes use of all radiography equipment and tests knowledge of radiography procedures.

“Radiographic operations” means all activities associated with use of a radiographic x-ray system. This includes performing surveys to confirm the adequacy of boundaries, setting up equipment, and conducting any activity inside restricted area boundaries.

**Historical Note**

New Section R9-7-1102 recodified from R12-1-1102 at 24 A.A.R. 813, effective March 22, 2018 (Supp. 18-1).

**R9-7-1103. Reserved****Historical Note**

Section R9-7-1103 reserved when this Chapter was recodified (Supp. 18-1).

**R9-7-1104. Registration Requirements**

- A. The Department shall review an application for registration of a radiation machine for use in industrial radiography and approve the registration if an applicant meets all of the following requirements:
  1. The applicant satisfies the general requirements in Article 2 and any special requirements contained in this Article,
  2. The applicant submits a program for training radiographer’s assistants that complies with R9-7-1146, and
  3. The applicant submits procedures for verifying and documenting the certification status of each radiographer and for ensuring that the certification remains valid.
- B. An applicant shall submit written operating and emergency procedures, as prescribed in R9-7-1128.
- C. An applicant shall submit a description of a program for review of job performance of each radiographer and radiographer’s assistant at intervals that do not exceed six months, as prescribed in R9-7-1146(E).
- D. An applicant shall submit a description of the applicant’s overall organizational structure as it applies to radiation safety responsibilities in industrial radiography, including specified delegation of authority and responsibility.
- E. An applicant shall submit and list the qualifications of each individual designated as an RSO under R9-7-1120 and indicate which designee is responsible for ensuring that the registrant’s radiation safety program is implemented.

- F. If an applicant intends to perform “in-house” calibrations of survey instruments, the applicant shall describe each calibration method to be used, the relevant experience of each person who will perform a calibration, and procedures to ensure that all calibrations are performed according to the procedures prescribed in R9-7-1108.
- G. An applicant shall identify and describe the location of all field stations and permanent radiographic installations.
- H. An applicant shall identify each location where records required by this Chapter will be maintained.

**Historical Note**

New Section R9-7-1104 recodified from R12-1-1104 at 24 A.A.R. 813, effective March 22, 2018 (Supp. 18-1).

**R9-7-1105. Reserved****Historical Note**

Section R9-7-1105 reserved when this Chapter was recodified (Supp. 18-1).

**R9-7-1106. Equipment Performance**

A registrant shall ensure that each x-ray machine has a lock or other security system designed to prevent unauthorized use or accidental production of radiation and is secured against unauthorized use at all times, except when under the direct surveillance of a radiographer or radiographer’s assistant.

**Historical Note**

New Section R9-7-1106 recodified from R12-1-1106 at 24 A.A.R. 813, effective March 22, 2018 (Supp. 18-1).

**R9-7-1107. Reserved****Historical Note**

Section R9-7-1107 reserved when this Chapter was recodified (Supp. 18-1).

**R9-7-1108. Radiation Survey Instruments**

- A. A registrant shall maintain at least two calibrated and operable radiation survey instruments at each location where sources of radiation are present to make radiation surveys required by this Article and Article 4 of this Chapter. Instrumentation required by this Section shall be capable of measuring a range from 0.02 millisieverts (2 millirems) per hour through 0.01 sievert (1 rem) per hour.
- B. A registrant shall ensure that each radiation survey instrument required under subsection (A) is calibrated:
  1. At intervals that do not exceed six months, and after instrument servicing, except for battery changes;
  2. For linear scale instruments, at two points located approximately one-third and two-thirds of full-scale on each scale; for logarithmic scale instruments, at mid-range of each decade, and at two points of at least one decade; and for digital instruments, at 3 points between 0.02 and 10 millisieverts (2 and 1000 millirems) per hour; and
  3. So that an accuracy within plus or minus 20% of the calibration source can be demonstrated at each point checked.
- C. A registrant shall make a record each time a radiation survey instrument is calibrated, and maintain each record for three years after it is made.

**Historical Note**

New Section R9-7-1108 recodified from R12-1-1108 at 24 A.A.R. 813, effective March 22, 2018 (Supp. 18-1).

**R9-7-1109. Reserved**

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**Historical Note**

Section R9-7-1109 reserved when this Chapter was recodified (Supp. 18-1).

**R9-7-1110. Quarterly Inventory**

- A. A registrant shall conduct a quarterly physical inventory to account for all x-ray machines received and possessed under the registration.
- B. A registrant shall maintain a record of the quarterly inventory required under subsection (A) for three years after it is made.
- C. The record required by subsection (B) shall include the date of the inventory, name of the individual who conducted the inventory, location of each x-ray machine, and manufacturer, model, and serial number of each x-ray machine.

**Historical Note**

New Section R9-7-1110 recodified from R12-1-1110 at 24 A.A.R. 813, effective March 22, 2018 (Supp. 18-1).

**R9-7-1111. Reserved****Historical Note**

Section R9-7-1111 reserved when this Chapter was recodified (Supp. 18-1).

**R9-7-1112. Utilization Logs**

- A. A registrant shall maintain for each x-ray machine a utilization log that provides all of the following information:
  - 1. A description, including the make, model, and serial number of each x-ray machine;
  - 2. The identity and signature of the radiographer using the machine; and
  - 3. The plant or site where the machine is used and dates of use, including each date when the machine is removed from or returned to storage.
- B. A registrant shall retain a log required by subsection (A) for three years after the log is made.

**Historical Note**

New Section R9-7-1112 recodified from R12-1-1112 at 24 A.A.R. 813, effective March 22, 2018 (Supp. 18-1).

**R9-7-1113. Reserved****Historical Note**

Section R9-7-1113 reserved when this Chapter was recodified (Supp. 18-1).

**R9-7-1114. Inspection and Maintenance of Radiation Machines, Survey Instruments, and Associated Equipment**

- A. A registrant shall perform visual and operability checks on survey instruments and radiation machines before use on each day the equipment is to be used to ensure that the equipment is in good working condition and required labeling is present. Survey instrument operability checks shall be performed using check sources or other authorized means. If equipment problems are found, the registrant shall remove the equipment from service until it is repaired.
- B. A registrant shall have written inspection and maintenance procedures for radiation machines and survey instruments that require inspection and maintenance, at intervals that do not exceed three months or before first use of the equipment and to ensure the proper functioning of components important to safety. Replacement components shall meet design specifications. If equipment problems are discovered, the registrant shall remove the equipment from service until the equipment is repaired.
- C. A registrant shall maintain records of equipment problems found in daily checks and quarterly inspections and retain each record for three years after it is made. The record shall include

the date of the check or inspection, name of the inspector, equipment involved, any problems found, and any repair or needed maintenance performed.

**Historical Note**

New Section R9-7-1114 recodified from R12-1-1114 at 24 A.A.R. 813, effective March 22, 2018 (Supp. 18-1).

**R9-7-1115. Reserved****Historical Note**

Section R9-7-1115 reserved when this Chapter was recodified (Supp. 18-1).

**R9-7-1116. Surveillance**

During each radiographic operation a radiographer, or the radiographer's assistant as permitted by R9-7-1118, shall maintain continuous direct visual surveillance of the operation to protect against unauthorized entry into a high radiation area, except at permanent radiographic installations where all entrances are locked and the registrant is in compliance with R9-7-1136.

**Historical Note**

New Section R9-7-1116 recodified from R12-1-1116 at 24 A.A.R. 813, effective March 22, 2018 (Supp. 18-1).

**R9-7-1117. Reserved****Historical Note**

Section R9-7-1117 reserved when this Chapter was recodified (Supp. 18-1).

**R9-7-1118. Industrial Radiographic Operations**

- A. If industrial radiography is performed at a location other than a permanent radiographic installation, a registrant shall ensure that the radiographer is accompanied by at least one other radiographer or radiographer's assistant, qualified under R9-7-1146. The additional radiographer or radiographer's assistant shall observe the operations and be capable of providing immediate assistance to prevent unauthorized entry. The registrant shall not allow industrial radiography if only one qualified individual is present.
- B. A registrant shall ensure that each industrial radiographic operation is conducted at a location of use authorized on the registration of a permanent radiographic installation, unless another permanent location is specifically authorized by the Department.

**Historical Note**

New Section R9-7-1118 recodified from R12-1-1118 at 24 A.A.R. 813, effective March 22, 2018 (Supp. 18-1).

**R9-7-1119. Reserved****Historical Note**

Section R9-7-1119 reserved when this Chapter was recodified (Supp. 18-1).

**R9-7-1120. Radiation Safety Officer (RSO)**

- A. A registrant shall have a radiation safety officer (RSO) who is responsible for implementing procedures and regulatory requirements in the daily operation of the radiation safety program.
- B. A registrant shall ensure that the RSO has satisfied the following minimum requirements:
  - 1. The training and testing requirements in R9-7-1146;
  - 2. Two thousand hours of hands-on experience as a qualified radiographer for an industrial radiographic operation; and
  - 3. Formal training in the establishment and maintenance of a radiation safety program.

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- C. A registrant may use an individual in the position of RSO who does not have the training and experience required in subsection (B), if the registrant provides the Department with a description of the individual's training and experience in the field of ionizing radiation and training with respect to the establishment and maintenance of a radiation safety protection program.
- D. The specific duties and authorities of the RSO include, but are not limited to:
1. Establishing and overseeing operating, emergency, and ALARA procedures as required in Article 4 of this Chapter, and reviewing the procedures every year to ensure that they conform to current Department rules and registration conditions;
  2. Overseeing and approving all phases of the training program for radiographic personnel, ensuring that appropriate and effective radiation protection practices are taught;
  3. Overseeing radiation surveys and associated documentation to ensure that the surveys are performed in accordance with the rules and taking corrective measures if levels of radiation exceed established action limits;
  4. Overseeing the personnel monitoring program to ensure that monitoring devices are calibrated and used properly by occupationally exposed personnel and ensuring that records are kept of the monitoring results and timely notifications are made as required in R9-7-444; and
  5. Overseeing operations to ensure that they are conducted safely and instituting corrective actions, which may include ceasing operations if necessary.

**Historical Note**

New Section R9-7-1120 recodified from R12-1-1120 at 24 A.A.R. 813, effective March 22, 2018 (Supp. 18-1).

**R9-7-1121. Reserved****Historical Note**

Section R9-7-1121 reserved when this Chapter was recodified (Supp. 18-1).

**R9-7-1122. Expired****Historical Note**

New Section R9-7-1122 recodified from R12-1-1122 at 24 A.A.R. 813, effective March 22, 2018 (Supp. 18-1).  
Section R9-7-1122 expired under A.R.S. § 41-1056(J) at 24 A.A.R. 3240, effective September 28, 2018 (Supp. 18-4).

**R9-7-1123. Reserved****Historical Note**

Section R9-7-1123 reserved when this Chapter was recodified (Supp. 18-1).

**R9-7-1124. Reserved****Historical Note**

Section R9-7-1124 reserved when this Chapter was recodified (Supp. 18-1).

**R9-7-1125. Reserved****Historical Note**

Section R9-7-1125 reserved when this Chapter was recodified (Supp. 18-1).

**R9-7-1126. Posting**

A registrant shall post any area in which industrial radiography is being performed as required by R9-7-429. Exceptions listed in R9-7-430 do not apply to industrial radiographic operations.

**Historical Note**

New Section R9-7-1126 recodified from R12-1-1126 at 24 A.A.R. 813, effective March 22, 2018 (Supp. 18-1).

**R9-7-1127. Reserved****Historical Note**

Section R9-7-1127 reserved when this Chapter was recodified (Supp. 18-1).

**R9-7-1128. Operating and Emergency Procedures**

- A. A registrant shall have operating and emergency procedures that include, at minimum, instructions in the following, as applicable:
1. Use of radiation machines, so that persons are not exposed to radiation that exceeds the limits in Article 4 of this Chapter;
  2. Methods and occasions for conducting radiation surveys;
  3. Methods for controlling access to radiographic areas;
  4. Methods and occasions for locking and securing a radiation machine;
  5. Personnel monitoring and associated equipment;
  6. Inspection, maintenance, and operability checks of a radiation machine and survey instruments;
  7. Actions to be taken immediately by radiography personnel if a pocket dosimeter is found to be off-scale or an alarm rate meter sounds an alarm;
  8. Procedures for identifying and reporting defects and non-compliance, as required by R9-7-448;
  9. The procedure for notifying the RSO and the Department in the event of an accident;
  10. Minimizing exposure of persons in the event of an accident, and
  11. Maintenance of records.
- B. The registrant shall maintain copies of current operating and emergency procedures until the Department terminates the registration. Superseded procedures shall be maintained for three years after a change is made. Additionally, records shall be maintained in accordance with R9-7-1138.

**Historical Note**

New Section R9-7-1128 recodified from R12-1-1128 at 24 A.A.R. 813, effective March 22, 2018 (Supp. 18-1).

**R9-7-1129. Reserved****Historical Note**

Section R9-7-1129 reserved when this Chapter was recodified (Supp. 18-1).

**R9-7-1130. Personnel Monitoring**

- A. An individual shall not act as a radiographer or a radiographer's assistant unless, at all times during radiographic operations, the individual wears, on the trunk of the body, a direct reading dosimeter, an operating alarm rate meter, and either a film badge, a TLD, or an optically stimulated luminescence (OSL) dosimeter. At permanent radiography installations where other required alarm or warning devices are in routine use, an alarm rate meter is not required.
1. A registrant shall provide pocket dosimeters that have a range from zero to 2 millisieverts (200 millirems) and ensure that the dosimeters are recharged at the start of each shift. Electronic personnel dosimeters are permitted in place of ion-chamber pocket dosimeters.
  2. The registrant shall assign a film badge, TLD, or OSL dosimeter to one individual, who shall wear the assigned equipment.
  3. The registrant shall replace film badges at least monthly and replace TLDs or OSL dosimeters at least quarterly.

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4. After replacement, the registrant shall ensure that each film badge or TLD is processed as soon as possible.
- B. A radiographer or radiographer's assistant shall record exposures noted from direct reading dosimeters, such as pocket dosimeters or electronic personnel dosimeters, at the beginning and end of each shift.
- C. A registrant shall check each pocket dosimeter or electronic personnel dosimeter at least yearly for correct response to radiation, and discontinue use of a dosimeter if it is not accurate within plus or minus 20% of the true radiation exposure.
- D. If an individual's pocket dosimeter has an off-scale reading, or the electronic personnel dosimeter reads greater than 2 millisieverts (200 millirems), and radiation exposure cannot be ruled out as the cause, a registrant shall send the individual's film badge, TLD, or OSL dosimeter for processing within 24 hours. The registrant shall not allow the individual to work with a radiation machine until the individual's radiation exposure is determined. Using the information from the badge or dosimeter, the RSO or the RSO's designee shall calculate the affected individual's cumulative radiation exposure, as prescribed in Article 4 of this Chapter and include the results in records maintained in accordance with subsection (G).
- E. If an individual's monitoring device is lost or damaged, the individual shall cease work immediately until the registrant provides a replacement film badge, TLD, or OSL dosimeter and the RSO or the RSO's designee calculates the exposure for the time period from issuance to discovery of a lost or damaged film badge, TLD, or OSL dosimeter. The registrant shall include the calculated exposure and the time period for which the film badge, TLD, or OSL dosimeter was lost or damaged in the records maintained in accordance with subsection (G).
- F. For each alarm rate meter a registrant shall ensure that:
  1. At the start of a shift each individual with an alarm rate meter checks that the alarm functions (sounds) before using the device;
  2. Each device is set to give an alarm signal at a preset dose rate of 5 mSv/hr (500 mrem/hr) with an accuracy of plus or minus 20% of the true radiation dose rate;
  3. A special means is necessary to change the preset alarm function on the device; and
  4. Each device is calibrated at periods that do not to exceed 12 months for correct response to radiation
- G. Each registrant shall maintain the following personnel monitoring records:
  1. Each dosimeter reading and the yearly operability check required by subsections (B) and (C) for three years after each record is made;
  2. A record of each alarm rate meter calibration for three years after the record is made;
  3. Any report received from the film badge, TLD, or OSL processor. The registrant shall maintain these records until the Department terminates the registration; and
  4. Any estimation of an exposure evidenced by an off-scale personnel direct-reading dosimeter or a lost or damaged film badge, TLD, or OSL dosimeter. The records shall be maintained until the Department terminates the registration.

**Historical Note**

New Section R9-7-1130 recodified from R12-1-1130 at 24 A.A.R. 813, effective March 22, 2018 (Supp. 18-1).

**R9-7-1131. Reserved****Historical Note**

Section R9-7-1131 reserved when this Chapter was recodified (Supp. 18-1).

**R9-7-1132. Supervision of a Radiographer's Assistant**

If a radiographer's assistant uses a radiation machine or conducts a radiation survey required by R9-7-1134(B), the registrant shall ensure that the assistant is under the personal supervision of a radiographer. For purposes of this Section "personal supervision" means:

1. The radiographer is physically present at the site where the radiation machine is being used;
2. The radiographer is available to give immediate assistance if required; and
3. The radiographer is able to observe directly the assistant's performance.

**Historical Note**

New Section R9-7-1132 recodified from R12-1-1132 at 24 A.A.R. 813, effective March 22, 2018 (Supp. 18-1).

**R9-7-1133. Reserved****Historical Note**

Section R9-7-1133 reserved when this Chapter was recodified (Supp. 18-1).

**R9-7-1134. Radiation Surveys**

- A. A registrant shall conduct surveys with a calibrated and operable radiation survey instrument that meets the requirements of R9-7-1108.
- B. A registrant shall conduct a survey of a radiographic machine any time the machine is placed in storage to ensure that the machine will not expose personnel to radiation.
- C. A registrant shall maintain a record of each exposure survey conducted before a machine is placed in storage under subsection (B), if that survey is the last one performed during the workday. Each record shall be maintained for three years after it is made.

**Historical Note**

New Section R9-7-1134 recodified from R12-1-1134 at 24 A.A.R. 813, effective March 22, 2018 (Supp. 18-1).

**R9-7-1135. Reserved****Historical Note**

Section R9-7-1135 reserved when this Chapter was recodified (Supp. 18-1).

**R9-7-1136. Permanent Radiographic Installations**

- A. If a registrant maintains a permanent radiographic installation that does not fall within the definition of "enclosed radiography" in R9-7-102, the registrant shall ensure that each entrance used for personnel access to the high radiation area has either:
  1. An entrance control device of the type described in R9-7-420(A)(1), which reduces the radiation level upon entry into the area, or
  2. Both conspicuous visible and audible alarm signals to warn of the presence of radiation. The registrant shall ensure that the visible signal is actuated by radiation if the x-ray tube is energized and the audible signal is actuated if a person attempts to enter the installation while the x-ray tube is energized.
- B. A registrant shall test the alarm system for proper operation with a radiation source each day before the installation is used for radiographic operations. The test shall include a check of both the visible and audible signals. The registrant shall test each device referenced in subsection (A)(1) monthly. If an



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entrance control device or alarm signal is operating improperly, the registrant shall immediately label the device or signal as "defective" and repair the device or signal within seven calendar days. The registrant may continue to use the facility during this seven-day period, if the registrant implements continuous surveillance requirements of R9-7-1116 and uses an alarm rate meter.

- C. A registrant shall maintain each record of alarm system and entrance control device tests for three years after the record is made.

**Historical Note**

New Section R9-7-1136 recodified from R12-1-1136 at 24 A.A.R. 813, effective March 22, 2018 (Supp. 18-1).

**R9-7-1137. Reserved****Historical Note**

Section R9-7-1137 reserved when this Chapter was recodified (Supp. 18-1).

**R9-7-1138. Location of Documents and Records**

- A. A registrant shall maintain a copy of each record required by this Article and other applicable Articles of this Chapter at the location specified on the registration application.
- B. A registrant shall maintain a copy of the following at each field station and temporary job site:
1. The registration that authorizes use of a radiation machines;
  2. A copy of Articles 4, 10, and 11 of this Chapter;
  3. Utilization logs for each radiation machine dispatched from that location, as required by R9-7-1112;
  4. Records of equipment problems identified in daily checks of equipment, as required by R9-7-1114;
  5. Records of alarm system and entrance control device checks, as required by R9-7-1136;
  6. Records of direct-reading dosimeters such as pocket dosimeters and electronic personnel dosimeters, as required by R9-7-1130;
  7. Operating and emergency procedures, as required by R9-7-1128;
  8. A report on the most recent calibration of the radiation survey instruments in use at the site, as required by R9-7-1108;
  9. A report on the most recent calibration of each alarm rate meter and operability check of each pocket dosimeter, or electronic personnel dosimeter, as required by R9-7-1130;
  10. Most recent survey record, as required by R9-7-1134; and
  11. If a registrant is operating in the state under R9-7-207, a copy of the out-of-state machine registration and a written authorization from the Department to operate in the state.

**Historical Note**

New Section R9-7-1138 recodified from R12-1-1138 at 24 A.A.R. 813, effective March 22, 2018 (Supp. 18-1).

**R9-7-1139. Reserved****Historical Note**

Section R9-7-1139 reserved when this Chapter was recodified (Supp. 18-1).

**R9-7-1140. Enclosed Radiography**

- A. The Department has determined that any certified or certifiable cabinet x-ray system, as defined in Article 1, is exempt from the requirements of Article 11, provided that both of the following conditions are met:

1. The registrant makes, or causes to be made, an evaluation of each certified and certifiable cabinet x-ray system, at intervals that do not exceed 12 months, to determine whether the system conforms to the standards for certified and certifiable cabinet x-ray systems defined in Article 1. Records of each evaluation shall be maintained for three years from the date the record is created; and
  2. The registrant performs a physical radiation survey with a survey instrument calibrated within the preceding 12 months and designed for the energy range and levels of radiation that will be assessed.
- B. A registrant with a cabinet x-ray system that is not exempt under subsection (A) shall comply with the recordkeeping requirements of this Article and the following special requirements. The registrant shall:
1. Ensure that radiation levels measured at 5 centimeters (2 inches) from any accessible exterior surface of the enclosure do not exceed 50 microsievert (0.5 milliroentgen) in one hour for any combination of technical factors (i.e., mA, kVp);
  2. Ensure that access to the interior of the enclosure is possible only through interlocked doors or panels that prevent production of radiation unless all interlocked doors or panels are securely closed. The registrant shall ensure that opening a door or panel results in immediate termination of radiation production and subsequent reactivation of the x-ray tube is only possible at the control panel;
  3. Provide visible warning signals, activated only during production of radiation, at the control panel and at each access point to the interior of the enclosure;
  4. Before using an x-ray system make, or cause to be made, an initial evaluation of the x-ray system to determine compliance with this Article, and subsequently evaluate the x-ray system at intervals that do not exceed three months. The registrant shall maintain a record of each evaluation for two years, and
  5. Using instrumentation that complies with R9-7-1108, perform a physical radiation survey to satisfy the requirements of subsection (B)(4).
- C. A registrant with a shielded room x-ray systems shall comply with the recordkeeping requirements of this Article and the following special requirements. The registrant shall:
1. Shield each x-ray room so that every location on the exterior meets the requirements for an "unrestricted area" as specified in R9-7-416;
  2. Provide access to the interior of a shielded x-ray room only through doors or panels that are interlocked. The registrant shall ensure that radiation production is possible only when all interlocked doors and panels are securely closed, opening of any interlocked door or panel results in immediate termination of radiation production; and subsequent reactivation of the x-ray tube is only possible at the control panel;
  3. Provide each access point with two interlocks, each on a separate circuit, so that failure of one interlock will not affect the performance of the other interlock;
  4. Provide visible warning signals, activated only during production of radiation at the control panel and each access point to the shielded room;
  5. Make, or cause to be made, an initial evaluation of each shielded room x-ray system to determine compliance with this Article, and subsequently evaluate the x-ray system at intervals that do not exceed three months. The registrant shall maintain a record of each evaluation for two years;

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6. Perform radiation surveys to determine exposure with an instrument that meets the requirements of R9-7-1108;
7. Inspect electrical interlocks and warning devices for correct operation before each use, and maintain a record of each inspection for two years;
8. Not permit an individual to operate an x-ray machine for shielded room radiography unless the individual has received a copy of, and instruction in, the operating procedures and demonstrated competence in the safe use of the equipment;
9. Ensure that an individual does not occupy the interior of any shielded room x-ray system during production of radiation;
10. Provide personnel monitoring devices that meet the requirements of R9-7-1130 to each shielded room x-ray machine operator, and require that each operator use the devices;
11. Maintain records of:
  - a. Quarterly inventories for mobile systems, as prescribed in R9-7-1110; and
  - b. Utilization logs for all systems, as prescribed in R9-7-1112; and
12. Maintain records for three years from the date of the quarterly inventory or utilization log.

- D.** A registrant shall connect an enclosed radiography machine to the electrical system in a manner that will prevent a ground fault from generating x-radiation.

**Historical Note**

New Section R9-7-1140 recodified from R12-1-1140 at 24 A.A.R. 813, effective March 22, 2018 (Supp. 18-1).

**R9-7-1141. Reserved****Historical Note**

Section R9-7-1141 reserved when this Chapter was recodified (Supp. 18-1).

**R9-7-1142. Baggage and Package Inspection Systems**

- A.** For x-ray systems designed to screen carry-on baggage or packages at airlines, railroads, bus terminals, package inspection facilities, or similar facilities, a registrant shall ensure the x-ray system has an operator present at the control area in a position that permits surveillance of the ports and doors during generation of x-radiation to prevent exposure to passengers and other members of the public.
- B.** For an exposure or preset succession of exposures of one-half second or greater duration, a registrant shall use a system that enables the operator to terminate the exposure or preset succession of exposures at any time.
- C.** For an exposure or preset succession of exposures of less than one-half second duration, a registrant shall use a system that allows the operator to complete the exposure in progress, but prevent additional exposures.
- D.** A registrant shall operate a baggage or package inspection system according to the manufacturer's instructions.
- E.** A registrant shall not disconnect or otherwise tamper with the safety systems of a baggage or package inspection system, except for maintenance purposes.
- F.** In addition to the requirements in this Section, a registrant using a baggage or package inspection system shall meet the requirements in R9-7-1140(A), (B), and (D).

**Historical Note**

New Section R9-7-1142 recodified from R12-1-1142 at 24 A.A.R. 813, effective March 22, 2018 (Supp. 18-1).

**R9-7-1143. Reserved****Historical Note**

Section R9-7-1143 reserved when this Chapter was recodified (Supp. 18-1).

**R9-7-1144. Reserved****Historical Note**

Section R9-7-1144 reserved when this Chapter was recodified (Supp. 18-1).

**R9-7-1145. Reserved****Historical Note**

Section R9-7-1145 reserved when this Chapter was recodified (Supp. 18-1).

**R9-7-1146. Training**

- A.** A registrant shall not allow an individual to act as a radiographer until the individual has received training in the subjects in subsection (G), has participated in a minimum of two months of on-the-job training, and is certified through a radiographer certification program by a independent certifying organization in accordance with the criteria specified in Appendix A.
1. A registrant shall provide the Department with proof of an individual's certification upon request.
  2. A registrant shall maintain proof of an individual's certification at the job site where the individual is performing field radiography.
  3. A registrant that employs a certified radiographer in Arizona shall ensure that:
    - a. The radiographer has obtained initial certification or recertification within the last five years; and
    - b. An uncertified radiographer works only as a radiographer's assistant until certified.
  4. A radiographer shall recertify every five years by:
    - a. Taking an approved radiography certification examination in accordance with this subsection; or
    - b. Providing written evidence that the radiographer is active in the practice of industrial radiography and has participated in continuing education during the previous five-year period.
  5. If an individual cannot provide the written evidence required in subsection (4)(b), the individual shall retake the certification examination.
  6. A radiographer shall provide the registrant with proof of certification in the form of a card issued by the certifying organization that contains:
    - a. A picture of the certified radiographer,
    - b. The radiographer's certification number,
    - c. The date the certification expires, and
    - d. The radiographer's signature.
- B.** A registrant shall not allow an individual to act as a radiographer until the individual:
1. Receives copies of and instruction in the requirements of this Article, applicable Sections of Articles 4 and 10 and R9-7-107, the Department registration or registrations under which the individual will perform industrial radiography, and the registrant's operating and emergency procedures;
  2. Demonstrates an understanding of the registrant's registration and operating and emergency procedures by successful completion of a written or oral examination that covers the relevant material;
  3. Receives training in:
    - a. Use of the registrant's radiation machine,
    - b. Daily inspection of the radiation machine, and
    - c. Use of radiation survey instruments; and

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4. Demonstrates an understanding of the use of the radiation machines and survey instruments described in subsection (B)(3) by successful completion of a practical examination covering this material.
- C. A registrant shall not allow an individual to act as a radiographer's assistant until the individual:
  1. Receives copies of and instruction in the requirements of this Article, applicable Sections of Articles 4 and 10 and R9-7-107, the Department registration or registrations under which the radiographer will perform industrial radiography, and the registrant's operating and emergency procedures;
  2. Develops competence to use, under the personal supervision of the radiographer, the registrant's radiation machine and radiation survey instruments; and
  3. Demonstrates understanding of the instructions provided under subsection (C)(1) by successfully completing a written test on the subjects covered and demonstrates competence using the hardware described in subsection (C)(2) by successfully completing a practical examination.
- D. A registrant shall provide refresher safety training for each radiographer and radiographer's assistant at intervals that do not exceed 12 months.
- E. Except where an individual serves both as a radiographer and an RSO, the RSO or the RSO's designee shall design and implement an inspection program to examine the job performance of each radiographer and radiographer's assistant and ensure that the Department's rules and registration requirements, and the registrant's operating and emergency procedures, are followed. The inspection program shall:
  1. Include observation of the performance of each radiographer and radiographer's assistant during an actual industrial radiographic operation, at intervals that do not exceed six months; and
  2. Provide that, if a radiographer or a radiographer's assistant has not participated in an industrial radiographic operation for more than six months since the last inspection, each radiographer shall demonstrate knowledge of the training requirements in subsection (B)(3) and each radiographer's assistant shall demonstrate knowledge of the training requirements of subsection (C)(2) by a practical examination before these workers can participate in a radiographic operation.
- F. A registrant shall maintain records of the training required in this Section, including certification documents, written and practical examinations, refresher safety training documents, and inspection documents, in accordance with subsection (I).
- G. A registrant shall include the following subjects in the training required under subsection (A):
  1. Fundamentals of radiation safety, including:
    - a. Characteristics of x-ray radiation;
    - b. Units of radiation dose and quantity of radioactivity;
    - c. Hazards of exposure to radiation;
    - d. Levels of radiation from x-ray machines; and
    - e. Methods of controlling radiation dose (time, distance, and shielding);
  2. Radiation detection instruments, including:
    - a. Use, operation, calibration, and limitations of radiation survey instruments;
    - b. Survey techniques; and
    - c. Use of personnel monitoring equipment;
  3. Equipment topics, including:
    - a. Operation and control of radiation machines; and
    - b. Inspection and maintenance of each radiation machine and survey instrument;
4. The requirements of pertinent Department rules; and
5. Case histories of accidents in radiography.
- H. A registrant shall maintain records of radiographer certification in accordance with subsection (I)(1) and provide proof of certification as required in subsection (A)(1).
- I. A registrant shall maintain the following records for three years after each record is made:
  1. Records of training for each radiographer and each radiographer's assistant. For radiographers, the records shall include radiographer certification documents and verification of certification status. All records shall include copies of written tests, dates of oral and practical examinations, and names of individuals who conducted and took the oral and practical examinations; and
  2. Records of annual refresher safety training and semi-annual inspections of job performance for each radiographer and each radiographer's assistant. The records for the annual refresher safety training shall list topics discussed during training, the date of training, and names of each instructor and attendee. For inspections of job performance, the records shall include a list of items checked during the inspection and any non-compliance observed by the RSO.

**Historical Note**

New Section R9-7-1146 recodified from R12-1-1146 at 24 A.A.R. 813, effective March 22, 2018 (Supp. 18-1).

**Appendix A. Standards for Organizations that Provide Radiography Certification**

Note: For purposes of this Article an "independent certifying organization" means an organization that meets all of the criteria in this Appendix.

I. Requirements for an Organization that Provides  
Radiographer Certification

To qualify to provide radiography certification, an organization shall:

- A. Be a society or association, with members who participate in, or have an interest in, the field of industrial radiography;
- B. Not restrict membership because of race, color, religion, sex, age, national origin, or disability;
- C. Have a certification program that is open to nonmembers, as well as members;
- D. Be an incorporated, nationally recognized organization that is involved in setting national standards of practice within its fields of expertise;
- E. Have a staff comparable to other nationally recognized organizations, a viable system for financing its operations, and a policy-and decision-making review board;
- F. Have a set of written, organizational by-laws and policies that address conflicts of interest and provide a system for monitoring and enforcing the by-laws and policies;
- G. Have a committee, with members who can carry out their responsibilities impartially, review and approve the certification guidelines and procedures, and advise the organization's staff in implementing the certification program;
- H. Have a committee, with members who can carry out their responsibilities impartially, review complaints against certified individuals, and determine sanctions;
- I. Have written procedures that describe all aspects of the organization's certification program;
- J. Maintain records of the current status of each individual's certification and administration of the certification program;
- K. Have procedures to ensure that certified individuals are provided due process with respect to administration of the certification program, including a process for becoming certified and a process for imposing sanctions against certified individuals;

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- L. Have procedures for proctoring examinations and qualifying proctors. The organization, through these procedures, shall ensure that an individual who proctors an examination is not employed by the same company or corporation (or a wholly-owned subsidiary of the company or corporation) that employs an examinee;
- M. Exchange information about certified individuals with the Department, other independent certifying organizations, the NRC, or Agreement States and allow periodic review of its certification program and related records; and
- N. Provide a description to the Department of its procedures for choosing examination sites and providing a favorable examination environment.

## II. Requirements for a Certification Program

An independent certifying organization shall ensure that its certification program:

- A. Requires an applicant for certification to:
  - 1. Obtain training in the subjects listed in R9-7-1146(G), and
  - 2. Satisfactorily complete a written examination that covers these subjects;
- B. Require an applicant for certification to provide documentation demonstrating that the applicant has:
  - 1. Received training in the subjects listed in R9-7-1146(G);
  - 2. Satisfactorily completed the on-the-job training required in R9-7-1146(A); and
  - 3. Received verification from a registrant that the applicant has demonstrated the capability of independently working as a radiographer;
- C. Provides procedures that protect examination questions from disclosure;
- D. Provides procedures for denying certification to an applicant and revoking, suspending, and reinstating a certificate;
- E. Provides a certification period that is not less than three years or more than five years, procedures for renewing certifications and, if the procedures allow renewals without examination, a system for assessing evidence of recent full-time employment and annual refresher training; and
- F. Provides a timely response to inquiries, by telephone or letter, from members of the public, about an individual's certification status.

## III. Requirements for a Written Examination

An independent certifying organization shall ensure that its examination:

- A. Is designed to test an individual's knowledge and understanding of the subjects listed in R9-7-1146(G) or equivalent NRC or Agreement State requirements;
- B. Is written in a multiple-choice format; and
- C. Has psychometrically valid questions drawn from a question bank and based on the material in R9-7-1146(G).

**Historical Note**

New Article 11, Appendix A, recodified from 12 A.A.C. 1, Article 11, Appendix A at 24 A.A.R. 813, effective March 22, 2018 (Supp. 18-1).

**ARTICLE 12. ADMINISTRATIVE PROVISIONS****R9-7-1201. Timeliness**

- A. Any application, request, response, or report required by any rule, order, application, or letter shall be considered timely if it is postmarked on or before the due date, or hand-delivered to the Department office before 5:00 p.m. on the due date. If the due date falls on a Saturday, a Sunday, or a legal holiday, the due date is extended to the end of the next day that is not a Saturday, a Sunday, or legal holiday.

- B. As used in this Article, "working days" are all days other than Saturdays, Sundays, or legal holidays prescribed in A.R.S. § 1-301.

**Historical Note**

New Section R9-7-1201 recodified from R12-1-1201 at 24 A.A.R. 813, effective March 22, 2018 (Supp. 18-1).

**R9-7-1202. Administrative Hearings**

- A. All hearings shall be governed by Title 41, Chapter 6, Article 10.
- B. If the Radiation Regulatory Hearing Board is conducting a hearing, all motions and rulings shall be in writing, except those made during the hearing may be oral. The Board shall ensure that any agreements reached during a conference are incorporated in the record, and that all hearings are recorded.
- C. If it is necessary for an administrative law judge or the Board to visit the site of an alleged violation or activity that is regulated by the Department in order to supplement testimonial or documentary evidence presented at the hearing, the party that proposed the visit shall enter the purpose of the visit and all pertinent observations into the record.

**Historical Note**

New Section R9-7-1202 recodified from R12-1-1202 at 24 A.A.R. 813, effective March 22, 2018 (Supp. 18-1).

**R9-7-1203. Procedures for Rulemaking Public Hearings**

- A. Hearings on proposed rulemaking by the Department shall be held before the Director or another person designated by the Director to act as the hearing officer.
- B. All hearings shall be governed by the Administrative Procedure Act, A.R.S. §§ 41-1021, 41-1021.01 through 41-1025, 41-1028, 41-1029, and 41-1031.
- C. The hearing shall be recorded and shall be retained as part of the record of the rulemaking.
- D. A written summary of the comments presented shall be prepared along with a written response to the comments by the Department staff and retained with the record of the rulemaking.
- E. The request for hearing shall identify the rule involved or propose a new rule.

**Historical Note**

New Section R9-7-1203 recodified from R12-1-1203 at 24 A.A.R. 813, effective March 22, 2018 (Supp. 18-1).

**R9-7-1204. Initiation of Administrative Hearings**

- A. An administrative hearing shall be initiated by the Director or commenced in response to the request of any person directly affected by an order of the Director or a proposed licensing or registration action by the Department.
- B. If the Director initiates an administrative hearing pursuant to R9-7-1220, the order may incorporate a notice of hearing; otherwise a notice of any hearing and the notice of violation shall be issued separately.
- C. For any hearing on a proposed licensing or registration action, only a notice of hearing shall be issued.
- D. A notice of hearing shall specify the time, place, and nature of the hearing and may include specification of the legal authority and jurisdiction under which the hearing is to be held; the particular sections of the statutes, rules, or license conditions involved; the amount of the penalty and other sanctions proposed, if appropriate; and a statement of matters asserted and issues involved.
- E. A hearing may be requested by filing a written request for hearing with the Director within the time limit specified in the pertinent order or notice. A request for hearing on a regulatory action not subject to public notice requirements may be filed at

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any time, provided that a request to reconsider a licensing or registration action shall be filed within 30 days of the issuance of the licensing or registration action.

1. The request for a hearing to appeal an order shall identify the order which the person desires to appeal and include a statement reciting the matters asserted, issues involved, and the applicable statutes or rules. The Department shall respond within 30 calendar days to the person and forward the request and response to the Chairperson of the Board.
2. The request for a hearing to appeal a licensing or registration action shall identify the action appealed. The Department shall respond within 30 calendar days to the person and forward the request and response to the Chairperson of the Board.
3. The request for hearing shall include a statement identifying the interest claimed to be affected by the action. If a statement is not provided or is clearly insufficient, the Chairperson may deny the request and notify the person of that action.
4. If the request for hearing is denied for insufficiency, the requestor shall have five days from the notice of denial within which to file an amended request for hearing. The amended request shall refer back to the original request for hearing.

**Historical Note**

New Section R9-7-1204 recodified from R12-1-1204 at 24 A.A.R. 813, effective March 22, 2018 (Supp. 18-1).

**R9-7-1205. Intervention in Administrative Hearings; Director as a Party**

- A. Any person may submit a timely motion to intervene in a proceeding if an unconditional right to intervene is granted by law or the applicant claims an interest to any property or transaction affected by the proceeding.
- B. A motion to intervene shall be in writing and shall state the reason why the applicant should be allowed to intervene. If the applicant claims an interest in property or in a transaction affected by the proceeding, the applicant shall demonstrate that the result of the proceeding may as a practical matter impair or impede protection of that interest.
- C. The applicant shall serve the motion upon the administrative law judge or the Board, as appropriate, and the Director as a party at least five working days before the hearing. An application for leave to intervene shall not be granted, if by doing so, the issues will be unduly broadened.
- D. If two or more persons have substantially similar positions, the administrative law judge may declare them a class of interested persons for purposes of the hearing. The members of a class shall designate one person to be spokesperson for the class. More than one class may be established for a hearing.
- E. The Director is party to all administrative hearings.

**Historical Note**

New Section R9-7-1205 recodified from R12-1-1205 at 24 A.A.R. 813, effective March 22, 2018 (Supp. 18-1).

**R9-7-1206. Reserved****Historical Note**

Section R9-7-1206 reserved when this Chapter was recodified (Supp. 18-1).

**R9-7-1207. Rehearing or Review**

- A. The Board may grant a rehearing or review of a decision for any of the following reasons, materially affecting a party's rights:
  1. Irregularity in the administrative proceedings or any order or abuse of discretion, that deprived a party of a fair hearing;
  2. Misconduct of the Board, an administrative law judge, or the prevailing party;
  3. Accident or surprise that could not have been prevented by ordinary prudence;
  4. Newly discovered material evidence that could not, with reasonable diligence have been discovered and produced at the original hearing;
  5. Excessive or insufficient penalties;
  6. Error in the admission or rejection of evidence or other errors of law occurring at the administrative hearing or during the progress of the proceedings;
  7. That the decision is not justified by the evidence or is contrary to law.

- B. The Board may affirm or modify a decision or grant a rehearing to all or any of the parties and on all or part of the issues for any of the reasons listed in subsection (A). An order modifying a decision or granting a rehearing shall specify with particularity the ground or grounds for the order. A rehearing shall cover only the subject matters specified in the order.
- C. No later than 15 working days after the date on the decision the Board may, on its own initiative, order a rehearing or review of its decision for any reason for which it might have granted a rehearing on motion of a party. After giving the parties notice and an opportunity to be heard on the matter, the Board may grant a motion for rehearing or review for a reason not stated in the motion.
- D. If a motion for rehearing or review is based upon affidavits, they shall be served with the motion. An opposing party may, within 30 calendar days after service, serve opposing affidavits. This period of time may be extended by the Board if good cause is shown or a written stipulation is received from both parties. The Board may permit reply affidavits.

**Historical Note**

New Section R9-7-1207 recodified from R12-1-1207 at 24 A.A.R. 813, effective March 22, 2018 (Supp. 18-1).

**R9-7-1208. Reserved****Historical Note**

Section R9-7-1208 reserved when this Chapter was recodified (Supp. 18-1).

**R9-7-1209. Notice of Violation**

- A. Except as provided in R9-7-1220, the Department shall issue a notice of violation and provide time, as specified in R9-7-1210, for the registrant or licensee to respond before the Director issues any order to modify, suspend, or revoke a license or registration, or to impose a civil penalty.
- B. The notice shall specify:
  1. The severity level and circumstances of the alleged violation;
  2. The particular statute, rule, or registration or license condition violated; and
  3. The division of the registration or license.
- C. The notice shall specify a civil penalty if one is proposed by the Department.

**Historical Note**

New Section R9-7-1209 recodified from R12-1-1209 at 24 A.A.R. 813, effective March 22, 2018 (Supp. 18-1).

**R9-7-1210. Response to Notice of Violation**

- A. Except as provided in subsection (D), within 30 calendar days of the date of the notice, or longer time period specified in the

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notice, the person charged with the violation shall submit a written response that includes a description of:

1. The actions taken to achieve compliance and the results of the actions;
  2. The actions that are proposed and the date when full compliance is expected to be achieved; and
  3. If the violation is a repeat violation, why corrective actions taken previously did not prevent the violation from recurring and why the new actions will be effective.
- B.** If the person charged with a violation submits a timely response, the Director, in consideration of the answer and the severity level of the violation, shall do one of the following:
1. Issue an initial order conditionally imposing the full amount of the proposed civil penalty and any other sanctions proposed;
  2. Issue an initial order conditionally mitigating or waiving the proposed civil penalty under R9-7-1214(B);
  3. Waive the penalty as authorized under R9-7-1216(C);
  4. Enter into a consent agreement as authorized under R9-7-1222.
- C.** If the Department does not receive an adequate and timely response to the notice, the Director shall issue an initial order conditionally imposing any or all sanctions and civil penalties proposed in the notice of violation. If no civil penalty was proposed, the initial order may impose the base civil penalty listed in R9-7-1216.
- D.** Response to the notice of violation as otherwise required in this Section may be waived by the Department, if the Department determines that a response is not required.

**Historical Note**

New Section R9-7-1210 recodified from R12-1-1210 at 24 A.A.R. 813, effective March 22, 2018 (Supp. 18-1).

**R9-7-1211. Initial Orders**

- A.** Initial orders are valid for 30 calendar days after the date of the order, or until the other time specified in the order, during which time the person charged may:
1. Pay the civil penalty proposed and accept any proposed sanction, or
  2. Request a hearing before the Board.
- B.** If a timely request for a hearing is not received, the order shall become final.

**Historical Note**

New Section R9-7-1211 recodified from R12-1-1211 at 24 A.A.R. 813, effective March 22, 2018 (Supp. 18-1).

**R9-7-1212. Request for Hearing in Response to an Initial Order**

- A.** In a request for a hearing, a person charged with a violation shall include a statement of the issues and the explanations and the arguments supporting denial of the violation or demonstrating extenuating circumstances, errors in notice, or any other reasons for not imposing the civil penalty, sanction, or both.
- B.** The statement shall identify all issues. The failure to include an issue may, at the option of the Board, foreclose consideration of that issue. If a statement is not provided or is insufficient, the Board may summarily determine the issues.
- C.** The person charged may admit the violation and request a reduction of the proposed civil penalty based on extenuating circumstances.
- D.** The person charged may waive oral proceedings and request dismissal of any or all of the charged violations, reduction of the civil penalties, or modification of any other imposed sanction based on consideration by the Board of the written statement.

**Historical Note**

New Section R9-7-1212 recodified from R12-1-1212 at 24 A.A.R. 813, effective March 22, 2018 (Supp. 18-1).

**R9-7-1213. Severity Levels of Violations**

- A.** The following violations are classified as severity level I violations:
1. Any failure, malfunction, or insufficiency of a safety system which may result in
    - a. Radiation exposure to a person,
    - b. A concentration of radionuclides; or
    - c. A radiation level, in excess of 10 times the limits specified in 9 A.A.C. 7, or 10 times the prescribed therapeutic patient dose.
  2. Any inaccurate or incomplete information that is intentionally provided by a licensee or registrant official, and if the information had been complete and accurate at the time it was provided, would have likely resulted in action such as an immediate order required to protect the public health and safety.
  3. Any information that the Department requires be kept by a licensee or registrant that is incomplete or inaccurate because of falsification by or with the knowledge of a licensee or registrant official, and if the information had been complete and accurate at the time it was reviewed by the Department, would have likely resulted in action such as an immediate order required to protect the public health and safety.
  4. Any concealment or attempted concealment of a severity level I violation of the Act, 9 A.A.C. 7, or a license condition. This is a separate violation in addition to the original violation.
  5. Any concealment or attempted concealment of a severity level II violation of the Act, 9 A.A.C. 7, or a license condition. This violation shall increase the severity level of the original violation by one level.
  6. For the purposes of subsections (A)(2) and (3) above the term "licensee or registrant official" means the owner, a partner, a corporate officer, a radiation safety officer, the individual signing an application for a license or registration, or the chairman of any radiation safety committee supervising the radiation safety program of the licensee or registrant.
- B.** The following violations are classified as severity level II violations:
1. Any failure, malfunction, or insufficiency of a safety system which may result in:
    - a. Radiation exposure to a person,
    - b. A concentration of radionuclides, or
    - c. A radiation level, in excess of two times the limits specified in 9 A.A.C. 7, or two times the prescribed therapeutic patient dose.
  2. Any attempt to prevent a Department inspection.
  3. Any concealment or attempted concealment of a severity level III violation of the Act, 9 A.A.C. 7, or a license condition by a licensee or registrant official as defined in subsection (A)(6). This violation shall increase the severity level of the original violation by one level.
  4. Significant information provided and designated by a licensee or registrant and not previously provided to the Department because of careless disregard on the part of a licensee official or registrant.
- C.** The following violations are classified as severity level III violations:
1. Any failure, malfunction, or insufficiency of a safety system, or loss of control over a radiation source, which may result in:

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- a. Radiation exposure to a person,
- b. A concentration of radionuclides, or
- c. A radiation level in excess of the limits specified in 9 A.A.C. 7, or 20% higher than the prescribed therapeutic patient dose.
- 2. Any concealment or attempted concealment of a severity level IV or V violation of the Act, 9 A.A.C. 7, or a registration or license condition. This violation shall increase the severity level of the original violation by one level.
- 3. Any violation of the safety requirements for the use, storage, disposal, or the preparation for transportation of sources of radiation, as prescribed in the Act, 9 A.A.C. 7, or in a license or registration condition, provided the violation does not meet the criteria for a severity level I or II violation and the licensee or registrant does not maintain a radiation protection program meeting the requirements of R9-7-407.
- 4. Any factually incorrect statement upon which the Department relied or would have relied in consideration of any action.
- 5. Any unlawful attempt to interfere with the progress of an inspection by the Department.
- 6. The acquisition of any source of radiation without the applicable current registration or license, unless otherwise authorized by these rules; or use of the source outside the scope of the current registration or license.
- 7. The continued use of sources of radiation after April 1, if the annual fee has not been paid for the current year.
- D.** The following violations are classified as severity level IV violations:
  - 1. Any violation of R9-7-407;
  - 2. Any violation of the safety requirements for the use, storage, disposal, or preparation for transportation of sources of radiation, prescribed in the Act, 9 A.A.C. 7, or in a license or registration condition, provided the violation does not meet the criteria for a severity level I, II or III violation;
  - 3. Failure to maintain records of mammography quality control tests required in R9-7-614.
  - 4. Any failure to comply with the reporting requirements in the Act or 9 A.A.C. 7.
- E.** The following violations are classified as severity level V violations:
  - 1. Failure of a registrant or a licensee to comply with the recordkeeping requirements of:
    - a. The Act;
    - b. 9 A.A.C. 7; or
    - c. A registration or facility certification, or license condition, provided that all safety requirements prescribed in the Act, 9 A.A.C. 7, or in a license or registration condition are met or otherwise demonstrated.
  - 2. If compliance with all safety requirements cannot be demonstrated by the registrant or licensee the failure to comply with the recordkeeping requirements is classified as a level IV violation.

**Historical Note**

New Section R9-7-1213 recodified from R12-1-1213 at 24 A.A.R. 813, effective March 22, 2018 (Supp. 18-1).

**R9-7-1214. Mitigating Factors**

- A.** The Department may refrain from issuing a Notice of Violation for Severity Level IV or V violations identified by the registrant or licensee provided the severity level IV or V violations are identified in an inspection report, the report

includes a brief description of the corrective action, and the violation meets all of the following criteria:

- 1. It was identified by the licensee, as a result of an event discovered by the licensee or registrant;
- 2. It was not a violation that could reasonably be expected to have been prevented by the licensee's or registrant's corrective action for a previous violation or a previous licensee or registrant finding;
- 3. It was or will be corrected within a reasonable time, by specific corrective action committed to by the registrant or licensee by the end of the inspection. The corrective action shall include comprehensive measures that will prevent reoccurrence;
- 4. It was not a willful violation or, if it was willful:
  - a. The violation was reported to the Department;
  - b. The violation appears to be the isolated action of an employee without management involvement and the violation was not caused by lack of management oversight;
  - c. Significant remedial action was taken by the licensee or registrant, demonstrating the seriousness of the violation to all affected personnel.
- B.** The Director may:
  - 1. Reduce the scheduled civil penalty, including any augmentation, by 50% for the discovery, remedy, and voluntary reporting of a severity level I or II violation by the registrant or licensee; or
  - 2. Waive the scheduled civil penalty, including augmented civil penalties, for the discovery, remedy, and voluntary reporting of a severity level III, IV, or V violation by the registrant or licensee. For the purposes of this rule, "voluntary reporting" means that the registrant or licensee has notified the Department of a violation, the reporting of which may or may not be required under 9 A.A.C. 7.

**Historical Note**

New Section R9-7-1214 recodified from R12-1-1214 at 24 A.A.R. 813, effective March 22, 2018 (Supp. 18-1).

**R9-7-1215. License and Registration Divisions**

- A.** Each registrant or license type is classified into one of three administrative sanction divisions.
  - 1. Division I licenses and registrations:
    - a. Broad Academic Class A,
    - b. Broad Academic Class B,
    - c. Broad Academic Class C,
    - d. Broad Industrial Class A,
    - e. Broad Medical,
    - f. Class C Laser Facility,
    - g. Distribution,
    - h. Fixed Gauge Class A,
    - i. Industrial Radiography Class A,
    - j. Low Level Radioactive Waste Disposal Site,
    - k. Major Accelerator Facility,
    - l. Medical Materials Class A,
    - m. Medical Teletherapy,
    - n. NORM Commercial Disposal Site,
    - o. Nuclear Laundry,
    - p. Nuclear Pharmacy,
    - q. Open Field Irradiator,
    - r. Secondary Uranium Recovery,
    - s. Waste Processor Class A,
    - t. Well Logging,
    - u. X-Ray Machine Class A.
  - 2. Division II licenses and registrations:
    - a. Broad Industrial Class B,
    - b. Broad Industrial Class C,

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- c. Class B Industrial Radiofrequency Facility,
  - d. Class B Laser Facility,
  - e. Class C Industrial Radiofrequency Facility,
  - f. Fixed Gauge Class B,
  - g. Health Physics Class A,
  - h. Industrial Radiation Machine,
  - i. Industrial Radiography Class B,
  - j. Laser Light Show,
  - k. Limited Academic,
  - l. Medical Imaging Facility,
  - m. Medical Laser,
  - n. Medical Materials Class B,
  - o. Medical Radiofrequency Device Facility,
  - p. NORM Commercial Disposal Site,
  - q. Research and Development,
  - r. Self Shielded Irradiator,
  - s. Tanning Facility,
  - t. Waste Processor Class B,
  - u. X-Ray Machine Class B.
3. Division III licenses and registrations:
- a. Class A Industrial Radiofrequency Facility,
  - b. Class A Laser Facility,
  - c. Gas Chromatograph,
  - d. General Depleted Uranium,
  - e. General Industrial,
  - f. General Medical,
  - g. General Veterinary Medicine,
  - h. Health Physics Class B,
  - i. Laboratory,
  - j. Leak Detector,
  - k. Limited Industrial,
  - l. Medical Materials Class C,
  - m. Other Ionizing Radiation Machine,
  - n. Other Nonionizing Radiation Machine,
  - o. Portable Gauge,
  - p. Possession Only,
  - q. Radioactive waste transfer-for-disposal,
  - r. Unclassified,
  - s. Veterinary Medicine,
  - t. X-ray Machine Class C,
  - u. Class A Medical (non-cosmetic) Radiofrequency Facility,
  - v. Class B Medical (non-cosmetic) Radiofrequency Facility,
  - w. Class C Medical (non-cosmetic) Radiofrequency Facility,
  - x. Class D Medical (non-cosmetic) Radiofrequency Facility.
- B.** Any person required by the Act to register the use of a general license with the Department, or to obtain a specific license from the Department, is considered a licensee of the appropriate type notwithstanding the failure of the person to register or obtain a license.
- C.** The Department shall classify each person that possesses an out-of-state specific license for the use of radioactive material and operates in Arizona under reciprocal recognition, as prescribed in R9-7-320 and authorized in R9-7-1302(D)(16), by placing the person into the administrative sanction division listed in subsection (A) that best defines the out-of-state, licensed activities.
- D.** For administrative purposes, the following persons are classified with the Division III licensees and registrants in subsection (A)(3):
- 1. Any person not required to register the use of a general license,
  - 2. Any person not required to obtain a specific license,
  - 3. Any person not required to register a source of radiation who violates the Act or 9 A.A.C. 7, and
  - 4. Any person registered to provide x-ray machine service.
- Historical Note**  
New Section R9-7-1215 recodified from R12-1-1215 at 24 A.A.R. 813, effective March 22, 2018 (Supp. 18-1).
- R9-7-1216. Civil Penalties**
- A.** Except as augmented by R9-7-1217, the schedule of civil penalties is as follows:
- 1. Severity level I violations:
    - a. Division I registration or license -- \$4,000;
    - b. Division II registration or license -- \$3,000;
    - c. Division III registration or license -- \$2,000.
  - 2. Severity level II violations:
    - a. Division I registration or license -- \$3,000;
    - b. Division II registration or license -- \$2,000;
    - c. Division III registration or license -- \$1,000.
  - 3. Severity level III violations:
    - a. Division I registration or license -- \$2,000;
    - b. Division II registration or license -- \$1,000;
    - c. Division III registration or license -- \$500.
  - 4. Severity level IV violations:
    - a. Division I registration or license -- \$1,000;
    - b. Division II registration or license -- \$500;
    - c. Division III registration or license -- \$250.
  - 5. Severity level V violations:
    - a. Division I registration or license -- \$500,
    - b. Division II registration or license -- \$250,
    - c. Division III registration or license -- \$125.
- B.** Payment of civil penalties for severity level I and severity level II violations may not be avoided merely by rectifying the condition; however, the Board may mitigate or waive the penalty upon determining a violation meets all of the following:
- 1. It was not a violation that could reasonably be expected to have been prevented by the licensee's or registrant's corrective action for a previous violation or a previous licensee or registrant finding;
  - 2. It was or will be corrected within the time given for corrections, by specific corrective action committed to by the licensee or registrant by the end of the inspection, which includes immediate and comprehensive measures to prevent recurrence;
  - 3. It was not a willful violation.
- C.** The Director or Board shall waive payment of penalties for severity level III through severity level V violations provided:
- 1. The violation is not subject to augmentation under R9-7-1217; and
  - 2. The registrant or licensee submits a timely and adequate response to the notice; rectifies the conditions which appear to have caused the violation; and complies with the Act, 9 A.A.C. 7, registration, and license conditions.
- Historical Note**  
New Section R9-7-1216 recodified from R12-1-1216 at 24 A.A.R. 813, effective March 22, 2018 (Supp. 18-1).
- R9-7-1217. Augmentation of Civil Penalties**
- A.** A continuing violation, for the purposes of calculating the proposed civil penalty, is considered a separate violation for each day it continues. The second (or successive) day of a continuing violation is not considered a repeat violation of the violation occurring on the first day.
- B.** If a second severity level I violation is committed within five years, the Department shall increase the base civil penalty by 100%, provided the registration or license is not revoked under R9-7-1219.



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- C. If a second severity level II violation is committed within a period of five years, the Department shall increase the base civil penalty by 50%, provided the registration or license is not revoked under R9-7-1219.
- D. If a severity level III violation is repeated within five years, the Department shall increase the base civil penalty by 50%. If the same severity level III violation is repeated a second time within five years, the base civil penalty shall be increased by 100%, provided the registration or license is not revoked under R9-7-1219.
- E. If a severity level IV violation is repeated within five years, the Department shall propose the base civil penalty.
  1. If the same violation occurs three times within five years, the Department shall increase the base civil penalty by 50%.
  2. If the same violation occurs four times within five years, the Department shall increase the base civil penalty by 100%, provided the registration or license is not revoked under R9-7-1219.
- F. If more than three severity level V violations are observed during two consecutive inspections, the Department shall impose a civil penalty for each violation. The base civil penalty for each violation is the base civil penalty assessed for a severity level V violation. If the inspection shows repetition of a violation the base civil penalty for each repeat violation is the base civil penalty assessed for a severity level IV violation. Subsection (E) does not apply to penalties under this subsection.
- G. Other rights and procedures are not affected by the repeat nature of a violation.
- H. A person may avoid the penalties in subsections (D) and (E) by demonstrating to the Director in the response to the penalty that the violation meets all of the following criteria:
  1. It was not a violation that could reasonably be expected to have been prevented by the licensee's or registrant's corrective action for a previous violation or a previous licensee or registrant finding;
  2. It was or will be corrected within the time given for correction, by specific corrective action committed to by the licensee or registrant by the end of the inspection, which includes immediate and comprehensive measures to prevent recurrence;
  3. It was not a willful violation.
- I. Notwithstanding any other provision of this Section, the Department shall not impose a penalty that exceeds a maximum of \$5,000 for each violation for each day up to a maximum of \$25,000 for any 30-day period.

**Historical Note**

New Section R9-7-1217 recodified from R12-1-1217 at 24 A.A.R. 813, effective March 22, 2018 (Supp. 18-1).

**R9-7-1218. Payment of Civil Penalties**

- A. A person shall pay civil penalties imposed under this Article by certified check or money order payable to the Department and mailed or delivered to the Department at the address shown on the notice of violation.
- B. Payment of a civil penalty is due 30 calendar days after the effective date of the final order imposing the civil penalties, unless an alternate payment schedule is agreed upon before that date. A payment schedule shall not extend beyond one year after the due date.

**Historical Note**

New Section R9-7-1218 recodified from R12-1-1218 at 24 A.A.R. 813, effective March 22, 2018 (Supp. 18-1).

**R9-7-1219. Additional Sanctions-Show Cause**

- A. If a severity level I violation is repeated or if any second severity level I violation is committed within 10 years, the Department shall require the registrant or licensee to show cause why the registration or license should not be suspended or revoked.
- B. If any second severity level II violation is committed within five years, or if a severity level II violation involving radioactive effluent releases, excessive radiation levels, or radiation overexposure to an individual is committed within five years of a similar severity level I violation, the Department shall require the registrant or licensee to show cause why the registration or license should not be suspended or revoked.
- C. If repeated or different severity level III violations are committed on three separate occasions within any five year period, the Department may require the registrant or licensee to show cause why the registration or license should not be suspended or revoked.

**Historical Note**

New Section R9-7-1219 recodified from R12-1-1219 at 24 A.A.R. 813, effective March 22, 2018 (Supp. 18-1).

**R9-7-1220. Escalated Enforcement**

- A. The Director may issue an order to suspend, revoke, or modify a registration or license, or impound a radiation source for:
  1. Any severity level I violation; or
  2. Any of the following occurring within a five-year period:
    - a. A repeat severity level II violation,
    - b. A different second severity level II violation, or
    - c. A severity level II violation after a severity level I violation.
- B. The Director may issue an order impounding the radiation source or suspending, revoking, or modifying the registration or license upon determining that conditions exist which cause a potential for a severity level I or severity level II violation.
- C. The Department shall hold hearings according to A.R.S. § 30-688.
- D. An order to impound a radiation source, or an order to suspend, revoke, or modify a registration or a license shall remain in effect until the order is suspended or modified by the Board according to A.R.S. § 30-688.

**Historical Note**

New Section R9-7-1220 recodified from R12-1-1220 at 24 A.A.R. 813, effective March 22, 2018 (Supp. 18-1).

**R9-7-1221. Reserved****Historical Note**

Section R9-7-1221 reserved when this Chapter was recodified (Supp. 18-1).

**R9-7-1222. Enforcement Conferences**

- A. An enforcement conference consists of a meeting in person between management personnel of the registrant or licensee and the Department.
- B. The enforcement conference is informal; however, the Department shall make a record of items discussed and decisions reached. Statements made at the conference shall not be introduced in evidence at a formal hearing unless all parties have consented.
- C. Based on the results of the conference, the Department may:
  1. Dismiss the notice of violation;
  2. Enter into a consent agreement; or
  3. Continue with, or initiate, formal proceedings.

**Historical Note**

New Section R9-7-1222 recodified from R12-1-1222 at 24 A.A.R. 813, effective March 22, 2018 (Supp. 18-1).

**R9-7-1223. Registration and Licensing Time-frames**

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The Department shall perform an administrative completeness review and substantive review of an application for a new or renewal license or registration; or an amendment to a license or registration within the time-frames in Table A. The Department shall review an application for an amendment to an existing license or registration that changes the license category listed in R9-7-1306, using the time-frames specified for the requested category.

**Historical Note**

New Section R9-7-1223 recodified from R12-1-1223 at 24 A.A.R. 813, effective March 22, 2018 (Supp. 18-1).

**Table A. Registration and Licensing Time-frames****REGISTRATION AND LICENSING TIME-FRAMES**

License or Registration category in R9-7-1306	Administrative Completeness Review Time-frame, in days	Substantive Review Time-frame, in days	Overall Time-frame, in days
A1	90	30	120
A2	90	30	120
A3	90	30	120
A4	60	30	90
B1	90	30	120
B2	90	30	120
B3	90	30	120
B4	90	30	120
B5	90	30	120
B6	40	20	60
C1	60	30	90
C2	60	30	90
C3	60	30	90
C4	60	30	90
C5	60	30	90
C6	60	30	90
C7	60	30	90
C8	90	30	120
C9	60	30	90
C10	40	20	60
C11	90	30	120
C12	90	30	120
C13	90	30	120
C14	90	30	120
C15	90	30	120
C16	90	30	120
C17	90	30	120
D1	90	30	120
D2	90	30	120
D3	90	30	120
D4	40	20	60
D5	40	20	60
D6	90	30	120
D7	40	20	60
D8	60	30	90
D9	90	30	120
D10	90	30	120
D11	1095	365	1460
D12	730	180	910

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D13	365	90	455
D14	90	30	120
D15	40	20	60
D16	20	10	30
D17	40	20	60
D18	90	30	120
D19	365	120	485
E1	40	20	60
E2	40	20	60
E3	40	20	60
E4	40	20	60
E5	90	30	120
E6	90	30	120
F1	40	20	60
F2	40	20	60
F3	40	20	60
F4	40	20	60
F5	20	10	30
F6	40	20	60
F7	40	20	60
F8	40	20	60
F9	40	20	60
F10	40	20	60
F11	40	20	60
F12	40	20	60
F13	40	20	60
F14	40	20	60
F15	40	20	60
F16	90	30	120

Footnote: “administrative completeness review time-frame”; “substantive review time-frame,” and “overall time-frame” are defined in A.R.S. § 41-1072.

**Historical Note**

New Article 12, Table 1, recodified from 12 A.A.C. 1, Article 12, Table 1 at 24 A.A.R. 813, effective March 22, 2018 (Supp. 18-1).

**ARTICLE 13. LICENSE AND REGISTRATION FEES****R9-7-1301. Definition**

“Combined” means the Department has granted authorized activities contained in two or more license types in a single license document, requiring the payment of a single license fee for the more expensive license of the planned combination.

**Historical Note**

New Section R9-7-1301 recodified from R12-1-1301 at 24 A.A.R. 813, effective March 22, 2018 (Supp. 18-1).

**R9-7-1302. License and Registration Categories**

**A.** Category A licenses are those specific licenses which authorize a school, college, university, or other teaching facility to possess and use radioactive materials for instructional or research purposes.

1. A broad academic class A license is any category A license which meets the specifications of R9-7-310(A)(1).
2. A broad academic class B license is any category A license other than a broad academic class A license which meets the specifications of R9-7-310(A)(2).

3. A broad academic class C license is any category A license other than a broad academic class A or B license which meets the specifications of R9-7-310(A)(3).

4. A limited academic license is any category A license which authorizes only those radioisotopes, forms, and quantities individually specified in the license.

**B.** Category B licenses are those specific or general licenses which authorize the application of radioactive material or the radiation from it to a human being for medical diagnostic, therapeutic, or research purposes, or the use of radioactive material in medical laboratory testing. Except for a type B6, general medical license, the Department shall not combine a category B license with a license of any other category.

1. A broad medical license is any category B license which meets the specifications of R9-7-310(A)(1) and meets the requirements of 9 A.A.C. 7, Article 7. A broad medical license may authorize any medical use other than teletherapy.
2. A medical materials class A license is any specific category B license other than a broad medical license, which authorizes the use of radiopharmaceuticals and sealed sources containing radioactive materials for a therapeutic purpose in quantities which require hospitalization of the

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- patient for radiation safety purposes. The license may authorize other radioactive materials and other medical uses, except teletherapy.
3. A medical materials class B license is any specific category B license which authorizes the diagnostic or therapeutic use, other than teletherapy, of radioactive materials only in limited quantities such that the patient need not be hospitalized for radiation safety purposes.
  4. A medical materials class C license is any specific category B license which authorizes possession of specified radioisotopes only in the form of sealed sources for treatment of the eye or skin or for use in diagnostic medical imaging devices.
  5. A medical teletherapy license is a specific category B license which solely authorizes radioisotopes in the form of multi-curie sealed sources for use in external beam therapy. The Department shall not combine a medical teletherapy license with any other type of category B license.
  6. A general medical license is a registration of the use of radioactive material pursuant to R9-7-306(D) or R9-7-306(E). A general medical license may be combined into a broad medical, medical materials class A, or medical materials class B license.
- C. Category C licenses are those specific or general licenses authorizing the use of radioactive materials in any activity other than those authorized by a category A, B, or D license. Except as specifically authorized in this Section, the Department shall not combine a category C license with any other type of license.
1. A broad industrial class A license is any category C license which meets the specifications of R9-7-310(A)(1). The Department may combine a broad industrial class A license with any other category C license except industrial radiography, open field irradiator, or well logging licenses.
  2. A broad industrial class B license is any category C license other than a broad industrial class A license which meets the specifications of R9-7-310(A)(2). The Department may combine a broad industrial class B license with any other category C license except industrial radiography, open field irradiator, or well logging licenses.
  3. A broad industrial class C license is any category C license other than a broad industrial class A or B license which meets the specifications of R9-7-310(A)(3). The Department may combine a broad industrial class C license with any other category C license except industrial radiography, open field irradiator, or well logging licenses.
  4. A limited industrial license is a specific category C license authorizing the possession of the radioactive materials authorized in R9-7-305(A), or R9-7-306(A), (C), or (F) for uses authorized in those subsections, but in quantities greater than authorized by those subsections.
  5. A portable gauge license is a specific category C license which authorizes radioactive materials in the form of sealed sources for use in measuring or gauging devices designed and manufactured to be transported to the location of use. The Department may combine a portable gauge license with any broad scope industrial license or a fixed gauge class A license.
  6. A fixed gauge class A license is a specific category C license which authorizes the possession of 50 or more measuring or gauging devices containing radioactive materials, where each device is permanently mounted for use at a single location.
  7. A fixed gauge class B license is a specific category C license which authorizes the possession of 1 through 49 measuring or gauging devices containing radioactive materials, where each device is permanently mounted for use at a single location.
  8. A leak detector license is a specific category C license which authorizes the use of radioisotopes in the form of a gas to test hermetic seals on electronic packages.
  9. A gas chromatograph license is a specific category C license which authorizes the use of radioactive materials as ionization sources in gas chromatography or electron capture devices.
  10. A general industrial license means a registration of the use of a material, source, or device generally licensed pursuant to R9-7-305 or R9-7-306, except R9-7-305(B), R9-7-306(D), or R9-7-306(E).
  11. An industrial radiography class A license is a specific category C license which authorizes industrial radiography using sealed radioisotope sources at specific facilities identified in the license conditions or at temporary field job sites.
  12. An industrial radiography class B license is a specific category C license which authorizes industrial radiography using sealed radioisotope sources only at specific facilities identified in the license conditions.
  13. An open field irradiator license is a specific category C license authorizing the use of radioisotopes in the form of sealed sources not permanently mounted within a shielding container, for irradiation of materials.
  14. A self-shielded irradiator license is a specific category C license authorizing the use of radioisotopes in the form of sealed sources for irradiation of materials in a shielding device from which the sources are not removed during irradiation. The Department may combine a self-shielded irradiator license with any broad license.
  15. A well logging license is a specific category C license which authorizes the use of radioactive material in sealed or unsealed sources for wireline services or field tracer studies.
  16. A research and development license is a specific category C license which authorizes a licensee to utilize radioactive material in unsealed and sealed form for industrial, scientific, or biomedical research, not including administration of radiation or radioactive material to human beings.
  17. A laboratory license is a specific category C license which authorizes a licensee to perform specific in-vitro or in-vivo medical or veterinary testing, while possessing quantities of radioactive material greater than the general license quantities authorized in R9-7-306.
- D. Category D licenses are the following specific radioactive material licenses. Except for type D4, general industrial; type D5, depleted uranium; type D8 and D9, health physics; and type D14, additional facilities licenses, the Department shall not combine a category D license with any other license.
1. A distribution license is one which authorizes the commercial distribution of radioactive materials or radioisotopes in products to persons holding an appropriate general or specific license. The Department shall ensure that a distribution license does not:
    - a. Authorize distribution of radiopharmaceuticals or distribution to persons exempt from regulatory control, or
    - b. Authorize any other use of the radioactive material. An appropriate category C license is required for

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- possession of radioisotopes and their incorporation into products.
2. A nuclear pharmacy license is one which authorizes the preparation, compounding, packaging, or dispensing of radiopharmaceuticals for use by other licensees.
  3. A nuclear laundry license is one authorizing the collection and cleaning of items contaminated with radioactive materials.
  4. A general industrial license is a registration of a gauging device in accordance with R9-7-306(A). The Department may combine a general industrial license with a Class A, B, or C broad industrial, limited industrial, portable gauge, or Class A or B fixed gauge license.
  5. A depleted uranium general license is a registration of the use of the general license authorized pursuant to R9-7-305(C) or the use of depleted uranium as a concentrated mass or as shielding for another radiation source within a device or machine. The Department may combine a depleted uranium general license with a medical teletherapy; Class A, B, or C broad industrial; portable gauge; Class A or B fixed gauge; Class A or B industrial radiography; or self-shielded irradiator license. For registration purposes an applicant shall follow the registration instructions in R9-7-305(C).
  6. A veterinary medicine license is one which authorizes the use of radioactive materials for specific applications in veterinary medicine as authorized in the license.
  7. A general veterinary medicine license is a registration of the use of the general license authorized in R9-7-306(E) in veterinary medicine.
  8. A health physics class A license is one which authorizes the use of radioactive materials for performing instrument calibrations, processing leak test or environmental samples, or providing radiation dosimetry services.
  9. A health physics class B license is one which authorizes only the collection, possession, and transfer of radioactive materials in the form of leak test samples for processing by others.
  10. A secondary uranium recovery license is one which authorizes the extraction of natural uranium or thorium from an ore stream or tailing which is being or has been processed primarily for the extraction of another mineral. The Department shall not combine a secondary uranium recovery license with any other license.
  11. A low-level, radioactive waste disposal facility license is a license that is issued for a "disposal facility," as that term is used in R9-7-439 and R9-7-442, which has a closure or long-term care plan and is constructed and operated according to the requirements in 10 CFR 61, revised January 1, 2015, incorporated by reference, and available under R9-7-101. This incorporated material contains no future editions or amendments.
  12. A waste processor class A license is one authorizing the incineration, compaction, repackaging, or any other treatment or processing of low-level radioactive waste prior to transfer to another person authorized to receive or dispose of the waste. The Department shall not combine a waste processor class A license with any other license.
  13. A waste processor class B license is one which authorizes a waste broker to receive prepackaged, low-level radioactive waste from other licensees; combine the waste into shipments; and transfer the waste without treating or processing the waste in any manner and without repackaging except to place damaged or leaking packages into overpacks. The Department shall not combine a waste processor class B license with any other license.
  14. An additional facility license is an endorsement, by license condition to an existing specific license, authorizing one or more additional separate facilities where radioactive material may be stored or used for a period exceeding six months.
  15. A possession-only license is a license of any other category which authorizes only the possession in storage, but no use of, the authorized materials. A license which has been suspended as an enforcement action is not considered a possession-only license.
  16. A reciprocal license is the registration of the general license authorized by R9-7-320. This license is subject to a special fee as provided by R9-7-1307 but is exempt from annual fees.
  17. Reserved
  18. An "unclassified" radioactive material license is one authorizing radioisotopes, physical or chemical forms, possession limits, or uses not included in any other type of license specified in this Section.
  19. A NORM commercial disposal site license is one that authorizes the receipt of waste material contaminated with naturally occurring radioactive material from other licensees for permanent disposal, provided the concentration of the radioactive material does not exceed 74kBq (2,000 picocuries)/gram.
- E.** Category E registrations are those that register the possession of x-ray machine(s) under 9 A.A.C. 7, Article 2. The Department shall not combine Category E registrations with any other registration.
1. An X-ray machine class A registration is one authorizing the possession of X-ray machines in a hospital or other facility offering inpatient care.
  2. An X-ray machine class B registration is one authorizing the possession of X-ray machines in a medical, osteopathic, or chiropractic office or clinic not offering inpatient care; or the possession of X-ray machines in a school, college, university, or other teaching facility.
  3. An X-ray machine class C registration is one authorizing the possession of X-ray machines in dental, podiatry, and veterinarian offices or clinics.
  4. An industrial radiation machine registration is one authorizing the possession of X-ray machines, or the possession of particle accelerators not capable of producing a high radiation area, in a nonmedical facility.
  5. An accelerator facility registration is one authorizing the possession and operation of one or more particle accelerators of any kind capable of accelerating any particle and producing a high radiation area.
  6. A radiation machine, "other," is one authorizing possession or use of an ionizing radiation machine not included in any other category specified in subsection (E).
- F.** Category F registrations are those that register nonionizing radiation producing sources regulated under 9 A.A.C. 7, Article 14. The Department shall not combine Category F registrations with any other registration categories that have a difference in fee per unit.
1. A tanning registration authorizes the commercial operation of any number of tanning booths, beds, cabinets, or other devices in a single establishment.
  2. A Class A laser registration authorizes the operation of one to 10 laser devices subject to R9-7-1433.
  3. A Class B laser registration authorizes the operation of 11 to 49 laser devices subject to R9-7-1433.
  4. A Class C laser registration authorizes operation of 50 or more laser devices subject to R9-7-1433.

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5. A laser light show registration authorizes the operation of a laser device subject to R9-7-1441.
6. A medical laser registration authorizes the operation of one or more laser devices subject to R9-7-1440.
7. A Class II surgical device registration authorizes the operation of one or more Class II surgical devices subject to R9-7-1438. A device is designated as a Class II surgical device by the USFDA and is labeled as such by the manufacturer.
8. A medical radiofrequency device registration authorizes the operation of one or more medical radiofrequency devices.
9. A class A industrial radiofrequency device registration authorizes the operation of one to five radiofrequency heat sealers or industrial microwave ovens.
10. A class B industrial radiofrequency device registration authorizes the operation of six to 20 radiofrequency heat sealers or industrial microwave ovens.
11. A class C industrial radiofrequency device registration authorizes the operation more than 20 radiofrequency heat sealers or industrial microwave ovens.
12. A class A medical radiofrequency device registration authorizes the operation of one or two radiofrequency diathermy or electrocoagulation units not used in non-ionizing cosmetic procedures.
13. A class B medical radiofrequency device registration authorizes the operation of three to nine radiofrequency diathermy or electrocoagulation units not used in non-ionizing cosmetic procedures.
14. A class C medical radiofrequency device registration authorizes the operation of 10 to 19 radiofrequency diathermy or electrocoagulation units not used in non-ionizing cosmetic procedures.
15. A class D medical radiofrequency device registration authorizes the operation of 20 or more radiofrequency diathermy or electrocoagulation units not used in non-ionizing cosmetic procedures.
16. An "other" nonionizing radiation device authorizes the operation of a nonionizing radiation device or other device not included in any other category specified in subsection (F).

**Historical Note**

New Section R9-7-1302 recodified from R12-1-1302 at 24 A.A.R. 813, effective March 22, 2018 (Supp. 18-1).

**R9-7-1303. Fee for Initial License and Initial Registration**

An applicant shall remit for a new license or new registration the appropriate fee as prescribed in R9-7-1306.

**Historical Note**

New Section R9-7-1303 recodified from R12-1-1303 at 24 A.A.R. 813, effective March 22, 2018 (Supp. 18-1).

**R9-7-1304. Annual Fees for Licenses and Registrations**

- A. Each license or registration issued by the Department shall identify the category by a letter and number corresponding to the appropriate subsection of R9-7-1302 or category type listed in R9-7-1306.
- B. Except for types D16 and D17, each licensee or registrant shall submit payment of the annual fee in the amount prescribed in R9-7-1306(A) on or before January 1 of each year. This single annual fee will cover any and all renewals, amendments, and regular inspections of the license during the forthcoming calendar year.
- C. If a licensee or registrant fails to pay the annual fee by January 1, the license is not current.

- D. If a licensee or registrant fails to pay the annual fee by April 1, the Department shall apply administrative sanction provisions of 9 A.A.C. 7, Article 12.
- E. A licensee who is required to pay an annual fee under this Article may qualify as a small entity. If a licensee qualifies as a small entity and provides the Department with proper certification along with its annual fee payment, the licensee may pay reduced annual fees as shown in Table 1 to this Article. Failure to file a small entity certification in a timely manner may result in the denial of any refund.

**Historical Note**

New Section R9-7-1304 recodified from R12-1-1304 at 24 A.A.R. 813, effective March 22, 2018 (Supp. 18-1).

**R9-7-1305. Method of Payment**

- A. An applicant licensee or registrant shall pay fees by check or money order, payable to the "State of Arizona" at the address shown on the application, license, registration, or renewal notice.
- B. Once a license or registration has been issued, no portion of the application fee or any annual fee will be refunded.

**Historical Note**

New Section R9-7-1305 recodified from R12-1-1305 at 24 A.A.R. 813, effective March 22, 2018 (Supp. 18-1).

**R9-7-1306. Table of Fees**

- A. The application and annual fee for each category and type are shown in Table 13-1.

Table 13-1

Category	Type	Annual Fee
A1	Broad academic Class A	\$5,800
A2	Broad academic Class B	\$5,800
A3	Broad academic Class C	\$5,800
A4	Limited academic	\$1,000
B1	Broad medical	\$11,000
B2	Medical materials class A	\$1,900
B3	Medical materials class B	\$1,900
B4	Medical materials class C	\$1,900
B5	Medical teletherapy	\$5,200
B6	General medical	\$250
C1	Broad industrial class A	\$11,400
C2	Broad industrial class B	\$11,400
C3	Broad industrial class C	\$3,200
C4	Limited industrial	\$700
C5	Portable gauge	\$1,000
C6	Fixed gauge class A	\$1,000
C7	Fixed gauge class B	\$1,000
C8	Leak detector	\$1,330
C9	Gas chromatograph	\$1,000
C10	General industrial	No Fee
C11	Industrial Radiography class A	\$5,500
C12	Industrial Radiography class B	\$5,500
C13	Open field irradiator	\$3,000
C14	Self-shielded irradiator	\$1,500
C15	Well logging	\$2,000
C16	Research and development	\$2,100
C17	Laboratory	\$1,000

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D1	Distribution	\$2,600
D2	Nuclear Pharmacy	\$4,600
D3	Nuclear laundry	\$10,300
D4	General industrial (with fee)	\$300
D5	General depleted uranium	\$200
D6	Veterinary medicine	\$1,000
D7	General veterinary medicine	\$200
D8	Health physics class A	\$3,200
D9	Health physics class B	\$1,000
D10	Secondary uranium recovery	\$5,100
D11	Low-level radioactive waste disposal site	(3)
D12	Waste processor class A	\$4,600
D13	Waste processor class B	\$3,600
D14	Additional storage and use site	(1)
D15	Possession only	(2)
D16	Reciprocal	(3)
D17	Reserved	
D18	Unclassified	Full Cost
D19	NORM commercial disposal site	\$600,000
E1	X-ray machine class A (per tube)	\$75
E2	X-ray machine class B (per tube)	\$51
E3	X-ray machine class C (per tube)	\$42
E4	Industrial radiation machine (per device)	\$42
E5	Accelerator facility	\$750
E6	Other ionizing radiation machine	Full Cost
F1	Tanning device (per device)	\$28
F2	Class A (1 to 10 laser devices)	\$175
F3	Class B (11 to 49 laser devices)	\$408
F4	Class C (50 or more laser devices)	\$699
F5	Laser light show or laser demonstration	\$408
F6	Medical laser (per laser device)	\$47
F7	Class II surgical (per device)	\$47
F8	Medical RF surgical and cosmetic (per device)	\$47
F9	Class A industrial (1 to 5 radiofrequency devices)	\$70
F10	Class B industrial (6 to 20 radiofrequency devices)	\$210
F11	Class C industrial (more than 20 radiofrequency devices)	\$349
F12	Class A medical (1 or 2 non-cosmetic radiofrequency devices) (per device)	\$0
F13	Class B medical (3 to 9 non-cosmetic radiofrequency devices) (per device)	\$0

F14	Class C medical (10 to 19 non-cosmetic radiofrequency devices) (per device)	\$0
F15	Class D medical (20 or more non-cosmetic radiofrequency devices) (per device)	\$0
F16	Other nonionizing radiation device or other device	Full Cost

- Notes: (1) An additional 30% of the annual base fee is added to the annual base fee for each additional site.  
 (2) The fee is 50% of the annual base fee for the category under which the radioactive material will be stored.  
 (3) See R9-7-1307.

- B.** The application fee for a licensee or registrant is the annual fee as shown in R9-7-1306. "Full Cost" is based on professional personnel time for preparation, travel, onsite inspection, any reports, review of findings, and preparation of the license or registration or denial charged at \$99 per hour and mileage charged at 44.5¢ per mile. The Department shall assess the licensee or registrant 90% of the estimated full cost of issuing the license or registration. The Department will assess for any remaining costs when it is prepared to issue the license, registration, denial, or if Department costs for the requested activity exceed \$10,000.
- C.** The annual fee for a licensee or registrant for which the scheduled fee is "Full Cost" is based on professional personnel time for preparation, travel, onsite inspection, preparation of reports, review of findings, and preparation for any inspections or completion of any amendments to the license, registration or denials charged at \$99 per hour and mileage charged at 44.5¢ per mile for the preceding 12 months.

**Historical Note**

New Section R9-7-1306 and Table 13.1 recodified from R12-1-1306 and Table 13.1 at 24 A.A.R. 813, effective March 22, 2018 (Supp. 18-1).

**R9-7-1307. Special License Fees**

- A.** The fee for a Type D16 license providing reciprocal recognition under R9-7-320 of a radioactive materials license issued by the U.S. NRC or another state is half of the annual fee for an Arizona license of the appropriate type. The fee is due and payable at the time reciprocity is requested, and the general license does not become current until the fee is paid.
- B.** For a low-level radioactive waste disposal site the initial application fee is \$6,000,000. The annual fee for the second through fifth years is \$6,000,000. The Department shall promulgate a new fee rule for years subsequent to year five. Based on data gathered during the first five years, the Department shall set a reasonable fee after consideration of the following factors:
1. Unrecovered costs which the Department may charge under A.R.S. § 30-654(B)(18).
  2. Actual costs incurred by the Department.

**Historical Note**

New Section R9-7-1307 recodified from R12-1-1307 at 24 A.A.R. 813, effective March 22, 2018 (Supp. 18-1).

**R9-7-1308. Fee for Requested Inspections**

- A.** A licensee or registrant may request an inspection of its facility at any time. The Department shall assess the licensee or registrant the full cost of the inspection, based on personnel time for preparation, travel, onsite inspection, review of findings, and preparation of a report, charged at \$99 per hour and mileage charged at 44.5¢ per mile.
- B.** The fee specified in this Section does not apply to:

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1. Regular inspections as scheduled by the Department,
2. Enforcement reinspections conducted to ensure the correction of violations or safety hazards, or
3. Inspections requested by workers pursuant to R9-7-1007.

**Historical Note**

New Section R9-7-1308 recodified from R12-1-1308 at 24 A.A.R. 813, effective March 22, 2018 (Supp. 18-1).

**R9-7-1309. Abandonment of License or Registration Application**

- A.** Any license or registration application for which the applicant has been provided a written notification of deficiencies in the application and for which the applicant does not make a written attempt to supply the requested information or request an extension in writing within 90 days of the date of the written notice of deficiencies, is considered abandoned and will not be processed.
- B.** If an applicant does not act in the time-frame specified in subsection (A), the applicant shall submit a new application with the appropriate fee.

**Historical Note**

New Section R9-7-1309 recodified from R12-1-1309 at 24 A.A.R. 813, effective March 22, 2018 (Supp. 18-1).

**Table 1. Small Entity Fees<sup>1</sup>**

Small Businesses Not Engaged in Manufacturing and Small Not-for-profit Organizations (Gross Annual Receipts, three-year average):

>\$6.5 million	Pay the fee listed in R9-7-1306
\$350,000 to \$6.5 million	\$2,200
<\$350,000	\$500

Manufacturing Entities that Have an Annual Average of 500 Employees or Less:

>500 employees	Pay the fee listed in R9-7-1306
35 to 500 employees	\$2,200
<35 employees	\$500

Small Government Jurisdictions (including publicly supported educational institutions) (Population in Jurisdiction):

>50,000	Pay the fee listed in R9-7-1306
20,000 to 50,000	\$2,200
<20,000	\$500

Educational Institutions that Are Not State or Publicly Supported, and Have 500 Employees or Less:

>500 employees	Pay the fee listed in R9-7-1306
35 to 500 employees	\$2,200
<35 employees	\$500

<sup>1</sup>A licensee who seeks to establish status as a small entity for the purpose of paying the annual fees required under R9-7-1304 as shown in R9-7-1306 must file a certification statement with the Department each year. The licensee must file the required certification on Department Form 333 for each license under which it was billed. Department Form 333 can be accessed through the Department website at <http://www.azdhs.gov/licensing/radiation-regulatory/index.php>. For licensees who cannot access the Department website, Department Form 333 may be obtained by writing to the Department or by telephoning the Department at (602) 255-4845.

**Historical Note**

New Article 13, Table 1, recodified from 12 A.A.C. 1, Article 13, Table 1 at 24 A.A.R. 813, effective March 22, 2018 (Supp. 18-1).

**ARTICLE 14. REGISTRATION OF NONIONIZING RADIATION SOURCES AND STANDARDS FOR PROTECTION AGAINST NONIONIZING RADIATION****R9-7-1401. Registration of Nonionizing Radiation Sources and Service Providers**

- A.** A person shall not use a nonexempt nonionizing radiation source, unless the source is registered by the Department.
- B.** A person who possesses a nonexempt nonionizing source shall submit to the Department an application for registration within 30 days of its first use.
1. A person who possesses a nonexempt source listed in R9-7-1302(F) shall register the source with the Department.
  2. A person applying for the registration of a nonexempt source shall use an application form provided by the Department.
  3. An applicant shall provide the information identified in Appendix B of this Article.
- C.** A registrant shall notify the Department within 30 days of any change to the information contained in the registration, or sale of a source that results in termination of the activities conducted under the registration.
- D.** In addition to the application form, an applicant shall remit the applicable registration fee, specified in R9-7-1306.
- E.** A person who is operating more than one facility, where one or more nonexempt nonionizing sources are used, shall apply for a separate registration for each facility.
- F.** A person in the business of installing or servicing nonexempt nonionizing sources shall apply to the Department for registration 30 days before furnishing the service. The person shall apply for registration on a form furnished by the Department and shall provide the information required by A.R.S. § 30-672.01.

**Historical Note**

New Section R9-7-1401 recodified from R12-1-1401 at 24 A.A.R. 813, effective March 22, 2018 (Supp. 18-1).

**R9-7-1402. Definitions**

General definitions:

“Controlled area” means any area to which human access is restricted for the purpose of protection from nonionizing radiation.

“Direct supervision” means that a licensed practitioner supervises the use of a source for medical purposes while the practitioner is present inside the facility where the source is being used.

“Indirect supervision” means: for lasers or IPL devices used for hair removal procedures, there is at a minimum, responsible supervision and control by a licensed practitioner who is easily accessible by telecommunication.

“Licensed practitioner” (See R9-7-102)

“Medical director” means a licensed practitioner, as defined in R9-7-102, who delegates a laser, IPL, or other light-emitting medical device procedure to a non-physician and is qualified to perform the procedure within the scope of practice of the license.

“Nonexempt nonionizing source” means any system or device that contains a nonionizing source listed in R9-7-1302(F).



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“Operator” means a person who is trained in accordance with this Article and knowledgeable about the control and function of a nonionizing device regulated under this Article.

“Other cosmetic procedure” means a method of using medical lasers or intense pulse light (IPL) devices approved by the Federal Food and Drug Administration (FDA), for the cosmetic purpose of spider vein removal, skin rejuvenation, non-ablative skin resurfacing, skin resurfacing, port wine stain removal, epidermal pigmented skin lesion removal, or tattoo removal; and does not include hair removal.

Laser definitions:

“Accessible emission limit (AEL)” means the maximum accessible emission level of laser or collateral radiation permitted within a particular class.

“Accessible radiation” means laser or collateral radiation to which human access is possible.

“Angular subtense” means the apparent visual angle,  $\alpha$ , as calculated from the source size and distance from the eye.

“Aperture” means an opening in the protective housing or other enclosure of a laser product, through which laser or collateral radiation is emitted, allowing human access to the radiation.

“Aperture stop” means an opening serving to limit the size and to define the shape of the area over which radiation is measured.

“Certified laser product” means that the product is certified by a manufacturer in accordance with the requirements of 21 CFR 1040.10, April 1, 2004, which is incorporated by reference, published by the Office of Federal Register National Archives and Records Administration, Washington, D.C. 20408, and on file with the Department. This incorporation by reference contains no future editions or amendments.

“CDRH” means the Center for Devices and Radiological Health.

“Classes of lasers” means the following categories of lasers, defined in 21 CFR 1040.10, April 1, 2004, which is incorporated by reference, published by the Office of Federal Register National Archives and Records Administration, Washington, D.C. 20408, and on file with the Department: Class 1, Class 2, Class 2a, Class 3, Class 3a, Class 3b, and Class 4. This incorporation by reference contains no future editions or amendments.

“Collateral radiation” means any electronic product radiation, except laser radiation, emitted by a laser product as a result of operation of the laser or any component of the laser product that is physically necessary for operation of the laser. The accessible emission limits for collateral radiation are specified in 21 CFR 1040.10, April 1, 2004, which is incorporated by reference, published by the Office of Federal Register National Archives and Records Administration, Washington, D.C. 20408, and on file with the Department. This incorporation by reference contains no future editions or amendments.

“Continuous wave” (cw) means the output of a laser that is operated in a continuous rather than a pulsed mode. For purposes of this Article, a laser operating with a continuous output for a period  $\geq 0.25$  seconds, is regarded as a cw laser.

“Cosmetic procedure protocol” means a delegated written authorization to select specific laser or IPL settings, initiate a laser or IPL procedure, and conduct necessary follow-up procedures.

“Demonstration laser” means any laser manufactured, designed, intended, or used for purposes of demonstration, entertainment, advertising display, or artistic composition.

“Embedded laser” means an enclosed laser with an assigned class number higher than the inherent capability of the laser system in which it is incorporated, where the system’s lower classification is due to engineering features that limit accessible emission.

“Enclosed laser” means a laser that is contained within its own protective housing or the protective housing of a laser or laser system in which it is incorporated. Opening or removing the protective housing provides more access to laser radiation above the applicable MPE than is possible with the protective housing in place. (An embedded laser is a type of enclosed laser.)

“Federal performance standards for light-emitting products” means the regulations in 21CFR 1040.10, April 1, 2004, which is incorporated by reference, published by the Office of Federal Register National Archives, and Records Administration, Washington, D.C. 20408, and on file with the Department. This incorporation by reference contains no future editions or amendments.

“Human access” means the capacity to intercept laser or collateral radiation by any part of the human body.

“Incident” means an event or occurrence that results in actual or suspected accidental exposure to laser radiation that has caused or is likely to cause biological damage.

“Integrated radiance” means radiant energy per unit area of a radiating surface per unit solid angle of emission, expressed in joules per square centimeter per steradian.

“Irradiance” means the time-averaged radiant power incident on an element of a surface divided by the area of that element, expressed in watts per square centimeter.

“Laser” See the definition in Article 1.

“Laser energy source” means any device intended for use in conjunction with a laser to supply energy for the operation of the laser. General energy sources, such as electrical supply mains or batteries, are not considered laser energy sources by the Department.

“Laser facility” means a facility where one or more lasers are used. For purposes of this definition a Class 1 facility is a facility that has one or more Class 1 lasers; a Class 2 facility is a facility that has one or more Class 2 or 2a lasers; a Class 3 facility is a facility that has one or more Class 3, 3a, or 3b lasers, and a Class 4 facility is a facility that has one or more Class 4 lasers. Facilities that contain more than one laser class are classified according to the highest laser class in use at the facility.

“Laser product” means any manufactured product or assemblage of components that constitutes, incorporates, or is intended to incorporate a laser or laser system. A laser or laser system that is intended for use as a component of an electronic product is itself considered a laser product.

“Laser protective device” means any device used to reduce or prevent exposure of personnel to laser radiation. This includes: protective eyewear, garments, engineering controls, and operational controls.

“Laser radiation” means all electromagnetic radiation emitted by a laser product, within the spectral range specified in the definition of “laser,” which is produced as a result of con-

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trolled stimulated emission or that is detectable with radiation so produced through the appropriate aperture stop and within the appropriate solid angle of acceptance.

“Laser Safety Officer (LSO)” - means any individual, qualified by training and experience in the evaluation and control of laser hazards, who is designated by the registrant and has the authority and responsibility to establish and administer the laser radiation protection program for a particular class of facility.

“Laser system” means a laser in combination with an appropriate laser energy source with or without additional incorporated components.

“Limited exposure duration ( $T_{\max}$ )” means an exposure duration that is specifically limited by design or intended use.

“Maintenance” means performance of those adjustments or procedures specified in operator information provided by the manufacturer with the laser product, which are to be performed by the operator to ensure the intended performance of the product. The term does not include operation or service as defined in this Section.

“Maximum permissible exposure (MPE)” means the level of laser radiation to which a person may be exposed without hazardous effect or adverse biological changes in the eye or skin. MPE values for eye and skin exposure are listed in ANSI Z136.1-2000, American National Standard for Safe Use of Lasers, 2000 edition, which is incorporated by reference, published by the Laser Institute of America, 13501 Ingenuity Drive, Suite 128, Orlando, FL 32826, and on file with the Department. This incorporation by reference contains no future editions or amendments.

“Medical laser product” means any laser product that is a medical device defined in 21 U.S.C. 321(h) and is manufactured, designed, intended, or promoted for in vivo laser irradiation of any part of the human body for the purpose of: diagnosis, surgery, therapy, or relative positioning of the human body.

“Operation” means the performance of the laser product over the full range of its function. It does not include maintenance or service as defined in this Section.

“Protective housing” means those portions of a laser product that are designed to prevent human access to laser or collateral radiation in excess of the prescribed accessible emission limits under conditions specified in this Article.

“Pulse duration” means the time increment measured between the half-peak-power points at the leading and trailing edges of a pulse.

“Pulse interval” means the period of time between identical points on two successive pulses.

“Radiance” means the time-averaged radiant power per unit area of a radiating surface per unit solid angle of emission, expressed in watts per square centimeter per steradian.

“Radiant energy” means energy emitted, transferred, or received in the form of radiation, expressed in joules.

“Radiant exposure” means the radiant energy incident on an element of a surface divided by the area of that element, expressed in joules per square centimeter.

“Radiant power” means the time-averaged power emitted, transferred, or received in the form of radiation, expressed in watts.

“Rule of nines” means a method for estimating the extent of burns, expressed as a percentage of total body surface. In this method the body is divided into sections of 9 percent or multiples of 9 percent, each: head and neck, 9 percent; anterior trunk, 18 percent; posterior trunk, 18 percent; upper limbs, 18 percent; lower limbs, 36 percent; and genitalia and perineum, 1 percent.

“Safety interlock” means a device associated with the protective housing of a laser product to prevent human access to excessive radiation.

“Sampling interval” means the time interval during which the level of accessible laser or collateral radiation is sampled by a measurement process. The magnitude of the sampling interval in units of seconds is represented by the symbol “t”.

“Secured enclosure” means an area to which casual access is impeded by various means, such as a door secured by a lock, latch, or screws.

“Service” means the performance of those procedures or adjustments described in the manufacturer’s service instructions that may affect any aspect of the product’s performance. The term does not include maintenance or operation as defined in this Section.

“ $T_{\max}$ ” See limited exposure duration.

“Uncertified laser product” means any laser that has not been certified in accordance with the requirements of 21CFR 1040.10, April 1, 2004, which is incorporated by reference, published by the Office of Federal Register National Archives and Records Administration, Washington, D.C. 20408, and on file with the Department. This incorporation by reference contains no future editions or amendments.

Radio frequency and microwave radiation definitions:

“Accessible emission level” means the level of radio frequency radiation emitted from any source, expressed in terms of power density in milliwatts per square centimeter or electric and magnetic field strength, as applicable, and to which human access is normally possible.

“Far field region” means the area in which locally uniform distribution of electric and magnetic field strengths exists in planes transverse to the direction of propagation. The far field region is presumed to exist at distances greater than  $2D^2/\lambda$  from the antenna, where  $\lambda$  is the wavelength and  $D$  is the largest antenna aperture dimension.

“Maximum permissible exposure MPE” means the rms and peak electric and magnetic field strengths, their squares, or the plane-wave equivalent power densities associated with these fields and the induced and contact currents to which a person may be exposed without harmful effect and with an acceptable safety factor.

“Near field region” means the area near an antenna in which the electric and magnetic field components vary considerably in strength from point to point. For most antennas the outer boundary of the region is presumed to exist at a distance  $\lambda/2\pi$  from the antenna surface, where  $\lambda$  is the wavelength.

“Radio frequency controlled area” means any location to which access is controlled for the purpose of protection from radio frequency radiation.

“Radio frequency source” means a source or system that produces electromagnetic radiation in the radio frequency spectrum.

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“Radio frequency radiation” means electromagnetic radiation (including microwave radiation) with frequencies in the range of 0.3 megahertz to 100 gigahertz.

“Root-mean-square (rms)” means the effective value, or the value associated with joule heating, of a periodic electromagnetic wave. The rms is obtained by taking the square root of the mean of the squared value of a function.

“Safety device” means any mechanism incorporated into a radio frequency source that is designed to prevent human access to excessive levels of radio frequency radiation.

Ultraviolet, high intensity light, and intense pulsed light source definitions:

“EPA” means the United States Environmental Protection Agency.

“FDA” means the United States Food and Drug Administration.

“High intensity mercury vapor discharge (HID) lamp” means any lamp, including a mercury vapor or metal halide lamp that incorporates a high-pressure arc discharge tube with a fill that consists primarily of mercury and is contained within an outer envelope, except the tungsten filament self-ballasted mercury vapor lamp.

“Intense pulsed light device (IPL)” means, for purposes of R9-7-1438, any lamp-based device that produces an incoherent, filtered, and intense light.

“Maximum exposure time” means the greatest continuous exposure time interval recommended by the manufacturer of a product.

“Protective sunlamp eyewear” means any device designed to be worn by a user of a product to reduce exposure of the eyes to radiation emitted by the product.

“Sanitize” means treat the surfaces of equipment and devices using an EPA or FDA registered product that provides a specified concentration of chemicals, for a specified period of time, to reduce the bacterial count, including pathogens, to a safe level.

“Self-extinguishing lamp” means any HID lamp that ceases operation in conformance with the requirements of the performance standard in 21 CFR 1040.30(d), April 1, 2004, which is incorporated by reference, published by the Office of Federal Register National Archives and Records Administration, Washington, D.C. 20408, and on file with the Department. This incorporation by reference contains no future editions or amendments.

“Sunlamp product” means any electronic product designed to incorporate one or more ultraviolet lamps and intended for irradiation of any part of the living human body, by ultraviolet radiation with wavelengths in air between 200 and 400 nanometers, to induce skin tanning.

“Timer” means any device incorporated into a product that terminates radiation emission after a preset time interval.

“Ultraviolet lamp” means any light source that produces ultraviolet radiation and that is intended for use in any sunlamp product.

“Ultraviolet radiation” means electromagnetic radiation in the wavelength interval from 200 to 400 nanometers in air.

“User” means any member of the public who is provided access to a tanning device in exchange for a fee or other compensation, or any individual who, in exchange for a fee or

other compensation, is afforded use of a tanning device as a condition or benefit of membership or access.

**Historical Note**

New Section R9-7-1402 recodified from R12-1-1402 at 24 A.A.R. 813, effective March 22, 2018 (Supp. 18-1).

**R9-7-1403. General Safety Provisions and Exemptions**

- A.** Based on consideration of the following factors, the Department may waive compliance with specific requirements of this Article:
- Whether compliance requires product replacement or substantial modification of a product's current installation, and
  - Whether the registrant provided information requested by the Department to determine if there are alternative methods of achieving the same or a greater level of radiation protection.
- B.** The registrant shall:
- Ensure that any nonionizing source is operated by an individual who is trained and has demonstrated competence in the safe use of the source.
  - Provide safety rules to each individual who operates a nonionizing radiation source and determine whether the individual is aware of operating restrictions and procedures associated with the safe use of the source.
  - Make, or cause to be made, any physical radiation surveys required by this Article.
  - Maintain the following records for three years for Department review:
    - Results of any physical survey or calibration required by this Article;
    - Radiation source inventories;
    - Maintenance, service, and modification records; and
    - Incident reports of known or suspected exposure to nonionizing radiation that exceeds any MPE specified in this Article.
- C.** A registrant shall not operate a nonionizing radiation source unless the source complies with all of the applicable requirements of this Article.

**Historical Note**

New Section R9-7-1403 recodified from R12-1-1403 at 24 A.A.R. 813, effective March 22, 2018 (Supp. 18-1).

**R9-7-1404. Radio Frequency Equipment**

- A.** A registrant shall operate a radiation source that emits radio frequency radiation in a radio frequency controlled area, in a manner that will prevent human exposure that exceeds the MPE specified in IEEE Std C95.1-1999, Institute of Electrical and Electronics Engineers Standard for Safety Levels with Respect to Human Exposure to Radio Frequency Electromagnetic Fields, 3kHz to 300 GHz, 1999 edition, which is incorporated by reference, published by the Institute of Electrical and Electronic Engineers, Inc., 345 East 47th Street, New York, NY 10017, and on file with the Department. This incorporation by reference contains no future editions or amendments. The registrant shall post each point of access into a radio frequency controlled area according to R9-7-1406.
- B.** If a registrant is required to operate a radio frequency source in a controlled area, the registrant shall employ visual or audible emission indicators that function only during production of radiation.
- C.** If a source of radio frequency emissions is physically separate from the source's means of activation by a distance greater than 2 meters, the registrant shall place a visual or an audible emission indicator at the source and the point of activation.

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- D. A registrant shall place each visual emission indicator so that the location of the indicator does not require human exposure to radio frequency radiation that exceeds the applicable MPE.
- E. A registrant shall inspect each safety device designed to prevent human exposure to excessive radio frequency radiation for proper operation at intervals that do not exceed one month.
- F. If a machine emits mechanically scanned radio frequency radiation, a registrant shall ensure that the machine cannot, as the result of scan failure or any other malfunction, cause a change in angular velocity or amplitude, allowing human exposure that exceeds the applicable MPE.
- G. A registrant shall physically secure each radio frequency sources to prevent unauthorized use and tampering.

**Historical Note**

New Section R9-7-1404 recodified from R12-1-1404 at 24 A.A.R. 813, effective March 22, 2018 (Supp. 18-1).

**R9-7-1405. Radio Frequency Radiation: Maximum Permissible Exposure**

- A. A registrant shall not expose a person to radio frequency radiation that exceeds the applicable MPE specified in IEEE Std C95.1-1999, Institute of Electrical and Electronics Engineers Standard for Safety Levels with Respect to Human Exposure to Radio Frequency Electromagnetic Fields, 3kHz to 300 GHz, 1999 edition, which is incorporated by reference, published by the Institute of Electrical and Electronic Engineers, Inc., 345 East 47th Street, New York, NY 10017, and on file with the Department. This incorporation by reference contains no future editions or amendments.
- B. At frequencies between 300 kHz and 100 GHz a registrant may exceed the applicable MPE if exposure conditions can be shown by laboratory procedures to produce specific absorption rates (SARs) above 0.4 watts per kilogram, averaged over the whole body, and spatial peak SAR values above 8 watts per kilogram, averaged over 1 gram of tissue.
- C. At frequencies between 300 kHz and 1 GHz, a registrant may exceed the applicable MPE, if the radio frequency input power to the radiating device is seven watts or less.

**Historical Note**

New Section R9-7-1405 recodified from R12-1-1405 at 24 A.A.R. 813, effective March 22, 2018 (Supp. 18-1).

**R9-7-1406. Radio Frequency Hazard Caution Signs, Symbols, Labeling, and Posting**

- A. A registrant shall post each point of access to a controlled area with caution signs of the type designated in Figure 1.



- B. A registrant shall post operating procedure restrictions or limitations, used to prevent unnecessary or excessive exposure to radio frequency radiation, in a location visible to the operator.
- C. A registrant shall place each warning sign or label so that an observer is not exposed to radio frequency radiation that exceeds the applicable MPE.

**Historical Note**

New Section R9-7-1406 recodified from R12-1-1406 at 24 A.A.R. 813, effective March 22, 2018 (Supp. 18-1).

**R9-7-1407. Microwave Ovens**

A person shall register with the Department any microwave oven that does not meet the requirements in 21 CFR 1030.10, April 1, 2004, which is incorporated by reference, published by the Office of Federal Register National Archives and Records Administration, Washington, D.C. 20408, and on file with the Department. This incorporation by reference contains no future editions or amendments.

**Historical Note**

New Section R9-7-1407 recodified from R12-1-1407 at 24 A.A.R. 813, effective March 22, 2018 (Supp. 18-1).

**R9-7-1408. Reporting of Radio Frequency Radiation Incidents**

- A. A registrant shall report in writing to the Department within 15 days of a known or suspected personnel exposure to radiation that exceeds the applicable MPE incorporated by reference in R9-7-1405.
- B. A registrant shall report to the Department within 24 hours of a known or suspected personnel exposure to radiation that exceeds 150% of an applicable MPE incorporated by reference in R9-7-1405.
- C. A registrant shall immediately report to the Department a known or suspected personnel exposure to radiation that exceeds 500% of an applicable MPE incorporated by reference in R9-7-1405.

**Historical Note**

New Section R9-7-1408 recodified from R12-1-1408 at 24 A.A.R. 813, effective March 22, 2018 (Supp. 18-1).

**R9-7-1409. Medical Surveillance for Workers Who May Be Exposed to Radio Frequency Radiation**

- A. Upon request by the Department, a registrant shall provide a medical examination to an individual exposed to radiation reported to the Department according to R9-7-1408.
- B. A registrant shall provide a copy of the results to the Department if an individual undergoes a medical examination, requested under subsection (A).

**Historical Note**

New Section R9-7-1409 recodified from R12-1-1409 at 24 A.A.R. 813, effective March 22, 2018 (Supp. 18-1).

**R9-7-1410. Radio Frequency Compliance Measurements**

- A. For obtaining measurements to determine compliance with R9-7-1405, the Department shall use an instrument capable of measuring the field strength and frequency of radiation.
- B. The Department shall ensure that each instrument used for compliance measurements is calibrated every 12 months. The calibration shall be performed in a manner that meets the standards in IEEE Std C95.1-1999, incorporated by reference in R9-7-1404(A).
- C. For compliance measurements of exposure conditions in the near field, the Department shall obtain measurements of both the electric and magnetic field components. The applicable protection standards for near field measurements are the mean

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squared electric and magnetic field strengths (using the applicable MPE) referenced in R9-7-1405.

- D. If the Department is obtaining measurements to determine compliance in far field exposure conditions, the Department may use measurements of power density in milliwatts per square centimeter or the calculated equivalent plane wave power density, based on measurement of either the electric or magnetic field strength. The applicable protection standards are the power density values (using the applicable MPE) referenced in R9-7-1405.
- E. In obtaining measurements in accordance with this Section, the Department shall measure the electric and magnetic field strength:
  1. Obtained at an emission frequency of 300 megahertz or less; and
  2. Expressed in terms of power density.
- F. For mixed or broadband fields at frequencies for which there are different protection standards, the Department shall determine the fraction of the applicable MPE incurred within each frequency interval. To achieve compliance the sum of all the fractions shall not exceed unity (1).
- G. The Department shall obtain compliance measurements at a distance of five centimeters or greater from any object.
- H. A registrant shall obtain measurements that are averaged over a six-minute period for pulsed and non-pulsed modes of radio frequency emission and make a correction for duty cycle in determining the average field strength.

**Historical Note**

New Section R9-7-1410 recodified from R12-1-1410 at 24 A.A.R. 813, effective March 22, 2018 (Supp. 18-1).

**R9-7-1411. Reserved****Historical Note**

Section R9-7-1411 reserved when this Chapter was recodified from 12 A.A.C. 1 (Supp. 18-1).

**R9-7-1412. Tanning Operations**

A registrant shall establish and maintain written policies and procedures that are part of a radiation safety program to assure compliance with the requirements in R9-7-1412 through R9-7-1416.

**Historical Note**

New Section R9-7-1412 recodified from R12-1-1412 at 24 A.A.R. 813, effective March 22, 2018 (Supp. 18-1).

**R9-7-1413. Tanning Equipment Standards**

- A. A registrant operating a tanning facility shall use sunlamp products that are certified by the manufacturer to comply with 21 CFR 1040.20, April 1, 2004, which is incorporated by reference, published by the Office of Federal Register National Archives and Records Administration, Washington, D.C. 20408, and on file with the Department. This incorporation by reference contains no future editions or amendments. For sunlamp products in use before the effective date of this Article, the Department shall determine compliance based on the standard in effect at the time of manufacture, as shown on the equipment identification label.
- B. A registrant shall replace burned-out or defective lamps or filters, before any use of a tanning device.
- C. A registrant shall replace a burned-out or defective lamp or filter with a lamp or filter intended for use in that equipment, as specified on the sunlamp product label, or that is equivalent to a lamp or filter specified on the sunlamp product label under the FDA regulations and policies applicable to the sunlamp product at the time of manufacture. If an equivalent lamp or filter is used instead of the Original Equipment Manufacturer (OEM) lamp or filter specified on the product label, the regis-

trant shall maintain a copy of the equivalency certification, provided by the lamp supplier, on file for review by Department inspectors.

- D. A registrant shall ensure that each sunlamp product has a timer and control system that complies with 21 CFR 1040.20(c), April 1, 2004, which is incorporated by reference, published by the Office of Federal Register National Archives and Records Administration, Washington, D.C. 20408, and on file with the Department. This incorporation by reference contains no future editions or amendments. In addition the registrant shall ensure that:
  1. The timer interval does not exceed the manufacturer's maximum, recommended exposure time;
  2. The timer is functional and accurate to within +/- 10% of the maximum timer interval of the product;
  3. The timer does not automatically reset and cause radiation emission to resume for a period greater than the unused portion of the timer cycle;
  4. The timer is tested annually for accuracy;
  5. For a new facility (including existing facilities with change of ownership) a remote timer control system is installed before operation of sunlamp products. For an existing facility that has sunlamp products not equipped with a remote timer control system, a remote timer control system (outside of the sunlamp product room) is installed no later than 6 months after the effective date of this Section; and
  6. Each sunlamp product is equipped with an emergency shutoff mechanism that allows manual termination of the UV exposure by the user.
- E. A registrant shall provide physical barriers between each sunlamp product to protect users from injury caused by touching or breaking a lamp.
- F. A registrant that employs a stand-up sunlamp product shall:
  1. Use physical barriers, handrails, floor markings, or other methods to indicate the proper exposure distance between the ultraviolet lamps and the user's skin;
  2. Construct each tanning booth so that it can withstand the stress of use and the impact of a falling person;
  3. Provide access to a tanning booth with doors of rigid construction that open outward, handrails, and non-slip floors; and
  4. Control the interior temperature of a sunlamp product so that it never exceeds 100 degrees Fahrenheit (38 degrees Centigrade).

**Historical Note**

New Section R9-7-1413 recodified from R12-1-1413 at 24 A.A.R. 813, effective March 22, 2018 (Supp. 18-1).

**R9-7-1414. Tanning Equipment Operators**

- A. A registrant shall ensure that at least one operator is present during operating hours. The operator shall:
  1. Limit the occupancy of the tanning room to one person when the tanning equipment is in use;
  2. Prevent use of the tanning equipment by anyone under 18 years of age unless the person has written permission from a parent or guardian;
  3. Limit exposure time to the manufacturer's recommendation on the equipment label or in the operator's manual;
  4. Limit exposure time during a 24-hour period to the maximum recommended for a 24-hour period by the manufacturer; and
  5. Maintain a record of each user's total number of tanning visits and exposure times for Department inspection. The registrant shall maintain the records for three years from the date on the record.

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- B.** Before use of tanning equipment, an operator shall:
1. Provide the user sanitized protective sunlamp eyewear and directions for its use;
  2. Demonstrate the use of any physical aids, necessary to maintain correct exposure distance for the user, as recommended by the manufacturer of the tanning equipment;
  3. Set the exposure timer so that the user is not exposed to excess radiation;
  4. Instruct the user on the maximum exposure time and correct distance from the radiation source as recommended by the manufacturer of the tanning equipment; and
  5. Instruct the user about the location and correct operation of the emergency shutoff switch.
- C.** An operator shall control a sunlamp's timer. A registrant shall:
1. Provide training to operators that covers:
    - a. The requirements of this Section;
    - b. Facility operating procedures, including:
      - i. Determination of skin type and associated duration of exposure;
      - ii. Procedures for use of minor and adult user consent forms;
      - iii. Potential harm associated with photosensitizing foods, cosmetics, and medications;
      - iv. Requirements for use of protective eyewear by users of the equipment; and
      - v. Proper sanitizing procedures for the facility, equipment, and eyewear;
    - c. The manufacturer's procedures for operation and maintenance of tanning equipment;
    - d. Recognition of injury or overexposure; and
    - e. Emergency procedures used in the case of an injury.
  2. Maintain records of training for Department review, which include dates and material covered, for three years from the date the training is provided.
3. Post a list of operators at the facility.
- D.** Before the first use of a tanning facility in each calendar year by a user:
1. An operator shall request that the user read a copy of the warnings in R9-7-1415(A);
  2. The operator shall obtain the user's signature on a statement as an acknowledgment that the user has heard or read and understands the warnings in R9-7-1415(A); and
  3. For illiterate or visually handicapped persons, the operator shall read the warnings in R9-7-1415(A) in the presence of a witness. Both the witness and the operator shall sign the statement described in subsection (D)(2).

**Historical Note**

New Section R9-7-1414 recodified from R12-1-1414 at 24 A.A.R. 813, effective March 22, 2018 (Supp. 18-1).

**R9-7-1415. Tanning Facility Warning Signs**

- A.** A registrant shall post the warning sign shown in this subsection within 1 meter (39.37 inches) of each tanning device, ensuring that the sign is clearly visible and easily viewed by the user before the tanning device is operated.
- B.** A registrant shall post a warning sign, which contains the statement shown, at or near the reception area.
- PERSONS UNDER AGE 18 ARE REQUIRED TO HAVE  
PARENT OR LEGAL GUARDIAN SIGN AN AUTHORIZATION  
TO TAN IN THE PRESENCE OF A TANNING  
FACILITY OPERATOR
- C.** The lettering on each warning sign shall be at least 10 millimeters high for all words shown in capital letters and at least 5 millimeters high for all lower case letters.

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**DANGER - ULTRAVIOLET RADIATION**

1. Follow instructions.
2. Avoid overexposure. As with natural sunlight, exposure can cause eye and skin injury and allergic reactions. Repeated exposure may cause premature aging of the skin, dryness, wrinkling, and skin cancer.
3. Wear protective eyewear.

**FAILURE TO USE PROTECTIVE EYEWEAR MAY RESULT IN SEVERE BURNS OR LONG TERM INJURY TO THE EYES.**

4. Medications or cosmetics may increase your sensitivity to the ultraviolet radiation. Consult a physician before using a sunlamp if you are using medications or have a history of skin problems or believe you are especially sensitive to sunlight.
5. If you do not tan in the sun, you are unlikely to tan from use of this device.

**Historical Note**

New Section R9-7-1415 recodified from R12-1-1415 at 24 A.A.R. 813, effective March 22, 2018 (Supp. 18-1).

**R9-7-1416. Reporting of Tanning Injuries**

- A.** A registrant shall report any incident involving an eye injury; skin burn; fall injury, if the fall occurs within the tanning device or while entering or exiting the device; laceration; infection believed to have been transmitted by use of the tanning device; or any other injury reasonably related to the use of the tanning device.
- B.** A registrant shall provide a written report of an incident to the Department within 10 working days of its occurrence or within 10 working days of the date the registrant became aware of the incident.
- C.** The report shall include:
1. The name of the user;
  2. The name and location of the tanning facility;
  3. A description of and the circumstances associated with the injury;
  4. The name and address of the health care provider treating the user, if any; and
  5. Any other information the registrant considers relevant to the incident.

**Historical Note**

New Section R9-7-1416 recodified from R12-1-1416 at 24 A.A.R. 813, effective March 22, 2018 (Supp. 18-1).

**R9-7-1417. Reserved**

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**Historical Note**

Section R9-7-1417 reserved when this Chapter was recodified from 12 A.A.C. 1 (Supp. 18-1).

**R9-7-1418. High Intensity Mercury Vapor Discharge (HID) Lamps**

A person shall register with the Department any HID lamp that does not meet the requirements in 21 CFR 1040.30, April 1, 2004, which is incorporated by reference, published by the Office of Federal Register National Archives and Records Administration, Washington, D.C. 20408, and on file with the Department. This incorporation by reference contains no future editions or amendments.

**Historical Note**

New Section R9-7-1418 recodified from R12-1-1418 at 24 A.A.R. 813, effective March 22, 2018 (Supp. 18-1).

**R9-7-1419. Reserved****Historical Note**

Section R9-7-1419 reserved when this Chapter was recodified from 12 A.A.C. 1 (Supp. 18-1).

**R9-7-1420. Reserved****Historical Note**

Section R9-7-1420 reserved when this Chapter was recodified from 12 A.A.C. 1 (Supp. 18-1).

**R9-7-1421. Laser Safety**

- A. The requirements contained in this Section apply to laser products that are used in accordance with the manufacturer's classification and instructions. If certain engineering controls are impractical during manufacture or research and development activities, the LSO shall specify alternate requirements to obtain equivalent laser safety protection.
- B. A registrant shall establish and maintain a laser radiation safety program.
- C. If R9-7-1433 is applicable, a registrant shall conduct a laser radiation protection survey to ensure compliance with R9-7-1433 before initial use, following system modifications, and at intervals that do not exceed six months. During a survey the registrant shall:
  1. Determine whether each laser protective device is labeled correctly, functioning within the design specifications, and meets required standards for the type and class of laser in use;
  2. Determine whether each warning device is functioning within design specifications;
  3. Determine whether each controlled area is identified, controlled, and posted with accurate warning signs in accordance with this Article;
  4. Reevaluate potential hazards from surfaces that are associated with Class 3 and Class 4 beam paths; and
  5. Evaluate the laser and collateral radiation hazard incident to the use of lasers.
- D. The registrant shall maintain records of:
  1. Results of all physical surveys made to determine compliance with this Article;
  2. Any restriction in operating procedures necessary to prevent unnecessary or excessive exposure to laser or collateral radiation;
  3. Any incident for which reporting to the Department is required pursuant to R9-7-1436;
  4. Results of medical surveillance to determine extent of injury resulting from exposure to laser or collateral radiation;
  5. Inventory to account for all sources of radiation possessed by the licensee.

- E. A registrant shall provide the Laser Safety Officer with training that covers the subjects listed in Appendix D.

**Historical Note**

New Section R9-7-1421 recodified from R12-1-1421 at 24 A.A.R. 813, effective March 22, 2018 (Supp. 18-1).

**R9-7-1422. Laser Protective Devices**

- A. A registrant shall ensure that each laser product has a protective housing that prevents access to laser and collateral radiation if it exceeds the exposure limits for Class 1 lasers in R9-7-1426. If a laser's accessible emission levels must exceed the limits for Class 1 lasers, the registrant shall use a laser from the lowest class that will enable the registrant to perform the intended function.
- B. To prevent access to radiation above the applicable MPE, a registrant shall ensure that each laser has a safety interlock, which prevents operation of the laser if a person has removed any portion of the protective housing that can be removed or displaced without the use of tools during normal operation or maintenance. The registrant shall ensure that:
  1. Service, testing, or maintenance of a laser does not render the interlocks inoperative or increase radiation outside the protective housing to levels that exceed the applicable MPE, unless a controlled area is established as specified in R9-7-1433;
  2. For pulsed lasers, interlocks are designed to prevent the laser from firing;
  3. For Class 3b and 4 continuous wave (cw) lasers, interlocks turn off the power supply or interrupt the beam.
  4. An interlock does not allow automatic accessibility to radiation emission above the applicable MPE when the interlock is closed; and
  5. Multiple safety interlocks or a means to preclude removal or displacement of the interlocked portion of the protective housing is provided if failure of a single interlock could result in:
    - a. Human access to levels of laser radiation that exceed the radiant power accessible emission limit for Class 3a laser radiation, or
    - b. Laser radiation that exceeds the accessible emission limit for Class 2, emitted directly through the opening created by removal or displacement of a portion of the protective housing.
- C. A registrant shall ensure that a laser with viewing ports, viewing optics, or display screens, included as an integral part of the enclosed laser or laser system has:
  1. A suitable means to attenuate laser and collateral radiation transmitted through the optical system to less than the accessible emission limit for collateral radiation required by 21 CFR 1040.10, April 1, 2004, which is incorporated by reference, published by the Office of Federal Register National Archives and Records Administration, Washington, D.C. 20408, and on file with the Department. This incorporation by reference contains no future editions or amendments; and
  2. Specific written administrative procedures developed by the LSO, and use controls, such as interlocks or filters, if there is increased hazard to the eye or skin associated with the use of optical systems such as lenses, telescopes, or microscopes.
- D. A registrant shall ensure that each Class 3 or 4 laser product provides a visual or audible indication before the emission of accessible laser radiation that exceeds the limits for Class 1, as follows:
  1. For Class 3, except for laser products that allow access to less than 5 milliwatts peak visible laser radiation, and

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Class 4 lasers, the indication occurs before the emission of the radiation and allows enough time for action to avoid exposure;

2. Any visual indicator is clearly visible through protective eyewear designed specifically for the wavelength of the emitted laser radiation;
  3. If the laser and laser energy source are housed separately and can be operated at a separation distance of greater than 2 meters, both the laser and laser energy source incorporate visual or audible indicators; and
  4. Any visual indicators are positioned so that viewing does not require human access to laser radiation that exceeds the applicable MPE.
- E. In addition to the information signs, symbols, and labels prescribed in R9-7-1427, R9-7-1428, and R9-7-1429, each registrant shall provide, near the signs, symbols, and labels within the laser facility, operating procedure restrictions and any other safety information required to ensure compliance with this Article and minimize exposure to laser and collateral radiation.

**Historical Note**

New Section R9-7-1422 recodified from R12-1-1422 at 24 A.A.R. 813, effective March 22, 2018 (Supp. 18-1).

**R9-7-1423. Laser Prohibitions**

- A. A registrant shall not require or permit an individual to look directly into a laser beam or directly at specular reflections of a laser beam, or align a laser by eye while looking along the axis of the laser beam if the intensity of the beam or the beam's reflections exceeds the applicable MPE.
- B. A registrant shall not permit an individual to enter a controlled area if the skin exposure exceeds the applicable MPE, unless the registrant provides and requires the use of protective clothing, gloves, and shields.
- C. A registrant shall ensure that any laser product, emitting spatially scanned laser radiation, does not, as a result of scan failure or any other failure that causes a change in angular velocity or amplitude, permit human access to laser radiation that exceeds the accessible emission limits applicable to that class of product.

**Historical Note**

New Section R9-7-1423 recodified from R12-1-1423 at 24 A.A.R. 813, effective March 22, 2018 (Supp. 18-1).

**R9-7-1424. Reserved****Historical Note**

Section R9-7-1424 reserved when this Chapter was recodified from 12 A.A.C. 1 (Supp. 18-1).

**R9-7-1425. Laser Product Classification**

- A. Each laser product is classified on the basis of emission level, emission duration, and wavelength of accessible laser radiation emitted over the full range of resulting operational capability, any time during the useful life of the product, according to the federal performance standards for light-emitting products contained in 21 CFR 1040.10, April 1, 2004, which is incorporated by reference, published by the Office of Federal Register National Archives and Records Administration, Washington, D.C. 20408, and on file with the Department. This incorporation by reference contains no future editions or amendments.
- B. Any person that modifies a certified laser product in a manner that affects any aspect of performance or intended functions of the product, shall recertify and reidentify the product in accordance with 21 CFR 1040.10, April 1, 2004, which is incorporated by reference, published by the Office of Federal Register

National Archives and Records Administration, Washington, D.C. 20408, and on file with the Department. This incorporation by reference contains no future editions or amendments.

- C. Any laser system that is incorporated into a laser product that is subject to the requirements of this Article, and capable, without modification, of producing laser radiation when removed from the laser product, is considered a laser product, subject to the applicable requirements of this Article. Upon removal of the laser system described in this subsection, the laser product is classified on the basis of accessible laser radiation emission.

**Historical Note**

New Section R9-7-1425 recodified from R12-1-1425 at 24 A.A.R. 813, effective March 22, 2018 (Supp. 18-1).

**R9-7-1426. Laser and Collateral Radiation Exposure Limits**

- A. A registrant shall not use, or permit the use of a laser product that will result in a human exposure that exceeds the applicable MPE or accessible emission limit (AEL) listed in ANSI Z136.1-2000, American National Standard for Safe Use of Lasers, 2000 edition, which is incorporated by reference, published by the Laser Institute of America, 13501 Ingenuity Drive, Suite 128, Orlando, FL 32826, and on file with the Department. Accessible emission limits are listed in 21 CFR 1040.10, April 1, 2004, which is incorporated by reference, published by the Office of Federal Register National Archives and Records Administration, Washington, D.C. 20408, and on file with the Department. These incorporations by reference contain no future editions or amendments.
- B. A registrant shall not allow exposure to collateral radiation that exceeds any accessible emission limit in 21 CFR 1040.10, April 1, 2004, which is incorporated by reference, published by the Office of Federal Register National Archives and Records Administration, Washington, D.C. 20408, and on file with the Department. This incorporation by reference contains no future editions or amendments.

**Historical Note**

New Section R9-7-1426 recodified from R12-1-1426 at 24 A.A.R. 813, effective March 22, 2018 (Supp. 18-1).

**R9-7-1427. Laser Caution Signs, Symbols, and Labels**

- A. Except as otherwise authorized by the Department, a registrant shall use signs, symbols, and labels prescribed by this Section and the design and colors specified in ANSI Z136.1-2000, American National Standard for Safe Use of Lasers, 2000 edition, which is incorporated by reference, published by the Laser Institute of America, 13501 Ingenuity Drive, Suite 128, Orlando, FL 32826, and on file with the Department. This incorporation by reference contains no future editions or amendments.
- B. A registrant shall ensure that the word "invisible" immediately precedes the word "radiation" on labels and signs required by this Section for lasers that only produce wavelengths of laser and collateral radiation that are outside of the range of 400 to 710 nanometers.
- C. A registrant shall ensure that the words "visible and invisible" immediately precede the word "radiation" on labels and signs required by this Section for lasers that produce wavelengths of laser and collateral radiation that are both within and outside the range of 400 to 710 nanometers.
- D. A registrant shall position any label placed on lasers or signs posted in laser facilities so that the reader of the label or sign is not exposed to laser or collateral radiation that exceeds the applicable MPE or accessible emission limit while reading the label or sign.



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- E. A registrant shall use labels and signs that are clearly visible, legible, and permanently attached to the laser or facility.
- F. A registrant shall ensure that a permanent and legible label is affixed to each laser, identifying the classification of the laser in accordance with 21 CFR 1040.10, April 1, 2004, which is incorporated by reference, published by the Office of Federal Register National Archives and Records Administration, Washington, D.C. 20408, and on file with the Department. This incorporation by reference contains no future editions or amendments.
- G. For a Class 3 or Class 4 laser a registrant shall ensure that a permanent and legible label is affixed to each laser, specifying the maximum output of laser radiation, the pulse duration if applicable, and the laser medium or emitted wavelength.
- H. For a Class 3 or Class 4 laser, used in the practice of medicine, a registrant shall ensure that a permanent and legible label is affixed to each laser providing one or more of the following warnings near each aperture that emits laser radiation or collateral radiation that exceeds the applicable MPE, as follows:
  1. "AVOID EXPOSURE - Laser radiation is emitted from this aperture" if the radiation emitted through the aperture is laser radiation;
  2. "AVOID EXPOSURE - Hazardous electromagnetic radiation is emitted from this aperture" if the radiation emitted through the aperture is collateral radiation; or
  3. "AVOID EXPOSURE - Hazardous x-rays are emitted from this aperture" if the radiation emitted through the aperture is collateral x-ray radiation.
- I. A registrant shall ensure that there is a label on each non-interlocked or defeatable interlocked portion of the protective housing or enclosure that permits human access to laser or collateral radiation. The label shall include one or more of the following warnings, as applicable:
  1. For laser radiation that exceeds the applicable accessible emission limit for a Class 1 or Class 2 laser, but does not exceed the applicable accessible emission limit for a Class 3 laser, the warning: "DANGER - Laser radiation when open, AVOID DIRECT EXPOSURE TO THE BEAM."
  2. For laser radiation that exceeds the applicable accessible emission limit for a Class 3 laser, the warning: "DANGER - Laser radiation when open, AVOID EYE OR SKIN EXPOSURE TO DIRECT OR SCATTERED RADIATION."
  3. For collateral radiation that exceeds an applicable accessible emission limit:
    - a. If the applicable limit for collateral laser radiation is exceeded, the warning: "CAUTION - Hazardous electromagnetic radiation when open"; and
    - b. If the applicable limit for collateral x-ray radiation is exceeded, the warning: "CAUTION - Hazardous x-ray radiation".
  4. For a protective housing or an enclosure that has a defeatable interlock, the warning "and interlock defeated" in addition to the warnings in subsections (1) through (3).

**Historical Note**

New Section R9-7-1427 recodified from R12-1-1427 at 24 A.A.R. 813, effective March 22, 2018 (Supp. 18-1).

**R9-7-1428. Reserved****Historical Note**

Section R9-7-1428 reserved when this Chapter was recodified from 12 A.A.C. 1 (Supp. 18-1).

**R9-7-1429. Posting of Laser Facilities**

Unless other methods are approved by the Department, a registrant shall post each laser facility in accordance with ANSI Z136.1-2000, American National Standard for Safe Use of Lasers, 2000 edition, which is incorporated by reference, published by the Laser Institute of America, 13501 Ingenuity Drive, Suite 128, Orlando, FL 32826, and on file with the Department. This incorporation by reference contains no future editions or amendments.

**Historical Note**

New Section R9-7-1429 recodified from R12-1-1429 at 24 A.A.R. 813, effective March 22, 2018 (Supp. 18-1).

**R9-7-1430. Reserved****Historical Note**

Section R9-7-1430 reserved when this Chapter was recodified from 12 A.A.C. 1 (Supp. 18-1).

**R9-7-1431. Reserved****Historical Note**

Section R9-7-1431 reserved when this Chapter was recodified from 12 A.A.C. 1 (Supp. 18-1).

**R9-7-1432. Reserved****Historical Note**

Section R9-7-1432 reserved when this Chapter was recodified from 12 A.A.C. 1 (Supp. 18-1).

**R9-7-1433. Laser Use Areas that are Controlled**

- A. A registrant shall establish a controlled area for a laser if it is possible for a person to be exposed to laser radiation from a Class 3b laser, except a Class 3b laser of less than 5 milliwatts visible peak power, or a Class 4 laser that exceeds the applicable MPE or AEL in R9-7-1426.
- B. A registrant shall ensure that a controlled area associated with a Class 3b laser is:
  1. The responsibility of a LSO;
  2. Posted in accordance with this Article; and
  3. Access controlled by the LSO or a trained, designated representative.
- C. A registrant shall ensure that a controlled area associated with a Class 4 laser is:
  1. The responsibility of a LSO;
  2. Posted in accordance with this Article;
  3. Access controlled by the LSO or a trained, designated representative; and
  4. If an indoor controlled area:
    - a. Equipped with latches, interlocks, or another means of preventing unexpected entry into the controlled area;
    - b. Equipped with a control-disconnect switch, panic button, or an equivalent device for deactivating the laser during an emergency;
    - c. Operated so that the person in charge of the controlled area can momentarily override the safety interlocks during tests that require continuous operation to provide access to other personnel if there is no optical radiation hazard at the point of entry and the entering personnel are wearing required protective devices; and
    - d. Controlled in a way that reduces the transmitted values of laser radiation through optical paths such as windows, to levels at or below the applicable ocular MPE and AEL in R9-7-1426. If a laser beam with an irradiance or radiant-exposure above the applicable MPE or AEL will exit the indoor controlled area (as in the case of exterior atmospheric beam paths), the registrant and the operator are responsible for ensuring

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ing that the beam path is limited to controlled air space or controlled ground space.

- D. If a panel or protective cover is removed or an interlock bypassed for service, testing, or maintenance, a registrant shall establish an accessible controlled area. The registrant, through a LSO or a designated representative, shall comply with laser safety requirements for all potentially-exposed individuals.

**Historical Note**

New Section R9-7-1433 recodified from R12-1-1433 at 24 A.A.R. 813, effective March 22, 2018 (Supp. 18-1).

**R9-7-1434. Laser Safety Officer (LSO)**

- A. Each registrant shall designate a Laser Safety Officer (LSO).
- B. The LSO shall administer the laser radiation protection program and shall:
1. Ensure that maintenance or service for Class 3b and Class 4 lasers is performed only by technicians trained to provide the maintenance or service by either the manufacturer's service organization or the registrant;
  2. Approve or reject written service, maintenance, and operating procedures;
  3. Investigate, document, and report all incidents as required by R9-7-1436;
  4. Select protective eyewear as required by R9-7-1435, along with any other protective equipment;
  5. For health care facilities, establish authorization and operating procedures, including preoperative and postoperative checklists, for use by operating room personnel;
  6. Ensure that authorized personnel are trained in the assessment and control of laser hazards;
  7. Select signs, symbols, and labels as required by R9-7-1427;
  8. Perform laser radiation protection surveys as required by R9-7-1421 and R9-7-1441;
  9. Classify or verify the classification of lasers and laser systems used under the LSO's jurisdiction;
  10. Evaluate the hazard of laser use areas, treatment areas, and controlled areas, as required by R9-7-1421(C).

**Historical Note**

New Section R9-7-1434 recodified from R12-1-1434 at 24 A.A.R. 813, effective March 22, 2018 (Supp. 18-1).

**R9-7-1435. Laser Protective Eyewear**

- A. A registrant shall require that protective eyewear, as specified by the LSO, be worn by an individual who has access to:
1. Class 4 laser radiation; or
  2. Class 3b laser radiation.
- B. A registrant shall, through the LSO, provide protective eyewear that is:
1. Marked with a label that indicates the optical density protection afforded for the relevant laser wavelength;
  2. Maintained so that the protective properties of the eyewear are preserved;
  3. Inspected at intervals that do not exceed six months to ensure integrity of the protective properties; and
  4. Removed from service if the protective properties of the eyewear fall below the optical density on the label.
- C. A registrant shall maintain records of protective eyewear maintenance, inspection, and removal from service for five years.

**Historical Note**

New Section R9-7-1435 recodified from R12-1-1435 at 24 A.A.R. 813, effective March 22, 2018 (Supp. 18-1).

**R9-7-1436. Reporting Laser Incidents**

- A. A registrant shall notify the Department by telephone within 24 hours of any incident that has caused or may have caused:
1. Permanent loss of sight in either eye; or
  2. Third-degree burns of the skin involving more than 5 percent of the body surface as estimated by the rule of nines.
- B. A registrant shall notify the Department by telephone within five working days of any incident that has or may have caused:
1. Any second-degree burn of the skin larger than one inch (2.54 centimeter) in greatest diameter; or
  2. Any third-degree burn of the skin; or
  3. An eye injury with any potential loss of sight.
- C. Each registrant shall file a written report with the Department of any known exposure of an individual to laser radiation or collateral radiation within 30 days of its discovery, describing:
1. Each exposure of the individual to laser or collateral radiation that exceeds the applicable MPE; and
  2. Any incident that triggered a notice requirement in subsections (A) or (B).
- D. Each report required by subsection (C) shall describe the extent of exposure to each individual including:
1. An estimate of the individual's exposure;
  2. The level of laser or collateral radiation involved;
  3. The cause of the exposure; and
  4. The corrective steps taken or planned to prevent a recurrence.
- E. A registrant shall not operate or permit the operation of any laser product or system that does not meet the applicable requirements in this Article.

**Historical Note**

New Section R9-7-1436 recodified from R12-1-1436 at 24 A.A.R. 813, effective March 22, 2018 (Supp. 18-1).

**R9-7-1437. Special Lasers**

A registrant operating a laser system with an unenclosed beam path shall:

1. Conduct an evaluation before operating the laser to determine the expected beam path and the potential hazards from reflective surfaces. Based on the evaluation the registrant shall exclude reflective surfaces from the beam path at all points where the laser radiation exceeds an applicable MPE;
2. Evaluate the stability of the laser platform to determine the constraints placed upon the beam traverse and the extent of the range of control; and
3. Refrain from operating or making a laser ready for operation until the area along all points of the beam path, where the laser radiation will exceed the applicable MPE, is clear of individuals, unless the individuals are wearing the correct protective devices.

**Historical Note**

New Section R9-7-1437 recodified from R12-1-1437 at 24 A.A.R. 813, effective March 22, 2018 (Supp. 18-1).

**R9-7-1438. Hair Reduction and Other Cosmetic Procedures Using Laser and Intense Pulsed Light**

- A. Registration. A person who seeks to perform hair reduction or other cosmetic procedures shall apply for registration of any medical laser or IPL device that is a Class II surgical device, certified as complying with the labeling standards in 21 CFR 801.109, revised April 1, 2010, incorporated by reference, and available under R9-7-101. This incorporated material contains no future editions or amendments. The applicant shall provide all of the following information to the Department with the application for registration:
1. Documentation demonstrating that the health professional is qualified in accordance with A.R.S. § 32-516 or

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32-3233, has 24 hours of didactic training on the subjects listed in Appendix C, and has passed an Department-approved exam on subjects covered with a minimum grade of 80%;

2. For any health professional in practice prior to October 1, 2010, proof of 24 hours of training on the subjects listed in Appendix C;
3. Documentation endorsed by the prescribing health professional, acknowledging responsibility for the minimum level of supervision required for hair reduction procedures as defined in R9-7-1402 under "indirect supervision";
4. Procedures to ensure that the registrant has a written order from a prescribing health professional before the application of radiation;
5. If authorized, procedures to ensure that, in the absence of a prescribing health professional at the facility, the registrant has established a method for emergency medical care and assumed legal liability for the service rendered by an indirectly-supervised certified laser technician; and
6. Documentation that the indirectly-supervised certified laser technician has participated in the supervised training required by A.R.S. § 32-516 or 32-3233.

**B. Hair Reduction Procedures**

1. If a registrant is using a medical laser or an IPL device that is a Class II surgical device, certified in accordance with the labeling standards in subsection (A), for hair reduction procedures, the registrant shall:
  - a. Ensure that the device is only used by a health professional described in A.R.S. §§ 32-516(F)(3) and 32-3233(D)(1) or by a certified laser technician who is working under the indirect supervision of a health professional described in A.R.S. §§ 32-516(C)(1) and 32-3233(D) and (H)(1), and
  - b. Ensure that a prescribing health professional purchases or orders the Class II surgical device that will be used for hair reduction procedures.
2. A registrant shall:
  - a. Not permit an individual to use a medical laser or IPL device for hair reduction procedures unless the individual:
    - i. Completes an approved laser technician didactic training program of at least 40 hours duration. To successfully complete the training program, the individual shall pass a test that consists of at least 50 multiple choice questions on subjects covered with a minimum grade of 80%. The training program shall be provided by an individual who is a health professional acting within the health professional's scope of practice, or a certified laser technician with a minimum of 100 hours of hands-on experience per procedure being taught;
    - ii. Is present in the room for at least 24 hours of hands-on training, conducted by a health professional or a certified laser technician as described in subsection (B)(2)(a)(i);
    - iii. Performs or assists in at least 10 hair reduction procedures; and
    - iv. Has the qualified health professional or qualified supervising certified laser technician certify that the laser technician has completed the training and supervision as described in subsection (B)(2)(a).
  - b. Ensure that the laser technician follows written procedure protocols established by a prescribing health professional; and
  - c. Ensure that the laser technician follows any written order, issued by a prescribing health professional, which describes the specific site of hair reduction.
3. A registrant shall maintain a record of each hair reduction procedure protocol that is approved and signed by a prescribing health professional, and ensure that each protocol is reviewed by a prescribing health professional, at least annually.
4. A registrant shall:
  - a. Maintain each procedure protocol onsite, and ensure that the protocol contains instructions for the patient concerning follow-up monitoring; and
  - b. Design each protocol to promote the exercise of professional judgment by the laser technician commensurate with the individual's education, experience, and training. The protocol need not describe the exact steps that a qualified laser technician should take with respect to a hair reduction procedure.
5. A registrant shall require that a prescribing health professional observe the performance of each laser technician during procedures at intervals that do not exceed six months. The registrant shall maintain a record of the observation for three years from the date of the observation.
6. A registrant shall verify that a health professional is qualified to perform hair reduction procedures by obtaining evidence that the health professional has received relevant training specified in subsection (A)(1) and in physics, safety, surgical techniques, pre-operative and post-operative care and can perform these procedures within the relevant scope of practice, as defined by the health professional's licensing board.
7. A registrant shall provide radiation safety training to all personnel involved with hair reduction procedures, designing each training program so that it matches an individual's involvement in hair reduction procedures. The registrant shall maintain records of the training program and make them available to the Department for three years from the date of the program, during and after the individual's period of employment.

**C. Other Cosmetic Procedures**

1. If a registrant is using a medical laser or an IPL device that is a Class II surgical device, certified in accordance with the labeling standards in subsection (A), for other cosmetic procedures, the registrant shall:
  - a. Ensure that the device is only used by a health professional described in A.R.S. §§ 32-516(F)(3) and 32-3233(D)(1) or by a certified laser technician who is directly supervised by a health professional as described in A.R.S. §§ 32-516(C)(2) and 32-3233(D) and (H)(2); and
  - b. Ensure that a prescribing health professional purchases or orders the Class II surgical device that will be used for other cosmetic procedures.
2. A registrant shall not permit an individual to use a medical laser or IPL device for other cosmetic procedures unless the individual:
  - a. Completes an approved laser technician didactic training program of at least 40 hours duration. To successfully complete the training program the individual shall pass a test that consists of at least 50 multiple choice questions on subjects covered with a minimum grade of 80%. The training program shall

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be provided by an individual who is a health professional acting within the health professional's scope of practice, or a certified laser technician with a minimum of 100 hours of hands-on experience per procedure being taught;

- b. Is present in the room for at least 24 hours of hands-on training, conducted by a health professional or a certified laser technician as described in subsection (C)(2)(a); and
  - c. Performs or assists in at least 10 cosmetic procedures governed by subsection (C), for each type of procedure (for example: spider vein reduction, skin rejuvenation, non-ablative skin resurfacing); and
  - d. Has the qualified health professional or qualified supervising certified laser technician certify that the laser technician has completed the training and supervision as described in subsection (C)(2).
3. A registrant shall maintain a record of each protocol for a cosmetic procedure governed by subsection (C) that is approved and signed by a prescribing health professional, and ensure that each protocol is reviewed by a prescribing health professional, at least annually. The registrant shall:
- a. Maintain each protocol onsite, and ensure that the protocol contains instructions for the patient concerning follow-up monitoring; and
  - b. Design each protocol to promote the exercise of professional judgment by the laser technician commensurate with the individual's education, experience, and training. The protocol need not describe the exact steps that a qualified laser technician should take with respect to a cosmetic procedure governed by subsection (C).
4. A registrant shall verify that a health professional is qualified to perform laser, IPL, and related procedures, by obtaining evidence that the health professional has received relevant training specified in subsection (A)(1) and in physics, safety, surgical techniques, pre-operative and post-operative care and can perform these procedures within the relevant scope of practice, as defined by the health professional's licensing board.
5. A registrant shall provide radiation safety training to all personnel involved with cosmetic procedures governed by subsection (C), designing each training program so that it matches an individual's involvement in each procedure. The registrant shall maintain records of the training program and make them available to the Department for three years from the date of the program, during and after the individual's period of employment.
- D.** Persons governed by this Section shall also comply with other applicable licensing and safety laws.
- E.** A laser shall be secured so that the laser cannot be removed from the facility and the on/off switch is turned to the "off" position with the key removed when a certified laser technician or a health professional is not present in the room where the laser is located.
- B.** The applicant shall pay a nonrefundable fee of \$30.00. A duplicate certificate may be requested at the time of initial application or renewal at a fee of \$10.00 per certificate. To obtain a duplicate certificate at other times a laser technician shall pay \$20.00 per certificate.
- C.** Initial certificates are issued for 12 months and expire on the last day of the month. A renewal application shall be accompanied by a renewal fee of \$30.00 each year in addition to \$10.00 per duplicate certificate requested.
- D.** Under A.R.S. § 32-3233(I) and (J), the Department may take appropriate disciplinary action, including revocation of the certificate of a certified laser technician. The Department may discipline a certified laser technician who has had a relevant professional license suspended or revoked, or been otherwise disciplined by a health professional board or the Board of Cosmetology. The Department may also discipline the certified laser technician for falsifying documentation related to training, prescriptions, or other required documentation. As provided in Article 12 of this Chapter, the Department may assess civil penalties, suspend, revoke, deny, or put on probation a certified laser technician.
- E.** A laser technician who has been using laser and IPL devices prior to November 24, 2009 may continue to do so if the technician applies for and receives a certificate from the Department before October 1, 2010.
- F.** Certification may be issued for one or more of the following procedures:
- 1. Hair Reduction,
  - 2. Skin Rejuvenation,
  - 3. Non-Ablative Skin Resurfacing,
  - 4. Spider Vein Reduction,
  - 5. Skin Tightening,
  - 6. Wrinkle Reduction,
  - 7. Laser Peel,
  - 8. Telangiectasia Reduction,
  - 9. Acquired Adult Hemangioma Reduction,
  - 10. Facial Erythema Reduction,
  - 11. Solar Lentigo Reduction (Age Spots),
  - 12. Ephelis Reduction (Freckles),
  - 13. Acne Scar Reduction,
  - 14. Photo Facial, or
  - 15. Additional procedures as approved by the Department after consultation with other health professional boards as defined in A.R.S. § 32-516(F)(3) or 32-3233(D)(1).
- G.** For any application relating to the certification of laser technicians, as described in A.R.S. § 41-1072, there is an administrative completeness review time-frame of 30 days and a substantive review time-frame of 30 days with an overall time-frame of 60 days.
- H.** Certified laser technicians shall display a valid original certificate as issued by the Department in a location that is viewable by the public.

**Historical Note**

New Section R9-7-1438 recodified from R12-1-1438 at 24 A.A.R. 813, effective March 22, 2018 (Supp. 18-1).

**R9-7-1438.01. Certification and Revocation of Laser Technician Certificate**

- A.** An applicant for a laser technician certificate shall submit a completed application and certification that the applicant has received the training specified in A.R.S. §§ 32-516(A) or 32-3233(E).

**Historical Note**

New Section R9-7-1438.01 recodified from R12-1-1438.01 at 24 A.A.R. 813, effective March 22, 2018 (Supp. 18-1).

**R9-7-1439. Laser and IPL Laser Technician and Laser Safety Training Programs**

- A.** A person seeking to initiate a medical laser or IPL laser technician training program shall submit an application to the Department for certification that contains a description of the training program. In addition, the person shall submit a syllabus and a test that consists of at least 50 multiple choice questions on subjects covered. In the program materials, the person

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shall address the subjects in R9-7-1438 through this Section, and Appendix C.

- B. The Department shall review the application and other documents required by subsections (A) and (E) in a timely manner, using an administrative completeness review time-frame of 40 days and a substantive review time-frame of 20 days with an overall time-frame of 60 days.
- C. The Department shall maintain a list of certified laser or IPL training programs.
- D. Applicants for approval as a certified laser or IPL training program shall pay a nonrefundable \$100.00 fee.
- E. Initial certification shall be issued for 12 months and shall expire on the last day of the month. A renewal application shall be accompanied by a renewal fee of \$100.00 each year.
- F. A person seeking to initiate a medical laser or IPL laser technician safety training program shall submit an application to the Department for certification that contains a description of the training program. In addition, the person shall submit a syllabus and a test that consists of at least 50 multiple choice questions on subjects covered. In the program materials, the person shall address the subjects in R9-7-1421 through R9-7-1444, Appendix C, and Appendix D, with emphasis on personal and public safety. The program shall also contain the training required by A.R.S. § 32-3233(E) or clearly state the portions of the training that are not provided or met if didactic certification is to take place in another program. The applicant shall conduct training in accordance with the program submitted to the Department and certified by the Department.

**Historical Note**

New Section R9-7-1439 recodified from R12-1-1439 at 24 A.A.R. 813, effective March 22, 2018 (Supp. 18-1).

**R9-7-1440. Medical Lasers**

- A. A registrant shall ensure that a Class 3 and Class 4 laser product used in the practice of medicine has a means for measuring the level of laser radiation with an error in measurement of no greater than +20%, when calibrated in accordance with the laser product manufacturer's calibration procedure.
- B. A registrant shall calibrate a laser used in the practice of medicine according to the manufacturer's specified calibration procedure, at intervals that do not exceed those specified by the manufacturer.
- C. In a medical facility where several medical disciplines or a number of different practitioners use Class 3b and Class 4 lasers, a registrant shall form a Laser Safety Committee to govern laser activity, establish use criteria, and approve operating procedures, as follows:
  - 1. With regard to membership of the committee the registrant shall include at least one representative of the Nursing staff, the LSO, one management representative, and one representative of each medical discipline that uses the lasers;
  - 2. The committee shall review actions by the LSO related to hazard evaluation and the monitoring and control of laser hazards; and
  - 3. The committee shall approve or deny requests by potential operators and ancillary personnel to operate or assist in the operation of a laser under the direction of a licensed practitioner.
- D. A registrant shall use Class 3b and Class 4 Lasers that have a guard mechanism on the switch to control patient exposure and prevent inadvertent exposure.
- E. A registrant shall establish a written laser safety training program that provides a thorough understanding of established procedures for each type of laser in use and the medical procedures associated with use of the laser. The registrant shall

make program documentation available for Department review and, at minimum, address all of the following in the documentation:

- 1. Regulatory requirements and the laser classification system;
- 2. Fundamentals of laser operation and the significance of specular and diffuse reflections;
- 3. Biological effects of laser radiation on the eye and skin;
- 4. Non-beam hazards (for example: electrical, chemical, and reaction by-product hazards) and ionizing radiation hazards (for example: x-rays from power sources and target interactions, if applicable) of lasers; and
- 5. Responsibilities of management and employees regarding control measures.

**Historical Note**

New Section R9-7-1440 recodified from R12-1-1440 at 24 A.A.R. 813, effective March 22, 2018 (Supp. 18-1).

**R9-7-1441. Laser Light Shows and Demonstrations**

- A. Before a conducting laser light show or laser demonstration, a registrant shall provide documentation to the Department that a variance from 21 CFR 1040.10 has been obtained from the FDA.
- B. A registrant shall notify the Department in writing, at least three working days in before a proposed laser light show or demonstration, and include all of the following information:
  - 1. The location, time, and date of the light show or demonstration;
  - 2. Sketches showing the locations of each laser, operator, performer, laser beam path, viewing screen, wall, mirror ball, or any other reflective or diffuse surface that could be hit by or reflect the laser beam;
  - 3. Scanning beam patterns, scan velocity, and frequency in occupied areas; and
  - 4. Physical surveys and calculations made to comply with this Article.
- C. A registrant shall supply any additional information required by the Department for the safety evaluation of the proposed activity.
- D. Before an outdoor laser light show, a registrant shall notify the Federal Aviation Administration of the proposed show.
- E. If a light show or demonstration involves laser radiation emissions outside the spectral range of 400 to 700 nanometers, a registrant shall prevent the emissions from exceeding the applicable Class 1 accessible emission limit.
- F. If it is likely that an audience member or any operator, performer, or employee will view laser or collateral radiation, a registrant shall prevent the radiation from exceeding the applicable Class 1 accessible emission limit.
- G. Even if it is unlikely that an individual, including any operator, performer, or employee in the vicinity of a laser light show or demonstration will view or be exposed to laser or collateral radiation, a registrant shall prevent the radiation from exceeding the applicable Class 2 accessible emission limit.
- H. A registrant shall identify any area where levels of laser radiation exceed the applicable Class 2 accessible emission limit by posting warning signs and using barriers or guards to prevent entry.
- I. If a registrant uses a scanning device, the registrant shall not use a device which, as a result of scan failure or any other failure, can change its angular velocity or amplitude, permitting audience exposure to laser radiation that exceeds the applicable Class 1 accessible emission limit.
- J. If a mirror ball is used with a scanning laser, a registrant shall meet the requirements of subsections (F) and (G) when the

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mirror ball is stationary or during any failure mode that results in a change in the rotational speed of the mirror ball.

- K. A registrant shall ensure that an operator is at all times directly and personally supervising a laser light show or demonstration, except in cases where the maximum laser power output level is less than 5 milliwatts (all spectral lines) and the laser beam path is located at all times at least 6 meters above any surface upon which an individual in the audience is permitted to stand, and at any point, more than 2.5 meters in lateral separation from any position where an individual in the audience is permitted during the performance.
- L. A registrant shall prevent laser radiation levels from exceeding the applicable Class 2 accessible emission limit at any point less than three meters above any surface upon which an individual in the audience is permitted to stand and 2.5 meters in lateral separation from any position where an individual in the audience is permitted, unless physical barriers are present that prevent human access to the radiation.
- M. A registrant shall limit the maximum power output of any laser to a level sufficient to produce the desired effect.
- N. If a registrant is required to limit output power to a level less than the available power to meet the requirements of this Article, the registrant shall adjust, measure, and record the laser output power before the laser light show or demonstration.
- O. A registrant shall functionally test and evaluate all safety devices and procedures necessary to comply with this Article after setup, and before a laser light show or demonstration.
- P. A registrant shall secure a laser system, when not in use, against unauthorized operation or tampering.
- Q. A registrant shall perform laser alignment procedures with the laser output power reduced to the lowest practicable level, and ensure that any operator, performer, or other employee wears protective eyewear as necessary to prevent exposure to radiation levels that exceed the applicable MPE. The registrant shall only allow individuals who are performing the alignment be present during alignment procedures.
- R. A registrant shall not conduct a laser light show or demonstration unless the Department has specifically exempted the show or demonstration from the requirements of 21 CFR 1040.10, April 1, 2004, which is incorporated by reference, published by the Office of Federal Register National Archives and Records Administration, Washington, D.C. 20408, and on file with the Department. This incorporation by reference contains no future editions or amendments.

**Historical Note**

New Section R9-7-1441 recodified from R12-1-1441 at 24 A.A.R. 813, effective March 22, 2018 (Supp. 18-1).

**R9-7-1442. Measurements and Calculations to Determine MPE Limits for Lasers**

A registrant shall take measurements to determine MPE values in a manner consistent with the procedures contained in ANSI Z136.1-2000, American National Standard for Safe Use of Lasers, 2000 edition, which is incorporated by reference, published by the Laser Institute of America, 13501 Ingenuity Drive, Suite 128, Orlando, FL 32826, and on file with the Department. This incorporation by reference contains no future editions or amendments.

**Historical Note**

New Section R9-7-1442 recodified from R12-1-1442 at 24 A.A.R. 813, effective March 22, 2018 (Supp. 18-1).

**R9-7-1443. Laser Compliance Measurement Instruments**

A registrant shall ensure that the radiation output measurement is performed with an instrument that is calibrated and designed for use with the laser that is being evaluated for compliance. The registrant shall specify the date of calibration, accuracy of calibration, wave-

length range, and power or energy of calibration on a legible, clearly visible label attached to the instrument.

**Historical Note**

New Section R9-7-1443 recodified from R12-1-1443 at 24 A.A.R. 813, effective March 22, 2018 (Supp. 18-1).

**R9-7-1444. Laser Classification Measurements**

- A. A registrant shall measure accessible emission for classification:
  - 1. Under the operational conditions and procedures that maximize accessible emission levels, including start-up, stabilized operation, and shutdown of the laser or laser facility;
  - 2. With all controls and adjustments listed in the operating and service instructions adjusted for the maximum accessible emission level of laser radiation that is not expected to be detrimental to the functional integrity of the laser or enclosure;
  - 3. At points in space to which human access is possible for a given laser configuration. If operations include the defeat of safety interlocks or removal of portions of the protective housing or enclosure, the registrant shall measure accessible emission at points accessible in that configuration;
  - 4. With the measuring instrument detector positioned so that the maximum possible radiation is measured by the instrument; and
  - 5. With the laser coupled to the type of laser energy source specified as compatible by the laser manufacturer and producing the maximum emission of accessible laser radiation.
- B. A registrant shall perform measurements of accessible emission levels, used to classify laser and collateral radiation in accordance with 21 CFR 1040.10, April 1, 2004, which is incorporated by reference, published by the Office of Federal Register National Archives and Records Administration, Washington, D.C. 20408, and on file with the Department. This incorporation by reference contains no future editions or amendments.

**Historical Note**

New Section R9-7-1444 recodified from R12-1-1444 at 24 A.A.R. 813, effective March 22, 2018 (Supp. 18-1).

**Appendix A. Radio Frequency Devices (Include, but are not limited to, the following)**

Dielectric heaters and sealers  
 Medical diathermy units  
 Radar  
 R.F. activated alarm systems  
 Sputter devices  
 R.F. activated lasers  
 Edge gluers  
 Industrial microwave ovens and dryers  
 Asher-etcher equipment  
 R.F. welding equipment  
 Medical surgical coagulators

**Historical Note**

New Article 14, Appendix A recodified from 12 A.A.C. 1, Article 14, Appendix A at 24 A.A.R. 813, effective March 22, 2018 (Supp. 18-1).

**Appendix B. Application Information**

The Department shall issue a registration if an applicant provides the following information and fee as required in R9-7-1401(D). The Department shall provide an application form to the applicant with

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a guide and upon request, assist the applicant to ensure that correct information is provided on the application form.

Name and mailing address of applicant  
 Person responsible for radiation safety program  
 Type of facility  
 Legal structure and ownership  
 Radiation source information  
 Shielding information  
 Equipment operator instructions and restrictions  
 Classification of professional in charge  
 Type of request: amendment, new, or renewal  
 Protection survey results, if applicable  
 Radiation Safety Officer name, if applicable  
 Laser class and type, if applicable  
 Information required by Article 14 for the specific source  
 Use location  
 Telephone number  
 Facility subtype  
 Signature of certifying agent  
 Equipment identifiers  
 Scale drawing  
 Physicist name and training, if applicable  
 Contact person  
 Applicable fee listed in Article 13 schedule

**Historical Note**

New Article 14, Appendix B recodified from 12 A.A.C. 1, Article 14, Appendix B at 24 A.A.R. 813, effective March 22, 2018 (Supp. 18-1).

**Appendix C. Hair Removal and Other Cosmetic Laser or IPL Operator Training Program**

1. General Considerations. An applicant shall ensure that:
  - a. The training program is specific to the medical laser or IPL device in use and the clinical procedures to be performed;
  - b. Program content is consistent with facility policy and procedure and applicable federal and state law; and
  - c. The training program addresses hazards associated with laser or IPL device use.
2. Technical Considerations. The applicant's training program shall cover all of the following technical subjects:
  - a. Laser and IPL device descriptions
  - b. Definitions
  - c. Laser and IPL device radiation fundamentals
  - d. Laser mediums, types of lasers, and other light-emitting devices – solid, liquid, gas, and IPL devices
  - e. Biological effects of laser or IPL device light
  - f. Damage mechanisms
    - i. Eye hazard
    - ii. Skin hazard (includes information regarding skin type and skin anatomy)
    - iii. Absorption and wavelength effects
    - iv. Thermal effects
  - g. Photo chemistry
  - h. Criteria for setting the Maximum Permissible Exposure (MPE) for eye and skin associated hazards
  - i. Explosive, electrical, and chemical hazards
  - j. Photosensitive medications
  - k. Fire, ionizing radiation, cryogenic hazards, and other hazards, as applicable
3. Medical Considerations. The applicant's training program shall cover all of the following medical subjects:
  - a. Local anesthesia techniques, including ice, EMLA® cream, and other applicable topical treatments

- b. Typical laser and IPL device settings for hair removal and cosmetic procedures
  - c. Expected patient response to treatment
  - d. Potential adverse reactions to treatment
  - e. Anatomy and physiology of skin areas to be treated
  - f. Indications and contraindications for use of pigment and vascular-specific lasers for cutaneous procedures
4. General Laser or IPL device safety. The applicant's training program shall cover the following general safety subjects:
    - a. Laser and IPL device classifications
    - b. Control measures (includes information regarding protective equipment)
    - c. Manager and operator responsibilities
    - d. Medical surveillance practices
    - e. Federal and state legal requirements
    - f. Related safety issues
      - i. Controlled access
      - ii. Plume management
      - iii. Equipment testing, aligning, and troubleshooting

**Historical Note**

New Article 14, Appendix C recodified from 12 A.A.C. 1, Article 14, Appendix C at 24 A.A.R. 813, effective March 22, 2018 (Supp. 18-1).

**Appendix D. Laser Operator and Laser Safety Officer Training**

1. Operators and personnel that work around lasers:
  - a. Fundamentals of laser operation (for example: physical principles, construction, and other basic information)
  - b. Bioeffects of laser radiation on the eye and skin
  - c. Significance of specular and diffuse reflections
  - d. Non-beam hazards of lasers (for example: electrical, chemical, and reaction byproducts)
  - e. Ionizing radiation hazards (includes information regarding x-rays from power sources and target interactions, if applicable)
  - f. Laser and laser system classifications
  - g. Control measures
  - h. Responsibilities of managers and operators
  - i. Medical surveillance practices (if applicable)
  - j. CPR for personnel servicing lasers with exposed high voltages, the capability of producing potentially lethal electrical currents, or both.
2. The LSO or other individual responsible for the safety program, evaluation of hazards, and implementation of control measures, or any others, if directed by management to obtain a thorough knowledge of laser safety:
  - a. The subjects covered in subsection (1)
  - b. Laser terminology
  - c. Laser types, wavelengths, pulse shapes, modes, power and energy
  - d. Basic radiometric units and measurement devices
  - e. MPE levels for eye and skin under all conditions
  - f. Laser hazard evaluations, range equations, and other calculations
3. Technical Considerations
  - a. Laser and IPL device descriptions
  - b. Definitions
  - c. Laser and IPL device radiation fundamentals
  - d. Laser mediums, types of lasers, and other light-emitting devices (includes information regarding diodes and solid, liquid, gas, and IPL devices)

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- e. Biological effects of laser or IPL device light
- f. Damage mechanisms
  - i. Eye hazard
  - ii. Skin hazard (includes information regarding skin type and skin anatomy)
  - iii. Absorption and wavelength effects
  - iv. Thermal effects
- g. Photo chemistry
- h. Photosensitive medications
- i. Criteria for setting the Maximum Permissible Exposure (MPE) levels for eye and skin associated hazards
- j. Explosive, electrical, and chemical hazards
- k. Fire, ionizing radiation, cryogenic hazards, and other hazards as applicable.

**Historical Note**

New Article 14, Appendix D recodified from 12 A.A.C. 1, Article 14, Appendix D at 24 A.A.R. 813, effective March 22, 2018 (Supp. 18-1).

**ARTICLE 15. TRANSPORTATION****R9-7-1501. Requirement for License**

- A. A person shall not transport radioactive material or deliver radioactive material to a carrier for transport unless the person is authorized in a general or specific license issued by the Department or exempt under R9-7-103(A).
- B. This Article applies to any licensee to transfer licensed material if the licensee delivers that material to a carrier for transport, transports the material outside the site of usage as specified in the license, or transports that material on public highways. No provision of this Article authorizes possession of licensed material.

**Historical Note**

New Section R9-7-1501 recodified from R12-1-1501 at 24 A.A.R. 813, effective March 22, 2018 (Supp. 18-1).

**R9-7-1502. Definitions**

Terms defined in Article 1 have the same meaning when used in this Article.

**Historical Note**

New Section R9-7-1502 recodified from R12-1-1502 at 24 A.A.R. 813, effective March 22, 2018 (Supp. 18-1).

**R9-7-1503. Transportation of Licensed Material**

Each licensee that transports licensed material outside the site of usage, as specified in a Department license, or where transport is on public highways, or that delivers licensed material to a carrier for transport, shall comply with the applicable requirements of the U.S. Department of Transportation regulations listed in 10 CFR 71.5, revised January 1, 2008, incorporated by reference and available under R9-7-101. This incorporated material contains no future editions or amendments.

**Historical Note**

New Section R9-7-1503 recodified from R12-1-1503 at 24 A.A.R. 813, effective March 22, 2018 (Supp. 18-1).

**R9-7-1504. Intrastate Transportation and Storage of Radioactive Materials**

- A. A general license is issued to:
  - 1. Any common or contract carrier not exempt under R9-7-103 to receive, possess, transport, and store radioactive material in the regular course of carriage for others or to store radioactive material incident to the transport activities, provided the transportation or storage is in accordance with applicable requirements for the mode of

transport of the U.S. Department of Transportation, 49 CFR 171 through 180, revised October 1, 2007, incorporated by reference, and available under R9-7-101. This incorporated material contains no future editions or amendments.

- 2. Any private carrier or licensee who transports and stores radioactive material, provided the transportation and storage are in accordance with the requirements applicable to the mode of transport, of the U.S. Department of Transportation, 49 CFR 171 through 180, revised October 1, 2007, incorporated by reference, and available under R9-7-101. This incorporated material contains no future editions or amendments.
- B. Any notification of incidents required under federal regulations in subsection (A) shall also be filed with, or made to, the Department.
- C. A person who transports or stores radioactive material according to the general license in this Section is exempt from the requirements of Article 4 and Article 10 of this Chapter to the extent that this Section applies to transportation of the radioactive material.

**Historical Note**

New Section R9-7-1504 recodified from R12-1-1504 at 24 A.A.R. 813, effective March 22, 2018 (Supp. 18-1).

**R9-7-1505. Storage of Radioactive Material in Transport**

- A. A carrier shall not store, for any period in excess of 72 hours, any package that contains radioactive material bearing a Department of Transportation Yellow II or Yellow III label, unless the radioactive material is stored in an area other than, and not adjacent to, any food storage area or area that is normally occupied by an individual.
- B. A carrier shall not store a package that contains radioactive material with other hazardous materials, except as authorized by U.S. Department of Transportation regulations in 49 CFR 177.848, revised October 1, 2007, incorporated by reference, and available under R9-7-101. This incorporated material contains no future editions or amendments.
- C. Whenever a package containing radioactive material is stored in excess of 48 hours, the storage area shall be conspicuously posted according to the requirements of Article 4.
- D. When transit is interrupted and storage is required for an extended period, the following requirements apply:
  - 1. When radioactive materials are stored for longer than 48 hours during transit, the carrier shall notify the local fire department and provide the following information:
    - a. Warehouse location and carrier name and telephone number;
    - b. Radionuclide(s);
    - c. Activity per package in curies or becquerels and number of packages;
    - d. Form (solid, metallic, liquid, gas);
    - e. Flammability (if flammable);
    - f. Specific location in warehouse;
    - g. Estimated date of departure;
    - h. Toxicity (if toxic).
  - 2. If the radioactive material will be, or has been in storage for longer than 90 days, the carrier shall notify the Department in writing and include the information required in subsection (D)(1).
  - 3. The licensee or carrier shall immediately notify the Department of Public Safety of an accident involving radioactive material.



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**Historical Note**

New Section R9-7-1505 recodified from R12-1-1505 at 24 A.A.R. 813, effective March 22, 2018 (Supp. 18-1).

**R9-7-1506. Preparation of Radioactive Material for Transport**

A licensee shall not deliver any package that contains radioactive material to a carrier for transport or transport radioactive material, unless the licensee:

1. Complies with the U.S. Department of Transportation packaging, monitoring, manifesting, marking, and labeling regulations applicable to the mode of transport, (Contained in 49 CFR 171 through 180, revised October 1, 2007, or 39 CFR 111.1, revised July 1, 2007, incorporated by reference, and available under R9-7-101. This incorporated material contains no future editions or amendments.); and
2. Establishes procedures for safely opening and closing packages in which radioactive material is transported; and
3. Prior to delivery of a package to a carrier for transport, assures that:
  - a. The package is properly closed, and
  - b. Any special instructions needed to safely open the package are made available to the consignee.

**Historical Note**

New Section R9-7-1506 recodified from R12-1-1506 at 24 A.A.R. 813, effective March 22, 2018 (Supp. 18-1).

**R9-7-1507. Packaging Quality Assurance**

- A. A licensee that transports radioactive material in the course of business or delivers radioactive material to a carrier for transport in a package for which a license, certificate of compliance, applicant for a certificate of compliance, or other approval has been issued by the Nuclear Regulatory Commission, or meets the applicable criteria (10 CFR 71, Subpart H), shall establish, maintain, and execute the quality assurance program specified in 10 CFR 71, Subpart H.
- B. The transportation of radioactive material shall be in accordance with the requirements in 10 CFR Part 71, with the exception of the following sections: 71.2, 71.6, 71.11, 71.14(b), 71.19, 71.31, 71.33, 71.35, 71.37, 71.38, 71.39, 71.41, 71.43, 71.45, 71.51, 71.52, 71.53, 71.55, 71.59, 71.61, 71.63, 71.64, 71.65, 71.70, 71.71, 71.73, 71.74, 71.75, 71.77, 71.85(a)-(c), 71.91(b), 71.99, 71.100, 71.101(c)(2), 71.101(g), 71.107, 71.109, 71.111, 71.113, 71.115, 71.117, 71.119, 71.121, 71.123 and 71.125. The provisions of this subsection apply to the transportation of radioactive material, or delivery of radioactive material to a carrier for transportation, regardless of whether or not the carrier is also subject to the rules and regulations of the NRC contained in 10 CFR Part 71 and other agencies of the United States having jurisdiction.
- C. In addition to the requirements in subsection (A) for a quality assurance program, a licensee shall verify by procedures such as checking or inspection, that deficiencies or defective material or equipment relative to the shipment of packages containing radioactive material are promptly identified and corrected.
- D. Before the first use of any Type B packaging, a licensee shall obtain approval of its quality assurance program by the Department.
- E. A licensee shall maintain sufficient written records to demonstrate compliance with the quality assurance program. Records of quality assurance pertaining to the use of a Type B package for shipment of radioactive material shall be maintained for three years after the package is used for a shipment.

**Historical Note**

New Section R9-7-1507 recodified from R12-1-1507 at 24 A.A.R. 813, effective March 22, 2018 (Supp. 18-1). Amended by final expedited rulemaking at 24 A.A.R. 2151, effective July 12, 2018 (Supp. 18-3). Amended by final expedited rulemaking at 26 A.A.R. 1067, with an immediate effective date of May 6, 2020 (Supp. 20-2).

**R9-7-1508. Advance Notification of Nuclear Waste Transportation**

- A. Prior to the transport of any nuclear waste, as defined in Article 1, outside of the confines of the licensee's facility or other place of use or storage, or prior to the delivery of any nuclear waste to a carrier for transport, each licensee shall provide advance notification of such transport to the Department.
- B. Each advance notification required in subsection (A) above shall contain the following information:
  1. The name, address, and telephone number of the shipper, carrier, and receiver of the shipment;
  2. A description of the nuclear waste contained in the shipment as required by 49 CFR 172.202 and 172.203(d) (Revised October 1, 2007, incorporated by reference, and available under R9-7-101. This incorporated material contains no future editions or amendments.);
  3. The point of origin of the shipment and the seven-day period during which departure of the shipment will occur;
  4. The seven-day period during which arrival of the shipment at state boundaries will occur;
  5. The destination of the shipment, and the seven-day period during which arrival of the shipment will occur; and
  6. A point of contact with a telephone number for current shipment information.
- C. The licensee shall make the notification required by subsection (A) in writing to the Department. A notification delivered by mail must be postmarked at least seven days before the beginning of the seven-day period during which departure of the shipment is estimated to occur. The licensee shall maintain a copy of the notification for one year.
- D. The licensee shall notify the Department of any changes in shipment plans, including cancellations, rerouting, or rescheduling, provided pursuant to subsection (A). Such notification shall be by telephoning the Department. The licensee shall maintain for one year a record of the name of the individual contacted.
- E. After June 11, 2013, each licensee shall provide advance notification to the Tribal official of participating Tribes referenced in paragraph (c)(3)(iii) of 10 CFR 71.97, or the official's designee, of the shipment of licensed material, within or across the boundary of the Tribe's reservation, before the transport, or delivery to a carrier, for transport, of licensed material outside the confines of the licensee's plant or other place of use or storage.

**Historical Note**

New Section R9-7-1508 recodified from R12-1-1508 at 24 A.A.R. 813, effective March 22, 2018 (Supp. 18-1). Amended by final expedited rulemaking at 24 A.A.R. 2151, effective July 12, 2018 (Supp. 18-3).

**R9-7-1509. General License: Plutonium-Beryllium Special Form Material**

- A. A general license is issued to any licensee of the Department to transport fissile material in the form of plutonium-beryllium (Pu-Be) special form sealed sources, or to deliver Pu-Be sealed sources to a carrier for transport, if the material is shipped in accordance with this Article. This material must be contained in a Type A package. The Type A package must also meet the DOT requirements of 49 CFR 173.417(a), revised

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October 1, 2010, incorporated by reference, and available under R9-7-101. This incorporated material contains no future editions or amendments.

- B. The general license applies only to a licensee who has a quality assurance program approved by the Department as satisfying the provisions of R9-7-1507.
- C. The general license applies only when a package's contents:
  1. Contain no more than a Type A quantity of radioactive material; and
  2. Contain less than 1000 g of plutonium, provided that: plutonium-239, plutonium-241, or any combination of these radionuclides, constitutes less than 240 g of the total quantity of plutonium in the package.
- D. The general license applies only to packages labeled with a CSI which:
  1. Has been determined in accordance with subsection (E);
  2. Has a value less than or equal to 100; and
  3. For a shipment of multiple packages containing Pu-Be sealed sources, the sum of the CSIs must be less than or equal to 50 (for shipment on a nonexclusive use conveyance) and less than or equal to 100 (for shipment on an exclusive use conveyance).
- E. The value for the CSI must be greater than or equal to the number calculated by the following equation:
  1.  $CSI = 10[(\text{grams of } ^{239}\text{Pu} + \text{grams of } ^{241}\text{Pu})/24]$ ,
  2. The calculated CSI must be rounded up to the first decimal place.

**Historical Note**

New Section R9-7-1509 recodified from R12-1-1509 at 24 A.A.R. 813, effective March 22, 2018 (Supp. 18-1).

**R9-7-1510. Packaging**

- A. A general license is issued to any licensee to transport, or to deliver to a carrier for transport, licensed material in a package for which a license, certificate of compliance, or other approval has been issued by the NRC.
    1. This general license applies only to a licensee that has a quality assurance program approved by the Department as satisfying R9-7-1507;
    2. This general license applies only to a licensee that:
      - a. Has a copy of the license, certificate of compliance, or other approval of the package, and has the drawings and other documents referenced in the approval relating to the use and maintenance of the packaging and to the actions to be taken before shipment;
      - b. Complies with the terms and conditions of the license, certificate, or other approval, as applicable, and the applicable requirements of this Article;
      - c. Before the licensee's first use of the package, submits in writing to the Department and to ATTN: Document Control Desk, Director, Division of Fuel Management, Office of Nuclear Material Safety and Safeguards, using an appropriate method listed in 10 CFR 71.1(a), the licensee's name, license number, and the package identification number specified in the package approval;
      - d. The licensee shall make available to the Department for inspection, upon reasonable notice, all records required by this part. Records are only valid if stamped, initialed, or signed and dated by authorized personnel, or otherwise authenticated; and
      - e. The licensee shall maintain sufficient written records to furnish evidence of the quality of packaging. The records to be maintained include results of the determinations required by 10 CFR 71.85; design, fabrication, and assembly records; results of
- reviews, inspections, tests, and audits; results of monitoring work performance and materials analyses; and results of maintenance, modification, and repair activities. Inspection, test, and audit records must identify the inspector or data recorder, the type of observation, the results, the acceptability, and the action taken in connection with any deficiencies noted. These records must be retained for three years after the life of the packaging to which they apply.
- 3. This general license applies only when the package approval authorizes use of the package under this general license.
  - 4. For a Type B or fissile material package, the design of which was approved by NRC before April 1, 1996, the general license is subject to the additional restrictions of subsection (B).
- B. Type B packages.
    1. Before the first use of any packaging for the shipment of licensed material, refer to 10 CFR 71.85 (a), (b) and (c).
    2. A Type B(U) package, a Type B(M) package, a low specific activity (LSA) material package or a fissile material package, previously approved by the NRC but without the "-85" designation in the identification number of the NRC certificate of compliance, may be used under the general license of subsection (A) with the following additional conditions:
      - a. Fabrication of the packaging is satisfactorily completed by April 1, 1999 as demonstrated by application of its model number in accordance with 10 CFR 71.85(c);
      - b. A package that is used for a shipment to a location outside the United States is subject to multilateral approval as defined in 49 CFR 173.403, revised January 8, 2015, incorporated by reference, available under R9-7-101, and containing no future editions or amendments; and
      - c. A serial number which uniquely identifies each package which conforms to the approved design and is assigned to, and legibly and durably marked on, the outside of each package.
    3. A licensee may modify the design and authorized contents of a Type B package, or a fissile material package, previously approved by NRC, provided:
      - a. The modifications of a Type B package are not significant with respect to the design, operating characteristics, or safe performance of the containment system, when the package is subjected to the tests specified in 10 CFR 71.71 and 71.73;
      - b. The modifications of a fissile material package are not significant, with respect to the prevention of criticality, when the package is subjected to the tests specified in 10 CFR 71.71 and 71.73; and
      - c. The modifications to the package satisfy the requirements of this Section.
    4. The NRC will revise the package identification number to designate previously approved package designs as B(U), B(M), AF, BF, or A as applicable, and with the identification number suffix "-85" after receipt of an application demonstrating that the design meets the requirements of this Section.
    5. For purposes of this Section, package types are defined in 10 CFR 71.4.
  - C. A general license is issued to any licensee of the Department to transport fissile material, or to deliver to a carrier for transport, licensed material in a specification container for fissile material or for a Type B quantity of radioactive material as

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specified in 49 CFR 173, revised July 16, 2018, and 49 CFR 178, revised March 11, 2013, incorporated by reference, available under R9-7-101, and containing no future editions or amendments, if the following requirements are met:

1. The licensee maintains a quality assurance program approved by the Department as satisfying R9-7-1507;
2. The licensee:
  - a. Maintains a copy of the specification; and
  - b. Complies with the terms and conditions of the specification and the applicable requirements in 10 CFR 71, Subparts A, G, and H;
3. The licensee does not use the specification container for a shipment to a location outside the United States, except by multilateral approval, as defined in 49 CFR 173.403, revised January 1, 2015, incorporated by reference, available under R9-7-101, and containing no future editions or amendments;
4. The general license applies only when a package's contents:
  - a. Contain no more than a Type A quantity of radioactive material; and
  - b. Contain less than 500 total grams of beryllium, graphite, or hydrogenous material enriched in deuterium;
5. The general license applies only to packages containing fissile material that are labeled with a CSI which:
  - a. Has been determined in accordance with subsection (E);
  - b. Has a value less than or equal to 10; and
  - c. For a shipment of multiple packages containing fissile material, the sum of the CSIs must be less than or equal to 50 (for shipment on a nonexclusive use conveyance) and less than or equal to 100 (for shipment on an exclusive use conveyance); and
6. The CSI value meets the following requirements:
  - a. The value for the CSI must be greater than or equal to the number calculated by the following equation:  $CSI=10[(\text{grams of } 235\text{U}/X) + (\text{grams of } 235\text{U}/Y) + (\text{grams of } 235\text{U}/Z)]$ ;
  - b. The calculated CSI must be rounded up to the first decimal place;
  - c. The values of X, Y, and Z used in the CSI equation must be taken from Tables 71-1 or 71-2 as appropriate located in 10 CFR 71.22;
  - d. If Table 71-2 is used to obtain the value of X, then the values for the terms in the equation for uranium-233 and plutonium must be assumed to be zero; and
  - e. Table 71-1 values for X, Y, and Z must be used to determine the CSI if:
    - i. Uranium-233 is present in the package;
    - ii. The mass of plutonium exceeds 1 percent of the mass of uranium-235;
    - iii. The uranium is of unknown uranium-235 enrichment or greater than 24 weight percent enrichment; or
    - iv. Substances having a moderating effectiveness (i.e., an average hydrogen density greater than H<sub>2</sub>O) (e.g., certain hydrocarbon oils or plastics) are present in any form, except as polyethylene used for packing or wrapping.

**D. Foreign packaging.**

1. A general license is issued to any licensee of the Department to transport, or to deliver to a carrier for transport, licensed material in a package the design of which has been approved in a foreign national competent authority certificate that has been revalidated by the Federal

Department of Transportation as meeting the applicable requirements of 49 CFR 171.23, revised March 30, 2017, incorporated by reference, available under R9-7-101, and containing no future editions or amendments.

2. Except as otherwise provided in this Section, the general license applies only to a licensee who has a quality assurance program approved by the Department as satisfying the applicable provisions of R9-7-1507.
  3. This general license applies only to:
    - a. Shipments made to or from locations outside the United States.
    - b. A licensee that:
      - i. Has a copy of the applicable certificate, the revalidation, and the drawings and other documents referenced in the certificate, relating to the use and maintenance of the packaging and to the actions to be taken before shipment; and
      - ii. Complies with the terms and conditions of the certificate and revalidation, and with the applicable requirements in 10 CFR 71, Subparts A, G, and H, revised September 9, 2015.
- E. Routine determination before each shipment of licensed material shall ensure that the package with its contents satisfies the applicable requirements of this Article and of the license. The licensee shall determine that:**
1. The package is proper for the contents to be shipped;
  2. The package is in unimpaired physical condition except for superficial defects such as marks or dents;
  3. Each closure device of the packaging, including any required gasket, is properly installed and secured and free of defects;
  4. Any system for containing liquid is adequately sealed and has adequate space or other specified provision for expansion of the liquid;
  5. Any pressure relief device is operable and set in accordance with written procedures;
  6. The package has been loaded and closed in accordance with written procedures;
  7. For fissile material, any moderator or neutron absorber, if required, is present and in proper condition;
  8. Any structural part of the package that could be used to lift or tie down the package during transport is rendered inoperable for that purpose, unless it satisfies the design requirements of 10 CFR 71.45;
  9. The level of non-fixed (removable) radioactive contamination on the external surfaces of each package offered for shipment is as low as reasonably achievable, and within the limits specified in DOT regulations in 49 CFR 173.443, revised July 11, 2014, incorporated by reference, available under R9-7-101, and containing no future editions or amendments;
  10. External radiation levels around the package and around the vehicle, if applicable, will not exceed the limits specified in 10 CFR 71.47, at any time during transportation; and
  11. Accessible package surface temperatures will not exceed the limits specified in 10 CFR 71.43(g), at any time during transportation.
- F. Fissile material meeting the requirements of at least one of the conditions in subsections (F)(1) through (F)(6) are exempt from classification as fissile material and from the fissile material package standards of 10 CFR 71.55 and 71.59, but are subject to all other requirements of this part, except as noted.**
1. Individual package containing 2 grams or less fissile material.

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2. Individual or bulk packaging containing 15 grams or less of fissile material provided the package has at least 200 grams of solid nonfissile material for every gram of fissile material. Lead, beryllium, graphite, and hydrogenous material enriched in deuterium may be present in the package but must not be included in determining the required mass for solid nonfissile material.
3. Low concentrations of solid fissile material commingled with solid nonfissile material, provided that:
  - a. There is at least 2000 grams of solid nonfissile material for every gram of fissile material;
  - b. There is no more than 180 grams of fissile material distributed within 360 kg of contiguous nonfissile material; and
  - c. Lead, beryllium, graphite, and hydrogenous material enriched in deuterium may be present in the package but must not be included in determining the required mass of solid nonfissile material.
4. Uranium enriched in uranium-235 to a maximum of 1 percent by weight, and with total plutonium and uranium-233 content of up to 1 percent of the mass of uranium-235, provided that the mass of any beryllium, graphite, and hydrogenous material enriched in deuterium constitutes less than 5 percent of the uranium mass, and that the fissile material is distributed homogeneously and does not form a lattice arrangement within the package.
5. Liquid solutions of uranyl nitrate enriched in uranium-235 to a maximum of 2 percent by mass, with a total plutonium and uranium-233 content not exceeding 0.002 percent of the mass of uranium, and with a minimum nitrogen to uranium atomic ratio (N/U) of 2. The material must be contained in at least a DOT Type A package.
6. Packages containing, individually, a total plutonium mass of not more than 1000 grams, of which not more than 20 percent by mass may consist of plutonium-239, plutonium-241, or any combination of these radionuclides.

**Historical Note**

New Section R9-7-1510 recodified from R12-1-1510 at 24 A.A.R. 813, effective March 22, 2018 (Supp. 18-1). Amended by final expedited rulemaking at 24 A.A.R. 2151, effective July 12, 2018 (Supp. 18-3). Amended by final expedited rulemaking at 26 A.A.R. 1067, with an immediate effective date of May 6, 2020 (Supp. 20-2).

**R9-7-1511. Air Transport of Plutonium**

- A. Notwithstanding the provisions of any general licenses and notwithstanding any exemptions stated directly in this Section or included indirectly by citation of 49 CFR 107, and 171 through 180, previously incorporated in this Article, as may be applicable, the licensee shall ensure that plutonium in any form, whether for import, export, or domestic shipment, is not transported by air or delivered to a carrier for air transport unless:
1. The plutonium is contained in a medical device designed for individual human application; or
  2. The plutonium is contained in a material in which the specific activity is less than or equal to the activity concentration values for Plutonium specified in 10 CFR 71, Appendix A, Table A-2 (Revised January 1, 2008, incorporated by reference, and available under R9-7-101. This incorporated material contains no future editions or amendments.), and in which the radioactivity is essentially uniformly distributed; or
  3. The plutonium is shipped in a single package containing no more than an A2 quantity of plutonium in any isotope or form, and is shipped in accordance with R9-7-1503 and 10 CFR 71.5 (Revised January 1, 2008, incorporated by reference, and available under R9-7-101. This incorporated material contains no future editions or amendments.); or
  4. The plutonium is shipped in a package specifically authorized for the shipment of plutonium by air in the Certificate of Compliance for that package issued by the NRC.
- B. Nothing in subsection (A) is to be interpreted as removing or diminishing the requirements of 10 CFR 73.24, January 1, 2008, incorporated by reference, and available under R9-7-101. This incorporated material contains no future editions or amendments.
- C. For a shipment of plutonium by air that is subject to subsection (A)(4), the licensee shall, through special arrangement with the carrier, require compliance with 49 CFR 175.704, revised October 1, 2007, incorporated by reference, and available under R9-7-101. This U.S. Department of Transportation regulation is applicable to the air transport of plutonium. This incorporated material contains no future editions or amendments.

**Historical Note**

New Section R9-7-1511 recodified from R12-1-1511 at 24 A.A.R. 813, effective March 22, 2018 (Supp. 18-1).

**R9-7-1512. Advance Notification of Shipment of Irradiated Reactor Fuel and Nuclear Waste**

- A. A licensee shall provide advance notification to the Governor, or the Director of the Department, of the shipment of licensed material as specified in 10 CFR 71.97, revised January 1, 2015, incorporated by reference, and available under R9-7-101. This incorporated material contains no future editions or amendments.
- B. After June 11, 2013, each licensee shall provide advance notification to the Tribal official of participating Tribes referenced in paragraph (c)(3)(iii) of 10 CFR 71.97, or the Tribal official's designee, of the shipment of licensed material, within or across the boundary of the Tribe's reservation, before the transport, or delivery to a carrier, for transport, of licensed material outside the confines of the licensee's plant or other place of use or storage.
- C. Advance notification is also required under this section for the shipment of licensed material, other than irradiated fuel, meeting the following three conditions:
1. The licensed material is required by this part to be in Type B packaging for transportation;
  2. The licensed material is being transported to or across a State boundary en route to a disposal facility or to a collection point for transport to a disposal facility; and
  3. The quantity of licensed material in a single package exceeds the least of the following:
    - a. 3000 times the A1 value of the radionuclides as specified in appendix A, Table A-1 for special form radioactive material;
    - b. 3000 times the A2 value of the radionuclides as specified in appendix A, Table A-1 for normal form radioactive material; or
    - c. 1000 TBq (27,000 Ci).
- D. Procedures for submitting advance notification. (1) The notification must be made in writing to:
1. The office of each appropriate governor or governor's designee;
  2. The office of each appropriate Tribal official or Tribal official's designee; and
  3. The Director, Division of Security Policy, Office of Nuclear Security and Incident Response.

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**Historical Note**

New Section R9-7-1512 recodified from R12-1-1512 at 24 A.A.R. 813, effective March 22, 2018 (Supp. 18-1).  
Amended by final expedited rulemaking at 24 A.A.R. 2151, effective July 12, 2018 (Supp. 18-3).

**R9-7-1513. Opening Instructions**

Before delivery of a package to a carrier for transport, the licensee shall ensure that any special instructions needed to safely open the package have been sent to, or otherwise made available to, the consignee for the consignee's use in accordance with 10 CFR 20.1906(e) revised January 1, 2010, incorporated by reference, and available under R9-7-101. This incorporated material contains no future editions or amendments.

**Historical Note**

New Section R9-7-1513 recodified from R12-1-1513 at 24 A.A.R. 813, effective March 22, 2018 (Supp. 18-1).

**R9-7-1514. Records**

- A. Each licensee shall maintain, for a period of three years after shipment, a record of each shipment of licensed material not exempt under R9-7-1515, showing where applicable:
  1. Identification of the packaging by model number and serial number;
  2. Verification that there are no significant defects in the packaging, as shipped;
  3. Volume and identification of coolant;
  4. Type and quantity of licensed material in each package, and the total quantity of each shipment;
  5. For each item of irradiated fissile material:
    - a. Identification by model number and serial number;
    - b. Irradiation and decay history to the extent appropriate to demonstrate that its nuclear and thermal characteristics comply with license conditions; and
    - c. Any abnormal or unusual condition relevant to radiation safety;
  6. Date of the shipment;
  7. For fissile packages and for Type B packages, any special controls exercised;
  8. Name and address of the transferee;
  9. Address to which the shipment was made; and
  10. Results of the determinations required by R9-7-1510(E) and by the conditions of the package approval.
- B. The licensee shall make available to the Department for inspection, upon reasonable notice, all records required by this Chapter. Records are only valid if stamped, initialed, or signed and dated by authorized personnel, or otherwise authenticated.
- C. The licensee shall maintain sufficient written records to furnish evidence of the quality of packaging. The records to be maintained include results of the determinations required by R9-7-1507; design, fabrication, and assembly records; results of reviews, inspections, tests, and audits; results of monitoring work performance and materials analyses; and results of maintenance, modification, and repair activities. Inspection, test, and audit records must identify the inspector or data recorder, the type of observation, the results, the acceptability, and the action taken in connection with any deficiencies noted. These records must be retained for three years after the life of the packaging to which they apply.
- D. Each record required by this Chapter must be legible throughout the retention period specified by each Department regulation. The record may be the original or a reproduced copy or a microform provided that the copy or microform is authenticated by authorized personnel and that the microform is capable of producing a clear copy throughout the required retention period. The record may also be stored in electronic media with the capability for producing legible, accurate, and complete

records during the required retention period. Records such as letters, drawings, and specifications must include all pertinent information such as stamps, initials, and signatures. The licensee shall maintain adequate safeguards against tampering with and loss of records.

**Historical Note**

Section R9-7-1514 reserved when the Chapter was recodified from 12 A.A.C. 1 (Supp. 18-1). New Section made by final expedited rulemaking at 26 A.A.R. 1067, with an immediate effective date of May 6, 2020 (Supp. 20-2).

**R9-7-1515. Exemption for Low-level Radioactive Materials**

- A. A licensee is exempt from all the requirements of 10 CFR 71 with respect to shipment or carriage of the low-level materials listed in 10 CFR 71.14(a), revised January 1, 2008, incorporated by reference, and available under R9-7-101. This incorporated material contains no future editions or amendments.
- B. Natural material and ores containing naturally occurring radionuclides that are either in their natural state, or have only been processed for purposes other than for the extraction of the radionuclides, and which are not intended to be processed for the use of these radionuclides, provided the activity concentration of the material does not exceed 10 times the applicable radionuclide activity concentration values specified in appendix A, Table A-2, or Table A-3 of this part.
- C. Materials for which the activity concentration is not greater than the activity concentration values specified in appendix A, Table A-2, or Table A-3 of this part, or for which the consignment activity is not greater than the limit for an exempt consignment found in appendix A, Table A-2, or Table A-3 of 10 CFR 71 Appendix A.
- D. Non-radioactive solid objects with radioactive substances present on any surfaces in quantities not in excess of the levels cited in the definition of contamination in 10 CFR 71.4.

**Historical Note**

New Section R9-7-1515 recodified from R12-1-1515 at 24 A.A.R. 813, effective March 22, 2018 (Supp. 18-1).  
Amended by final expedited rulemaking at 24 A.A.R. 2151, effective July 12, 2018 (Supp. 18-3).

**ARTICLE 16. RESERVED****ARTICLE 17. WIRELINE SERVICE OPERATIONS AND SUBSURFACE TRACER STUDIES****R9-7-1701. Definitions**

"Energy compensation source (ECS)" means a small sealed source, with activity that does not exceed 3.7 Mbq (100 microcuries), contained within a logging tool or other tool component.

"Tritium neutron generator target source" means a tritium source contained within a tritium neutron generator tube that produces neutrons for use in well logging applications.

**Historical Note**

New Section R9-7-1701 recodified from R12-1-1701 at 24 A.A.R. 813, effective March 22, 2018 (Supp. 18-1).

**R9-7-1702. Agreement with Well Owner or Operator**

- A. A licensee that performs wireline service (well logging) with a sealed source shall enter into a written agreement with the employing well owner or operator that identifies the party responsible for complying with each of the following requirements. The responsible party shall:
  1. Make a reasonable effort to recover any sealed source that may be lodged in the well;
  2. Not attempt to recover a sealed source in a manner which, in the licensee's opinion, is likely to result in its rupture;

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3. Perform the radiation monitoring required in R9-7-1723(A);
4. Decontaminate anyone or anything contaminated with licensed material before releasing personnel or equipment from the site or releasing the site for unrestricted use; and
5. If a source is classified by the Department as irretrievable after reasonable efforts at recovery, implement the following requirements within 30 days:
  - a. Immobilize the irretrievable well logging source and seal it in place with a cement plug;
  - b. Provide a means to prevent inadvertent intrusion that could damage the source, unless the site is rendered inaccessible to subsequent drilling operations; and
  - c. Mount a permanent identification plaque, constructed of long-lasting material, such as stainless steel, brass, bronze, or Monel, in a conspicuous location adjacent to the well. The responsible party shall ensure that the plaque size is at least 17 cm (7 inches) square and 3 mm (1/8 inch) thick and the following information is written on the plaque:
    - i. The word "CAUTION,"
    - ii. The radiation symbol (the color requirement in R9-7-428(A) does not apply),
    - iii. The date the source was abandoned,
    - iv. The name of the well owner or operator that employed the licensee;
    - v. The well name and identification number or other designation,
    - vi. An identification of each source by radionuclide and quantity of radionuclide,
    - vii. The depth of the source and depth to the top of the plug, and
    - viii. The following warning, "DO NOT RE-ENTER THIS WELL," and
  - d. Notify the Oil and Gas Conservation Commission, Department of Water Resources, or Department of Environmental Quality of the abandoned source, as required by law.

- B. A licensee shall maintain a copy of the agreement at the field station during logging operations. The licensee shall retain a copy of the written agreement for three years after completion of the well logging operation.
- C. A licensee may apply in accordance with A.R.S. § 30-654(B)(13) for Department approval, on a case-by-case basis, of proposed procedures to abandon an irretrievable well logging source in a manner not otherwise authorized in subsection (A)(5).
- D. A written agreement between the licensee and the well owner or operator is not required if the licensee and the well owner or operator are employed by the same corporation or other business entity. If so, the licensee shall comply with the requirements in subsections (A)(1) through (A)(5).

**Historical Note**

New Section R9-7-1702 recodified from R12-1-1702 at 24 A.A.R. 813, effective March 22, 2018 (Supp. 18-1).

**R9-7-1703. Limits on Levels of Radiation**

A person in possession of any source of radiation shall transport the source according to 9 A.A.C. 7, Article 15, and use or store the source in a manner that is consistent with the dose limits in 9 A.A.C. 7, Article 4.

**Historical Note**

New Section R9-7-1703 recodified from R12-1-1703 at 24 A.A.R. 813, effective March 22, 2018 (Supp. 18-1).

**R9-7-1704. Reserved****Historical Note**

Section R9-7-1704 reserved when the Chapter was recodified from 12 A.A.C. 1 (Supp. 18-1).

**R9-7-1705. Reserved****Historical Note**

Section R9-7-1705 reserved when the Chapter was recodified from 12 A.A.C. 1 (Supp. 18-1).

**R9-7-1706. Reserved****Historical Note**

Section R9-7-1706 reserved when the Chapter was recodified from 12 A.A.C. 1 (Supp. 18-1).

**R9-7-1707. Reserved****Historical Note**

Section R9-7-1707 reserved when the Chapter was recodified from 12 A.A.C. 1 (Supp. 18-1).

**R9-7-1708. Reserved****Historical Note**

Section R9-7-1708 reserved when the Chapter was recodified from 12 A.A.C. 1 (Supp. 18-1).

**R9-7-1709. Reserved****Historical Note**

Section R9-7-1709 reserved when the Chapter was recodified from 12 A.A.C. 1 (Supp. 18-1).

**R9-7-1710. Reserved****Historical Note**

Section R9-7-1710 reserved when the Chapter was recodified from 12 A.A.C. 1 (Supp. 18-1).

**R9-7-1711. Reserved****Historical Note**

Section R9-7-1711 reserved when the Chapter was recodified from 12 A.A.C. 1 (Supp. 18-1).

**R9-7-1712. Storage Precautions**

- A. A person storing or transporting a source of radiation shall place the source in an approved storage container, transport container, or both. The container or combination of containers shall have a lock, or tamper-proof seal for calibration sources, to prevent unauthorized removal of the source and exposure to radiation.
- B. A person storing or transporting a source of radiation shall store the source in a manner that will minimize danger from explosion or fire.

**Historical Note**

New Section R9-7-1712 recodified from R12-1-1712 at 24 A.A.R. 813, effective March 22, 2018 (Supp. 18-1).

**R9-7-1713. Transportation Precautions**

Each licensee shall ensure that transport containers are physically secured in the transporting vehicle to prevent accidental movement, loss, tampering, or unauthorized removal.

**Historical Note**

New Section R9-7-1713 recodified from R12-1-1713 at 24 A.A.R. 813, effective March 22, 2018 (Supp. 18-1).

**R9-7-1714. Radiation Survey Instruments**

- A. A licensee shall maintain at each field station and temporary job site a calibrated and operable radiation survey instrument capable of detecting beta and gamma radiation. The licensee shall ensure that the radiation survey instrument is capable of

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measuring 1.0 microsievert (0.1 millirem) per hour through 500 microsievert (50 millirem) per hour.

- B. A licensee shall ensure that additional calibrated and operable radiation detection instruments are available as needed and that the instruments are sensitive enough to detect the low radiation and contamination levels that could be encountered if a sealed source is ruptured.
- C. A licensee shall ensure that the radiation survey instrument required in subsection (A) is calibrated
  - 1. At intervals not to exceed six months and after each instrument servicing;
  - 2. At energies comparable to the energies of the radiation sources used;
  - 3. For linear scale instruments, at two points located approximately 1/3 and 2/3 of full-scale on each scale or for logarithmic scale instruments, at mid-range of each decade, and at two points of at least one decade; and
  - 4. So that accuracy within plus or minus 20 percent of the true radiation level can be demonstrated on each scale.
- D. A licensee shall retain calibration records for a period of three years from the date of calibration.

**Historical Note**

New Section R9-7-1714 recodified from R12-1-1714 at 24 A.A.R. 813, effective March 22, 2018 (Supp. 18-1).

**R9-7-1715. Leak Testing of Sealed Sources**

- A. A licensee that uses a sealed source shall ensure that the source is tested for leakage according to subsection (C). The licensee shall maintain a record of leak test results in units of Becquerels (Bq) or microcuries, for inspection by the Department for three years after the leak test is performed.
- B. A person authorized under R9-7-417(C) shall wipe a sealed source using a leak test kit or a similar method approved by the Department, the NRC, or another Agreement State. The authorized person shall take the wipe sample from the nearest accessible point to the sealed source where contamination might accumulate, and ensure the wipe sample is analyzed for radioactive contamination. The authorized person shall use a method of analysis capable of detecting the presence of 185 Bq (0.005 microcuries) of radioactive material on the test sample.
- C. Test frequency.
  - 1. A licensee shall ensure that each sealed source (except an energy compensation source (ECS)) is tested in accordance with R9-7-417. In the absence of a certificate from a transferor that a test has been performed within six months before transfer, a licensee shall not use the sealed source until it is tested.
  - 2. A licensee shall ensure that each ECS that is not exempt from testing under subsection (E) is tested at intervals that do not exceed three years. In the absence of a certificate from a transferor that a test has been performed within three years before transfer, a licensee shall not use the ECS until it is tested.
- D. Removal of leaking source from service.
  - 1. If a test conducted according to this Section reveals the presence of 185 Bq (0.005 microcuries) or more of removable radioactive material, a licensee shall remove the sealed source from service immediately and have it decontaminated, repaired, or disposed of by a Department, a NRC, or an Agreement State licensee that is authorized to perform these functions. The licensee shall check the equipment associated with the leaking source for radioactive contamination and, if the equipment is contaminated, have it decontaminated or disposed of by a

Department, a NRC, or an Agreement State licensee that is authorized to perform the chosen function.

- 2. A licensee shall submit a report to the Department, within five days of receiving positive test results. The report shall describe the equipment involved in the leak, the test results, any contamination that resulted from the leaking source, and each corrective action taken up to the date on the report.
- E. The following sealed sources are exempt from the periodic leak test requirements in subsections (A) through (D):
  - 1. Hydrogen-3 (tritium) sources;
  - 2. Sources that contain licensed material with a half-life of 30 days or less;
  - 3. Sealed sources that contain licensed material in gaseous form;
  - 4. Sources of beta- or gamma-emitting radioactive material with an activity of 3.7 MBq [100 microcuries] or less; and
  - 5. Sources of alpha- or neutron-emitting radioactive material with an activity of 0.37 MBq [10 microcuries] or less.

**Historical Note**

New Section R9-7-1715 recodified from R12-1-1715 at 24 A.A.R. 813, effective March 22, 2018 (Supp. 18-1).

**R9-7-1716. Inventory**

A licensee shall conduct a physical inventory every six months to account for all licensed material received and possessed under the license. The licensee shall maintain records of the inventory for three years from the date of the inventory for inspection by the Department. The inventory shall indicate the quantity and kind of licensed material, the location of the licensed material, the date of the inventory, and the name of each individual who conducted the inventory. Physical inventory records may be combined with leak test records.

**Historical Note**

New Section R9-7-1716 recodified from R12-1-1716 at 24 A.A.R. 813, effective March 22, 2018 (Supp. 18-1).

**R9-7-1717. Utilization Records**

Each licensee shall maintain records of use for three years from the date of the recorded event, that contain the following information for each source of radiation:

- 1. Make, model number, and serial number or a description of each source of radiation used;
- 2. The identity of the well-logging supervisor or the field unit to which the source is assigned;
- 3. Locations and dates of use; and
- 4. In the case of tracer materials and radioactive markers, the radionuclide and activity undertaken in a particular well.

**Historical Note**

New Section R9-7-1717 recodified from R12-1-1717 at 24 A.A.R. 813, effective March 22, 2018 (Supp. 18-1).

**R9-7-1718. Design and Performance Criteria for Sealed Sources**

- A. A licensee shall use a sealed source for well logging applications if the sealed source:
  - 1. Is doubly encapsulated;
  - 2. Contains licensed material in a chemical and physical form that is insoluble and nondispersible; and
  - 3. Meets the requirements of subsection (B), (C), or (D).
- B. For a sealed source manufactured on or before July 14, 1989, a licensee may use a sealed source in well logging applications that meets the requirements of USASI N5.4-1968, Classification of Sealed Radioactive Sources, available from the Ameri-

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can National Standards Institute at 25 West 43rd Street, 4th floor, New York, NY 10036, which is incorporated by reference and on file with the Department, or the requirements in subsection (C) or (D). This incorporation by reference contains no future editions or amendments.

- C. For a sealed source manufactured after July 14, 1989, a licensee may use a sealed source in well logging applications that meets the oil-well logging requirements of ANSI/HPS N43.6-1997, Sealed Radioactive Sources--Classification, available from the American National Standards Institute at 25 West 43rd Street, 4th floor, New York, NY 10036, which is incorporated by reference and on file with the Department. This incorporation by reference contains no future editions or amendments.
- D. For a sealed source manufactured after July 14, 1989, a licensee may use a sealed source in well logging applications if the sealed source's prototype has been tested and found to maintain its integrity after each of the following required tests:
  1. Temperature. The test source is held at -40° C for 20 minutes and 600° C for one hour, and then subjected to a thermal shock with a temperature drop from 600° C to 20° C within 15 seconds.
  2. Impact. A 5 kg steel hammer, 2.5 cm in diameter, is dropped from a height of 1 m onto the test source.
  3. Vibration. The test source is subjected to vibration in the 25 Hz to 500 Hz range at 5 g amplitude for 30 minutes.
  4. Puncture. A 1 gram hammer with a pin, 0.3 cm in diameter, is dropped from a height of 1 m onto the test source.
  5. Pressure. The test source is subjected to an external pressure of 1.695 x 10<sup>7</sup> pascals (24,600 pounds per square inch absolute).
- E. The requirements in subsections (A), (B), (C), and (D) do not apply to a sealed source that contains licensed material in gaseous form.
- F. The requirements in subsections (A), (B), (C), and (D) do not apply to an energy compensation source (ECS).

**Historical Note**

New Section R9-7-1718 recodified from R12-1-1718 at 24 A.A.R. 813, effective March 22, 2018 (Supp. 18-1).

**R9-7-1719. Labeling**

- A. A licensee shall mark each source, source holder, or logging tool that contains radioactive material with a durable, legible, and clearly visible marking or label, consisting at minimum of the standard radiation caution symbol, without the conventional color requirement, and the following wording:

DANGER (or: CAUTION)  
RADIOACTIVE

This labeling is required for each component transported as a separate piece of equipment regardless of size.

- B. A licensee shall permanently attach to each transport container a durable, legible, and a clearly visible label consisting at minimum, of the standard radiation caution symbol and the following wording:

DANGER (or: CAUTION)  
RADIOACTIVE  
NOTIFY CIVIL AUTHORITIES (or name of company)

**Historical Note**

New Section R9-7-1719 recodified from R12-1-1719 at 24 A.A.R. 813, effective March 22, 2018 (Supp. 18-1).

**R9-7-1720. Inspection, Maintenance, and Opening of a Source or Source Holder**

- A. Each licensee shall visually check source holders, logging tools, and source handling tools for defects before each use to

ensure that the equipment is in good working condition and that required labeling is present. If defects are found, the licensee shall remove equipment from service until it is repaired, and make a record listing: date of check, name of inspector, equipment involved, each defect found, and repairs made. The licensee shall maintain each record for three years after a defect is found.

- B. Each licensee shall have a program for semiannual visual inspection and routine maintenance of source holders, logging tools, injection tools, source handling tools, storage containers, transport containers, and uranium sinker bars to ensure that the required labeling is legible and that no physical damage is visible. If any defect is found, the licensee shall remove the equipment from service until it is repaired, and make a record listing; date of inspection, equipment involved, inspection and maintenance operations performed, each defect found, and each action taken to correct a defect. The licensee shall maintain each record for three years after a defect is found.
- C. A licensee shall not remove a sealed source from a source holder or logging tool, or perform maintenance on a sealed source or source holder that contains a sealed source without written permission from the Department.
- D. If a sealed source is stuck in the source holder, a licensee shall not perform any operation, such as drilling, cutting, or chiseling, on the source holder unless the licensee is specifically authorized to perform the operation by the Department.
- E. The opening, repair, or modification of any sealed source is prohibited, unless authorized by the Department, the NRC, or an Agreement State.

**Historical Note**

New Section R9-7-1720 recodified from R12-1-1720 at 24 A.A.R. 813, effective March 22, 2018 (Supp. 18-1).

**R9-7-1721. Training**

- A. A licensee shall not permit an individual to act as a logging supervisor until that person has:
  1. Completed training in the subjects outlined in subsection (E);
  2. Received copies of, and instruction in:
    - a. The applicable rules contained in 9 A.A.C. 7;
    - b. The Department license under which the logging supervisor will perform well logging; and
    - c. The licensee's operating and emergency procedures, required by R9-7-1722;
  3. Completed on-the-job training and demonstrated competence during a field evaluation in the use of licensed materials, remote handling tools, and radiation survey instruments; and
  4. Demonstrated understanding of the requirements in subsections (A)(1) and (A)(2) by successfully completing a written test.
- B. The licensee shall not permit an individual to act as a logging assistant until that person has:
  1. Received instruction in applicable rules of 9 A.A.C. 7;
  2. Received copies of, and instruction in, the licensee's operating and emergency procedures required by R9-7-1722;
  3. Demonstrated understanding of the materials listed in subsections (B)(1) and (B)(2) by successfully completing a written or oral test; and
  4. Received instruction in the use of licensed materials, remote handling tools, and radiation survey instruments that is related to the logging assistant's intended job responsibilities.
- C. A licensee shall provide a safety training review for logging supervisors and logging assistants at least once during each



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calendar year. Each logging supervisor and logging assistant shall attend a safety training review at least once during the current calendar year.

- D. A licensee shall maintain a record of each logging supervisor's and logging assistant's initial training and annual safety training review. The training records shall include copies of written tests and dates of oral tests given after the effective date of this Section. The licensee shall maintain the initial training records for three years following termination of employment, and maintain records of each annual safety training review, including a list of subjects covered during the review, for three years.
- E. A licensee shall provide instruction in the following subjects in the training required by subsection (A)(1):
  - 1. Fundamentals of radiation safety, including:
    - a. Characteristics of radiation;
    - b. Units of radiation dose and quantity of radioactivity;
    - c. Hazards of exposure to radiation;
    - d. Levels of radiation from licensed material;
    - e. Methods of controlling radiation dose (time, distance, and shielding); and
    - f. Radiation safety practices, including prevention of contamination and methods of decontamination;
  - 2. Radiation detection instruments, including:
    - a. Use, operation, calibration, and limitations of radiation survey instruments;
    - b. Survey techniques; and
    - c. Use of personnel monitoring equipment;
  - 3. Equipment, including:
    - a. Operation of equipment, including source handling equipment and remote handling tools;
    - b. Storage, control, and disposal of licensed material; and
    - c. Maintenance of equipment;
  - 4. The requirements of pertinent federal and state law, and
  - 5. Case histories of accidents in well logging.

**Historical Note**

New Section R9-7-1721 recodified from R12-1-1721 at 24 A.A.R. 813, effective March 22, 2018 (Supp. 18-1).

**R9-7-1722. Operating and Emergency Procedures**

Each licensee shall develop operating and emergency procedures on the following subjects:

- 1. Procedures designed to prevent individuals from being exposed to radiation in excess of the limits in Article 4 of this Chapter. This subject includes:
  - a. Use of a sealed source in a well without a surface casing for the purposes of protecting a fresh water aquifer, as appropriate;
  - b. Methods employed to minimize exposure from inhalation or ingestion of licensed tracer materials; and
  - c. Methods for minimizing exposure of individuals in the event of an accident;
- 2. Use of remote handling tools for manipulating a radioactive sealed source or tracer;
- 3. Methods and occasions for conducting a radiation survey;
- 4. Methods and occasions for locking and securing a source of radiation;
- 5. Personnel monitoring and the use of personnel monitoring equipment;
- 6. Transportation of a source to a temporary job site or field station, including packaging and placing the source of radiation in a vehicle, placarding the vehicle, and securing the source of radiation during transportation;
- 7. Procedure for notifying the Department if there is an accident;
- 8. Maintenance of records;

- 9. Inspection and maintenance of source holders, logging tools, source handling tools, storage containers, transport containers, and injection tools;
- 10. Procedure required if a sealed source is:
  - a. Lost or lodged downhole; or
  - b. Ruptured, including safeguards to prevent job site and personnel contamination, inhalation; and ingestion;
- 11. Procedures required for picking up, receiving, and opening packages that contain radioactive material; and
- 12. Procedures required for site and equipment surveys and decontamination following tracer studies.

**Historical Note**

New Section R9-7-1722 recodified from R12-1-1722 at 24 A.A.R. 813, effective March 22, 2018 (Supp. 18-1).

**R9-7-1723. Personnel Monitoring**

- A. A licensee shall not permit an individual to act as a logging supervisor or logging assistant unless that person wears, at all times during the handling of licensed radioactive materials, a personnel dosimeter that is processed and evaluated by an accredited National Voluntary Laboratory Accreditation Program (NVLAP) processor.
- B. A licensee shall assign a personnel dosimeter to each individual, who shall wear the assigned equipment.
- C. A licensee shall replace film badges at least monthly and replace other personnel dosimeters at least quarterly. After replacement, a licensee shall promptly process each personnel dosimeter.
- D. A licensee shall provide bioassay services to each individual who uses licensed materials in subsurface tracer studies if required by the license.
- E. A licensee shall record exposures noted from personnel dosimeters required by subsection (A) and bioassay results and maintain these records for three years after the Department terminates the radioactive material license.

**Historical Note**

New Section R9-7-1723 recodified from R12-1-1723 at 24 A.A.R. 813, effective March 22, 2018 (Supp. 18-1).

**R9-7-1724. Radioactive Contamination Control**

- A. If a licensee detects evidence that a sealed source has ruptured or licensed materials have caused contamination, the licensee shall immediately initiate the emergency procedures required by R9-7-1722.
- B. If contamination results from the use of licensed material in well logging, the licensee shall decontaminate all affected areas, equipment, and personnel.
- C. During efforts to recover a source lodged in a well, the licensee shall continuously monitor, with a radiation detection instrument that complies with R9-7-1714 or a logging tool with a radiation detector, the well and any circulating fluids from the well to check for contamination resulting from damage to the source.

**Historical Note**

New Section R9-7-1724 recodified from R12-1-1724 at 24 A.A.R. 813, effective March 22, 2018 (Supp. 18-1).

**R9-7-1725. Uranium Sinker Bars**

A licensee may use a uranium sinker bar for a well logging application only if it is legibly impressed with the words "Caution Radioactive-Depleted Uranium" and "Notify Civil Authorities (or company name) if Found."

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**Historical Note**

New Section R9-7-1725 recodified from R12-1-1725 at 24 A.A.R. 813, effective March 22, 2018 (Supp. 18-1).

**R9-7-1726. Energy Compensation Source**

- A. A licensee may use an energy compensation source (ECS) in a logging tool, or other tool component, if the ECS contains a quantity of radioactive material that does not exceed 3.7 MBq (100 microcuries).
- B. If used in a well with a surface casing, an ECS is subject to all Sections of this Article except R9-7-1702, R9-7-1728, and R9-7-1751.
- C. If used in a well logging hole without a surface casing, an ECS is subject to all Sections of this Article.

**Historical Note**

New Section R9-7-1726 recodified from R12-1-1726 at 24 A.A.R. 813, effective March 22, 2018 (Supp. 18-1).

**R9-7-1727. Neutron Generator Source**

- A. A licensee may use a tritium neutron generator source to produce neutrons for well logging applications.
- B. If the activity of a tritium neutron generator source does not exceed 1.11 TBq (30 Curies) and the source is used in a well with a surface casing, the source is subject to all Sections of this Article except R9-7-1702 and R9-7-1751.
- C. If the activity of a neutron generator source is equal to or exceeds 1.11 TBq (30 Curies) or the source is used in a well without a surface casing, the source is subject to all Sections of this Article.

**Historical Note**

New Section R9-7-1727 recodified from R12-1-1727 at 24 A.A.R. 813, effective March 22, 2018 (Supp. 18-1).

**R9-7-1728. Use of a Sealed Source in a Well Without a Surface Casing**

A licensee may use a sealed source in a well without a surface casing if the licensee follows a procedure for reducing the probability that the source will be lodged in the well. The procedure shall be separately approved by the Department or in a license issued by the Department, the NRC, or another Agreement State.

**Historical Note**

New Section R9-7-1728 recodified from R12-1-1728 at 24 A.A.R. 813, effective March 22, 2018 (Supp. 18-1).

**R9-7-1729. Reserved****Historical Note**

Section R9-7-1729 reserved when the Chapter was recodified from 12 A.A.C. 1 (Supp. 18-1).

**R9-7-1730. Reserved****Historical Note**

Section R9-7-1730 reserved when the Chapter was recodified from 12 A.A.C. 1 (Supp. 18-1).

**R9-7-1731. Security**

- A. A logging supervisor shall be physically present at a temporary job site whenever licensed material is being handled or is not stored and locked in a vehicle or storage place. The logging supervisor may leave the job site to obtain assistance if a source becomes lodged in a well.
- B. During well logging, except when a radiation source is below ground or in a shipping or storage container, the logging supervisor or other individual designated by the logging supervisor shall maintain direct surveillance of the operation to prevent unauthorized entry into a restricted area, as defined in R9-7-102.

**Historical Note**

New Section R9-7-1731 recodified from R12-1-1731 at 24 A.A.R. 813, effective March 22, 2018 (Supp. 18-1).

**R9-7-1732. Handling Tools**

The licensee shall provide and require the use of tools that will assure remote handling of sealed sources other than low-activity calibration sources.

**Historical Note**

New Section R9-7-1732 recodified from R12-1-1732 at 24 A.A.R. 813, effective March 22, 2018 (Supp. 18-1).

**R9-7-1733. Subsurface Tracer Studies**

- A. Any person who handles radioactive tracer material shall wear protective gloves and other appropriate protective clothing and equipment. Precautions shall be taken to avoid ingestion or inhalation of radioactive material.
- B. A licensee shall not inject radioactive material into potable aquifers without authority granted in a radioactive material license issued by the Department.
- C. A licensee shall dispose of tracer study waste contaminated with radioactive material in accordance with R9-7-434.

**Historical Note**

New Section R9-7-1733 recodified from R12-1-1733 at 24 A.A.R. 813, effective March 22, 2018 (Supp. 18-1).

**R9-7-1734. Use of a Sealed Source in a Well Without a Surface Casing and Particle Accelerators**

- A. A licensee or registrant may use a sealed source in a well without a surface casing to protect a fresh water aquifer if the licensee follows the correct procedure for reducing the probability that the source will become lodged in the well.
- B. A licensee or registrant shall not begin well logging operations in a well without a surface casing unless the Department has approved the licensee's procedure for logging in an uncased hole.
- C. A licensee or registrant shall not permit above-ground testing of a particle accelerator, designed for use in well-logging, which results in the production of radiation, unless the area or facility affected is controlled or shielded in a manner consistent with applicable requirements in Article 4 of this Chapter.

**Historical Note**

New Section R9-7-1734 recodified from R12-1-1734 at 24 A.A.R. 813, effective March 22, 2018 (Supp. 18-1).

**R9-7-1735. Reserved****Historical Note**

Section R9-7-1735 reserved when the Chapter was recodified from 12 A.A.C. 1 (Supp. 18-1).

**R9-7-1736. Reserved****Historical Note**

Section R9-7-1736 reserved when the Chapter was recodified from 12 A.A.C. 1 (Supp. 18-1).

**R9-7-1737. Reserved****Historical Note**

Section R9-7-1737 reserved when the Chapter was recodified from 12 A.A.C. 1 (Supp. 18-1).

**R9-7-1738. Reserved****Historical Note**

Section R9-7-1738 reserved when the Chapter was recodified from 12 A.A.C. 1 (Supp. 18-1).

**R9-7-1739. Reserved**

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**Historical Note**

Section R9-7-1739 reserved when the Chapter was recodified from 12 A.A.C. 1 (Supp. 18-1).

**R9-7-1740. Reserved****Historical Note**

Section R9-7-1740 reserved when the Chapter was recodified from 12 A.A.C. 1 (Supp. 18-1).

**R9-7-1741. Radiation Surveys**

- A. A licensee shall perform and make a record of a radiation survey using instruments or calculations of radiation levels in each area where radioactive material is stored.
- B. A licensee shall make and record a radiation survey using instruments or calculations of radiation levels in occupied positions and on the exterior of each vehicle used to transport radioactive material. The survey or calculation shall include each source of radiation or combination of sources to be transported in the vehicle.
- C. After removal of the sealed source from the logging tool and before departing the job site, a licensee shall ensure that the logging tool detector is energized, or a survey meter is used to test the logging tool for contamination. The licensee shall record the test for contamination.
- D. The licensee shall make and record each survey using an appropriate survey instrument for the radionuclide being used, at the job site or wellhead for each tracer operation, except those using Hydrogen-3, Carbon-14 and Sulfur-35. Each survey shall include measurements of radiation levels before and after each tracer operation.
- E. Records of surveys conducted according to subsections (A) through (D) shall include the date of each survey, the identification of each individual making the survey, identification of each survey instrument used, each radiation measurement in millirem or microsievert per hour, and an exact description of the location of the survey. A licensee shall retain records of a survey for three years after completion of the survey.

**Historical Note**

New Section R9-7-1741 recodified from R12-1-1741 at 24 A.A.R. 813, effective March 22, 2018 (Supp. 18-1).

**R9-7-1742. Documents and Records Required at Field Stations**

Each licensee shall maintain the following documents and records at the field station:

1. A copy of 9 A.A.C. 7;
2. The license, authorizing use of licensed material;
3. Operating and emergency procedures required by R9-7-1722;
4. The record of radiation survey instrument calibrations required by R9-7-1714;
5. The record of leak test results required by R9-7-1715;
6. Physical inventory records required by R9-7-1716;
7. Utilization records required by R9-7-1717;
8. Records of inspection and maintenance required by R9-7-1720;
9. Training records required by R9-7-1721; and
10. Survey records required by R9-7-1741.

**Historical Note**

New Section R9-7-1742 recodified from R12-1-1742 at 24 A.A.R. 813, effective March 22, 2018 (Supp. 18-1).

**R9-7-1743. Documents and Records Required at Temporary Job Sites**

Each licensee that conducts operations at a temporary job site shall maintain the following documents and records at the temporary job site until the well logging operation is completed:

1. Operating and emergency procedures required by R9-7-1722;
2. The most current calibration records for the radiation survey instruments in use at the site required by R9-7-1714;
3. The most current survey records required by R9-7-1741.
4. The shipping papers for transportation of radioactive materials required by license condition; and
5. If operating under reciprocity in accordance with R9-7-320, a copy of the Department authorization for use of radioactive material in Arizona.

**Historical Note**

New Section R9-7-1743 recodified from R12-1-1743 at 24 A.A.R. 813, effective March 22, 2018 (Supp. 18-1).

**R9-7-1744. Reserved****Historical Note**

Section R9-7-1744 reserved when the Chapter was recodified from 12 A.A.C. 1 (Supp. 18-1).

**R9-7-1745. Reserved****Historical Note**

Section R9-7-1745 reserved when the Chapter was recodified from 12 A.A.C. 1 (Supp. 18-1).

**R9-7-1746. Reserved****Historical Note**

Section R9-7-1746 reserved when the Chapter was recodified from 12 A.A.C. 1 (Supp. 18-1).

**R9-7-1747. Reserved****Historical Note**

Section R9-7-1747 reserved when the Chapter was recodified from 12 A.A.C. 1 (Supp. 18-1).

**R9-7-1748. Reserved****Historical Note**

Section R9-7-1748 reserved when the Chapter was recodified from 12 A.A.C. 1 (Supp. 18-1).

**R9-7-1749. Reserved****Historical Note**

Section R9-7-1749 reserved when the Chapter was recodified from 12 A.A.C. 1 (Supp. 18-1).

**R9-7-1750. Reserved****Historical Note**

Section R9-7-1750 reserved when the Chapter was recodified from 12 A.A.C. 1 (Supp. 18-1).

**R9-7-1751. Notification of Incidents and Lost Sources; Abandonment Procedures for Irretrievable Sources**

A. If, after making a reasonable effort to recover a sealed source or device that contains radioactive material using methods that are not likely to result in damage or rupture and contamination, a licensee determines that the source or device is lodged in a well, the licensee shall:

1. Immediately notify the Department by telephone of the circumstances that resulted in the inability to retrieve the source and, if there is no evidence of contamination, obtain the following from the Department:
  - a. A determination that the source is irretrievable and abandonment is necessary because further efforts to

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recover the source are likely to result in an immediate threat to public health and safety, and

- b. An approval to implement abandonment procedures;
  2. Advise the well owner or operator, as applicable, of the abandonment procedures implemented under R9-7-1702(A) and (C); and
  3. Either ensure that abandonment procedures are implemented within 30 days after the Department classifies the source as irretrievable or request an extension of time if unable to complete abandonment procedures.
- B.** A licensee shall immediately notify the Department by telephone and subsequently, within 30 days, by confirmatory letter if the licensee knows or has reason to believe that a sealed source has been ruptured or the well has otherwise been contaminated. The letter shall describe the well location, the magnitude and extent of radioactive contamination, the consequences of the rupture, and the efforts planned or initiated to mitigate the consequences.
- C.** A licensee shall notify the Department of the theft or loss of any radioactive material, radiation overexposure, excessive levels and concentrations of radiation, and incidents as required by R9-7-443, R9-7-444, and R9-7-445.
- D.** A licensee shall, within 30 days after a sealed source has been classified as irretrievable, report in writing to the Department. The licensee shall send a copy of the report to each state or federal agency that issued permits or otherwise approved of the drilling operation. The report shall contain the following information:
1. Date of occurrence;
  2. A description of the irretrievable well logging source involved, including the name of the radionuclide and its quantity, and the chemical and physical form of the radionuclide;
  3. Surface location and identification of the well;
  4. Results of efforts to immobilize and seal the source in place;
  5. A brief description of the attempted recovery effort;
  6. Depth of the source;
  7. Depth of the top of the cement plug;
  8. Depth of the well;
  9. The reasons why further efforts to recover the source are likely to result in an immediate threat to public health and safety, necessitating abandonment;
  10. Information contained on the permanent identification plaque; and
  11. State and federal agencies receiving a copy of the report.

**Historical Note**

New Section R9-7-1751 recodified from R12-1-1751 at 24 A.A.R. 813, effective March 22, 2018 (Supp. 18-1).

**ARTICLE 18. RESERVED****ARTICLE 19. PHYSICAL PROTECTION OF CATEGORY 1 AND CATEGORY 2 QUANTITIES OF RADIOACTIVE MATERIAL****R9-7-1901. Purpose**

This Article has been established to provide the requirements for the physical protection program for any licensee that possesses an aggregated category 1 or category 2 quantity of radioactive material listed in Appendix A to this Article. These requirements provide reasonable assurance of the security of category 1 or category 2 quantities of radioactive material by protecting these materials from theft or diversion. Specific requirements for access to material, use of material, transfer of material, and transport of material are included. No provision of this Article authorizes possession of licensed material.

**Historical Note**

New Section R9-7-1901 recodified from R12-1-1901 at 24 A.A.R. 813, effective March 22, 2018 (Supp. 18-1).

**R9-7-1902. Reserved****Historical Note**

Section R9-7-1902 reserved when the Chapter was recodified from 12 A.A.C. 1 (Supp. 18-1).

**R9-7-1903. Scope**

- A.** R9-7-1921 through R9-7-1957 of this Article apply to any person who, under the rules in this chapter, possesses or uses at any site, an aggregated category 1 or category 2 quantity of radioactive material.
- B.** R9-7-1971 through R9-7-1981 of this Article applies to any person who, under the rules of this chapter:
1. Transports or delivers to a carrier for transport in a single shipment, a category 1 or category 2 quantity of radioactive material; or
  2. Imports or exports a category 1 or category 2 quantity of radioactive material; the provisions only apply to the domestic portion of the transport.

**Historical Note**

New Section R9-7-1903 recodified from R12-1-1903 at 24 A.A.R. 813, effective March 22, 2018 (Supp. 18-1).

**R9-7-1904. Reserved****Historical Note**

Section R9-7-1904 reserved when the Chapter was recodified from 12 A.A.C. 1 (Supp. 18-1).

**R9-7-1905. Definitions**

The following definitions apply in this Article, unless the context otherwise requires:

“Access control means a system for allowing only approved individuals to have unescorted access to the security zone and for ensuring that all other individuals are subject to escorted access.

“Act” means the Atomic Energy Act of 1954 (68 Stat. 919), including any amendments thereto.

“Aggregated” means accessible by the breach of a single physical barrier that would allow access to radioactive material in any form, including any devices that contain the radioactive material, when the total activity equals or exceeds a category 2 quantity of radioactive material.

“Agreement State” means any state with which the Atomic Energy Commission or the U.S. Nuclear Regulatory Commission has entered into an effective agreement under subsection 274b. of the Act. Non-agreement State means any other State.

“Approved individual” means an individual whom the licensee has determined to be trustworthy and reliable for unescorted access in accordance with R9-7-1921 through R9-7-1933 of this Article and who has completed the training required by R9-7-1943(C).

“Background investigation” means the investigation conducted by a licensee or applicant to support the determination of trustworthiness and reliability.

“Becquerel (Bq)” means one disintegration per second.

“Byproduct material” means the same as in R9-7-102.

“Category 1 quantity of radioactive material” means a quantity of radioactive material meeting or exceeding the category 1 threshold in Table 1 of Appendix A to this Article. This quantity is determined by calculating the

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ratio of the total activity of each radionuclide to the category 1 threshold for that radionuclide and adding the ratios together. If the sum is equal to or exceeds 1, the quantity would be considered a category 1 quantity. Category 1 quantities of radioactive material do not include the radioactive material contained in any fuel assembly, subassembly, fuel rod, or fuel pellet.

“Category 2 quantity of radioactive material” means a quantity of radioactive material meeting or exceeding the category 2 threshold but less than the category 1 threshold in Table 1 of Appendix A to this Article. This quantity is determined by calculating the ratio of the total activity of each radionuclide to the category 2 threshold for that radionuclide and adding the ratios together. If the sum is equal to or exceeds 1, the quantity would be considered a category 2 quantity. Category 2 quantities of radioactive material do not include the radioactive material contained in any fuel assembly, subassembly, fuel rod, or fuel pellet.

“Commission” means the U.S. Nuclear Regulatory Commission or its duly authorized representatives.

“Curie” means the same as in R9-7-102.

“Diversion” means the unauthorized movement of radioactive material subject to this Article to a location different from the material’s authorized destination inside or outside of the site at which the material is used or stored.

“Escorted access” means accompaniment while in a security zone by an approved individual who maintains continuous direct visual surveillance at all times over an individual who is not approved for unescorted access.

“Fingerprint orders” means the orders issued by the U.S. Nuclear Regulatory Commission or the legally binding requirements issued by Agreement States that require fingerprints and criminal history records checks for individuals with unescorted access to category 1 and category 2 quantities of radioactive material or safeguards information-modified handling.

“Government agency” means any executive department, commission, independent establishment, corporation, wholly or partly owned by the United States of America which is an instrumentality of the United States, or any board, bureau, division, service, office, officer, authority, administration, or other establishment in the executive branch of the Government.

“License”, except where otherwise specified, means a license for byproduct material issued pursuant to the rules in Articles 3, 5, 7, and 15 of this chapter.

“License issuing authority” means the licensing agency that issued the license, i.e. the Department, the U.S. Nuclear Regulatory Commission, or the appropriate agency of an Agreement State.

“Local law enforcement agency (LLEA)” means a public or private organization that has been approved by a federal, state, or local government to carry firearms and make arrests, and is authorized and has the capability to provide an armed response in the jurisdiction where the licensed category 1 or category 2 quantity of radioactive material is used, stored, or transported.

“Lost or missing licensed material” means licensed material whose location is unknown. It includes material that has been shipped but has not reached its destination and whose location cannot be readily traced in the transportation system.

“Mobile device” means a piece of equipment containing licensed radioactive material that is either mounted on wheels or casters, or is otherwise equipped for moving without a need for disassembly or dismantling; or designed to be hand carried. Mobile devices do not include stationary equipment installed in a fixed location.

“Movement control center” means an operations center that is remote from transport activity and that maintains position information on the movement of radioactive material, receives reports of attempted attacks or thefts, provides a means for reporting these and other problems to appropriate agencies and can request and coordinate appropriate aid.

“No-later-than arrival time” means the date and time that the shipping licensee and receiving licensee have established as the time at which an investigation will be initiated if the shipment has not arrived at the receiving facility. The no-later-than arrival time may not be more than 6 hours after the estimated arrival time for shipments of category 2 quantities of radioactive material.

“Person” means:

Any individual, corporation, partnership, firm, association, trust, estate, public or private institution, group, Government agency other than the Commission or the DOE (except that the DOE shall be considered a person within the meaning of the rules in 10 CFR chapter I to the extent that its facilities and activities are subject to the licensing and related regulatory authority of the Commission under section 202 of the Energy Reorganization Act of 1974 (88 Stat. 1244), the Uranium Mill Tailings Radiation Control Act of 1978 (92 Stat. 3021), the Nuclear Waste Policy Act of 1982 (96 Stat. 2201), and section 3(b)(2) of the Low-Level Radioactive Waste Policy Amendments Act of 1985 (99 Stat. 1842)), any State or any political subdivision of or any political entity within a State, any foreign government or nation or any political subdivision of any such government or nation, or other entity; and

Any legal successor, representative, agent, or agency of the foregoing.

“Reviewing official” means the individual who shall make the trustworthiness and reliability determination of an individual to determine whether the individual may have, or continue to have, unescorted access to the category 1 or category 2 quantities of radioactive materials that are possessed by the licensee.

“Sabotage” means deliberate damage, with malevolent intent, to a category 1 or category 2 quantity of radioactive material, a device that contains a category 1 or category 2 quantity of radioactive material, or the components of the security system.

“Safe haven” means a readily recognizable and readily accessible site at which security is present or from which, in the event of an emergency, the transport crew can notify and wait for the local law enforcement authorities.

“Security zone” means any temporary or permanent area determined and established by the licensee for the physical protection of category 1 or category 2 quantities of radioactive material.

“State” means a State of the United States, the District of Columbia, the Commonwealth of Puerto Rico, the Virgin

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Islands, Guam, American Samoa, and the Commonwealth of the Northern Mariana Islands.

“Telemetric position monitoring system” means a data transfer system that captures information by instrumentation and/or measuring devices about the location and status of a transport vehicle or package between the departure and destination locations.

“Trustworthiness and reliability” means characteristics of an individual considered dependable in judgment, character, and performance, such that unescorted access to category 1 or category 2 quantities of radioactive material by that individual does not constitute an unreasonable risk to the public health and safety or security. A determination of trustworthiness and reliability for this purpose is based upon the results from a background investigation.

“Unescorted access” means solitary access to an aggregated category 1 or category 2 quantity of radioactive material or the devices that contain the material.

“United States” when used in a geographical sense, includes Puerto Rico and all territories and possessions of the United States.

**Historical Note**

New Section R9-7-1905 recodified from R12-1-1905 at 24 A.A.R. 813, effective March 22, 2018 (Supp. 18-1).

**R9-7-1906. Reserved****Historical Note**

Section R9-7-1906 reserved when the Chapter was recodified from 12 A.A.C. 1 (Supp. 18-1).

**R9-7-1907. Communications**

Except where otherwise specified or covered under licensing program as provided in this Chapter, all communications and reports concerning the rules in this Article may be sent as follows:

1. By mail addressed to: ATTN: Arizona Department of Health Services; Bureau of Radiation Control; Radioactive Materials Program; 4814 South 40th Street, Phoenix, Arizona 85040;
2. By hand delivery to the Department’s offices at 4814 South 40th Street, Phoenix, Arizona 85040; or
3. Where practicable, by electronic submission, for example, Electronic Information Exchange, or CD-ROM. Electronic submissions shall be made in a manner that enables the Department to receive, read, authenticate, distribute, and archive the submission, and process and retrieve it a single page at a time. Electronic submissions can be made by email to ram@azdhs.gov.

**Historical Note**

New Section R9-7-1907 recodified from R12-1-1907 at 24 A.A.R. 813, effective March 22, 2018 (Supp. 18-1).

Amended by final expedited rulemaking at 26 A.A.R. 1067, with an immediate effective date of May 6, 2020 (Supp. 20-2).

**R9-7-1908. Reserved****Historical Note**

Section R9-7-1908 reserved when the Chapter was recodified from 12 A.A.C. 1 (Supp. 18-1).

**R9-7-1909. Interpretations**

Except as specifically authorized by the Department in writing, no interpretations of the meaning of the rules in this Article by any officer or employee of the Department other than a written interpretation by the Arizona Assistant Attorney General counsel assigned

to the Department will be recognized as binding upon the Department.

**Historical Note**

New Section R9-7-1909 recodified from R12-1-1909 at 24 A.A.R. 813, effective March 22, 2018 (Supp. 18-1).

**R9-7-1910. Reserved****Historical Note**

Section R9-7-1910 reserved when the Chapter was recodified from 12 A.A.C. 1 (Supp. 18-1).

**R9-7-1911. Specific Exemptions**

- A. The Department may, upon application of any interested person or upon its own initiative, grant such exemptions from the requirements of the rules in this Article as it determines are authorized by law and will not endanger life or property or the common defense and security, and are otherwise in the public interest.
- B. Any licensee’s NRC-licensed activities are exempt from the requirements of R9-7-1921 through R9-7-1957 of this Article to the extent that its activities are included in a security plan required by 10 CFR part 73 revised January 1, 2015, incorporated by reference, and available under R9-7-101. This incorporated material contains no future editions or amendments.
- C. A licensee that possesses radioactive waste that contains category 1 or category 2 quantities of radioactive material is exempt from the requirements of R9-7-1921 through R9-7-1981 of this Article, except that any radioactive waste that contains discrete sources, ion-exchange resins, or activated material that weighs less than 2,000 kg (4,409 lbs.) is not exempt from the requirements of this Article. The licensee shall implement the following requirements to secure the radioactive waste:
  1. Use continuous physical barriers that allow access to the radioactive waste only through established access control points;
  2. Use a locked door or gate with monitored alarm at the access control point;
  3. Assess and respond to each actual or attempted unauthorized access to determine whether an actual or attempted theft, sabotage, or diversion occurred; and
  4. Immediately notify the LLEA and request an armed response from the LLEA upon determination that there was an actual or attempted theft, sabotage, or diversion of the radioactive waste that contains category 1 or category 2 quantities of radioactive material.

**Historical Note**

New Section R9-7-1911 recodified from R12-1-1911 at 24 A.A.R. 813, effective March 22, 2018 (Supp. 18-1).

**R9-7-1912. Reserved****Historical Note**

Section R9-7-1912 reserved when the Chapter was recodified from 12 A.A.C. 1 (Supp. 18-1).

**R9-7-1913. Reserved****Historical Note**

Section R9-7-1913 reserved when the Chapter was recodified from 12 A.A.C. 1 (Supp. 18-1).

**R9-7-1914. Reserved****Historical Note**

Section R9-7-1914 reserved when the Chapter was recodified from 12 A.A.C. 1 (Supp. 18-1).

**R9-7-1915. Reserved**

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**Historical Note**

Section R9-7-1915 reserved when the Chapter was recodified from 12 A.A.C. 1 (Supp. 18-1).

**R9-7-1916. Reserved****Historical Note**

Section R9-7-1916 reserved when the Chapter was recodified from 12 A.A.C. 1 (Supp. 18-1).

**R9-7-1917. Reserved****Historical Note**

Section R9-7-1917 reserved when the Chapter was recodified from 12 A.A.C. 1 (Supp. 18-1).

**R9-7-1918. Reserved****Historical Note**

Section R9-7-1918 reserved when the Chapter was recodified from 12 A.A.C. 1 (Supp. 18-1).

**R9-7-1919. Reserved****Historical Note**

Section R9-7-1919 reserved when the Chapter was recodified from 12 A.A.C. 1 (Supp. 18-1).

**R9-7-1920. Reserved****Historical Note**

Section R9-7-1920 reserved when the Chapter was recodified from 12 A.A.C. 1 (Supp. 18-1).

**R9-7-1921. Personnel Access Authorization Requirements for Category 1 or Category 2 Quantities of Radioactive Material****A. General:**

1. Each licensee that possesses an aggregated quantity of radioactive material at or above the category 2 threshold shall establish, implement, and maintain its access authorization program in accordance with the requirements of this Article.
2. An applicant for a new license and each licensee that would become newly subject to the requirements of this Article upon application for modification of its license shall implement the requirements of this Article, as appropriate, before taking possession of an aggregated category 1 or category 2 quantity of radioactive material.
3. Any licensee that has not previously implemented the Security Orders or been subject to the provisions of R9-7-1921 through R9-7-1933 shall implement the provisions of R9-7-1921 through R9-7-1933 before aggregating radioactive material to a quantity that equals or exceeds the category 2 threshold.

**B. General performance objective: The licensee's access authorization program shall ensure that the individuals specified in subsection (C)(1) are trustworthy and reliable.****C. Applicability:**

1. Licensees shall subject the following individuals to an access authorization program:
  - a. Any individual whose assigned duties require unescorted access to category 1 or category 2 quantities of radioactive material or to any device that contains the radioactive material; and
  - b. Reviewing officials.
2. Licensees need not subject the categories of individuals listed in R9-7-1929(A) to the investigation elements of the access authorization program.
3. Licensees shall approve for unescorted access to category 1 or category 2 quantities of radioactive material only

those individuals with job duties that require unescorted access to category 1 or category 2 quantities of radioactive material.

4. Licensees may include individuals in the access authorization program under R9-7-1921 through R9-7-1933 and needing access to safeguards information-modified handling under 10 CFR part 73 revised January 1, 2015, incorporated by reference, and available under R9-7-101. This incorporated material contains no future editions or amendments.

**Historical Note**

New Section R9-7-1921 recodified from R12-1-1921 at 24 A.A.R. 813, effective March 22, 2018 (Supp. 18-1).

**R9-7-1922. Reserved****Historical Note**

Section R9-7-1922 reserved when the Chapter was recodified from 12 A.A.C. 1 (Supp. 18-1).

**R9-7-1923. Access Authorization Program Requirements****A. Granting unescorted access authorization:**

1. Licensees shall implement the requirements of this Article for granting initial or reinstated unescorted access authorization.
2. Individuals who have been determined to be trustworthy and reliable shall also complete the security training required by R9-7-1943(C) before being allowed unescorted access to category 1 or category 2 quantities of radioactive material.

**B. Reviewing officials:**

1. Reviewing officials are the only individuals who may make trustworthiness and reliability determinations that allow individuals to have unescorted access to category 1 or category 2 quantities of radioactive materials possessed by the licensee.
2. Each licensee shall name one or more individuals to be reviewing officials. After completing the background investigation on the reviewing official, the licensee shall provide under oath or affirmation, a certification, to the ATTN: Bureau Chief, Bureau of Radiation Control, Arizona Department of Health Services, 4814 S. 40th Street, Phoenix, Arizona 85040, that the reviewing official is deemed trustworthy and reliable by the licensee. The fingerprints of the named reviewing official shall be taken by a law enforcement agency, Federal or State agencies that provide fingerprinting services to the public, or commercial fingerprinting services authorized by a State to take fingerprints. The licensee shall recertify that the reviewing official is deemed trustworthy and reliable every 10 years in accordance with R9-7-1925(C).
3. Reviewing officials shall be permitted to have unescorted access to category 1 or category 2 quantities of radioactive materials or access to safeguards information or safeguards information-modified handling, if the licensee possesses safeguards information or safeguards information-modified handling. Reviewing officials permitted unescorted access to category 1 or category 2 quantities of radioactive materials shall receive appropriate radiation safety training initially and at a frequency not to exceed 12 months. The licensee shall maintain records of the initial and refresher training for three years from the date of training for Department review.
4. Reviewing officials cannot approve other individuals to act as reviewing officials.

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5. A reviewing official does not need to undergo a new background investigation before being named by the licensee as the reviewing official if:
  - a. The individual has undergone a background investigation that included fingerprinting and an FBI criminal history records check and has been determined to be trustworthy and reliable by the licensee; or
  - b. The individual is subject to a category listed in R9-7-1929(A).
- C. Informed consent:
  1. Licensees may not initiate a background investigation without the informed and signed consent of the subject individual. This consent shall include authorization to share personal information with other individuals or organizations as necessary to complete the background investigation. Before a final adverse determination, the licensee shall provide the individual with an opportunity to correct any inaccurate or incomplete information that is developed during the background investigation. Licensees do not need to obtain signed consent from those individuals that meet the requirements of R9-7-1925(B). A signed consent shall be obtained prior to any reinvestigation.
  2. The subject individual may withdraw his or her consent at any time. Licensees shall inform the individual that:
    - a. If an individual withdraws his or her consent, the licensee may not initiate any elements of the background investigation that were not in progress at the time the individual withdrew his or her consent; and
    - b. The withdrawal of consent for the background investigation is sufficient cause for denial or termination of unescorted access authorization.
- D. Personal history disclosure: Any individual who is applying for unescorted access authorization shall disclose the personal history information that is required by the licensee's access authorization program for the reviewing official to make a determination of the individual's trustworthiness and reliability. Refusal to provide, or the falsification of, any personal history information required by this Article is sufficient cause for denial or termination of unescorted access.
- E. Determination basis:
  1. The reviewing official shall determine whether to permit, deny, unfavorably terminate, maintain, or administratively withdraw an individual's unescorted access authorization based on an evaluation of all of the information collected to meet the requirements of this Article.
  2. The reviewing official may not permit any individual to have unescorted access until the reviewing official has evaluated all of the information collected to meet the requirements of this Article and determined that the individual is trustworthy and reliable. The reviewing official may deny unescorted access to any individual based on information obtained at any time during the background investigation.
  3. The licensee shall document the basis for concluding whether or not there is reasonable assurance that an individual is trustworthy and reliable.
  4. The reviewing official may terminate or administratively withdraw an individual's unescorted access authorization based on information obtained after the background investigation has been completed and the individual granted unescorted access authorization.
  5. Licensees shall maintain a list of persons currently approved for unescorted access authorization. When a licensee determines that a person no longer requires unescorted access or meets the access authorization requirement, the licensee shall remove the person from the approved list as soon as possible, but no later than 7 working days, and take prompt measures to ensure that the individual is unable to have unescorted access to the material.
- F. Procedures: Licensees shall develop, implement, and maintain written procedures for implementing the access authorization program. The procedures shall include provisions for the notification of individuals who are denied unescorted access. The procedures shall include provisions for the review, at the request of the affected individual, of a denial or termination of unescorted access authorization. The procedures shall contain a provision to ensure that the individual is informed of the grounds for the denial or termination of unescorted access authorization and allow the individual an opportunity to provide additional relevant information.
- G. Right to correct and complete information:
  1. Prior to any final adverse determination, licensees shall provide each individual subject to this Article with the right to complete, correct, and explain information obtained as a result of the licensee's background investigation. Confirmation of receipt by the individual of this notification shall be maintained by the licensee for a period of 1 year from the date of the notification.
  2. If, after reviewing his or her criminal history record, an individual believes that it is incorrect or incomplete in any respect and wishes to change, correct, update, or explain anything in the record, the individual may initiate challenge procedures. These procedures include direct application by the individual challenging the record to the law enforcement agency that contributed the questioned information or a direct challenge as to the accuracy or completeness of any entry on the criminal history record to the Federal Bureau of Investigation, Criminal Justice Information Services (CJIS) Division, ATTN: SCU, Mod. D-2, 1000 Custer Hollow Road, Clarksburg, WV 26306 as set forth in 28 CFR 16.30 through 16.34. In the latter case, the Federal Bureau of Investigation (FBI) will forward the challenge to the agency that submitted the data, and will request that the agency verify or correct the challenged entry. Upon receipt of an official communication directly from the agency that contributed the original information, the FBI Identification Division makes any changes necessary in accordance with the information supplied by that agency. Licensees shall provide at least 10 days for an individual to initiate action to challenge the results of an FBI criminal history records check after the record being made available for his or her review. The licensee may make a final adverse determination based upon the criminal history records only after receipt of the FBI's confirmation or correction of the record.
- H. Records:
  1. The licensee shall retain documentation regarding the trustworthiness and reliability of individual employees for 3 years from the date the individual no longer requires unescorted access to category 1 or category 2 quantities of radioactive material.
  2. The licensee shall retain a copy of the current access authorization program procedures as a record for 3 years after the procedure is no longer needed. If any portion of the procedure is superseded, the licensee shall retain the superseded material for 3 years after the record is superseded.
  3. The licensee shall retain the list of persons approved for unescorted access authorization for 3 years after the list is superseded or replaced.



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**Historical Note**

New Section R9-7-1923 recodified from R12-1-1923 at 24 A.A.R. 813, effective March 22, 2018 (Supp. 18-1). Amended by final expedited rulemaking at 26 A.A.R. 1067, with an immediate effective date of May 6, 2020 (Supp. 20-2).

**R9-7-1924. Reserved****Historical Note**

Section R9-7-1924 reserved when the Chapter was recodified from 12 A.A.C. 1 (Supp. 18-1).

**R9-7-1925. Background Investigations**

- A.** Initial investigation: Before allowing an individual unescorted access to category 1 or category 2 quantities of radioactive material or to the devices that contain the material, licensees shall complete a background investigation of the individual seeking unescorted access authorization. The scope of the investigation shall encompass at least the 7 years preceding the date of the background investigation or since the individual's eighteenth birthday, whichever is shorter. The background investigation shall include at a minimum:
1. Fingerprinting and an FBI identification and criminal history records check in accordance with R9-7-1927;
  2. Verification of true identity. Licensees shall verify the true identity of the individual who is applying for unescorted access authorization to ensure that the applicant is who he or she claims to be. A licensee shall review official identification documents (e.g., driver's license; passport; government identification; certificate of birth issued by the state, province, or country of birth) and compare the documents to personal information data provided by the individual to identify any discrepancy in the information. Licensees shall document the type, expiration, and identification number of the identification document, or maintain a photocopy of identifying documents on file in accordance with R9-7-1931. Licensees shall certify in writing that the identification was properly reviewed, and shall maintain the certification and all related documents for review upon inspection;
  3. Employment history verification. Licensees shall complete an employment history verification, including military history. Licensees shall verify the individual's employment with each previous employer for the most recent 7 years before the date of application;
  4. Verification of education. Licensees shall verify that the individual participated in the education process during the claimed period;
  5. Character and reputation determination. Licensees shall complete reference checks to determine the character and reputation of the individual who has applied for unescorted access authorization. Unless other references are not available, reference checks may not be conducted with any person who is known to be a close member of the individual's family, including but not limited to the individual's spouse, parents, siblings, or children, or any individual who resides in the individual's permanent household. Reference checks under this section shall be limited to whether the individual has been and continues to be trustworthy and reliable;
  6. The licensee shall also, to the extent possible, obtain independent information to corroborate that provided by the individual (e.g., seek references not supplied by the individual); and
  7. If a previous employer, educational institution, or any other entity with which the individual claims to have been engaged fails to provide information or indicates an

inability or unwillingness to provide information within a time frame deemed appropriate by the licensee but at least after 10 business days of the request or if the licensee is unable to reach the entity, the licensee shall document the refusal, unwillingness, or inability in the record of investigation; and attempt to obtain the information from an alternate source.

**B. Grandfathering:**

1. Individuals who have been determined to be trustworthy and reliable for unescorted access to category 1 or category 2 quantities of radioactive material under the Fingerprint Orders may continue to have unescorted access to category 1 and category 2 quantities of radioactive material without further investigation. These individuals shall be subject to the reinvestigation requirement.
2. Individuals who have been determined to be trustworthy and reliable under the provisions of 10 CFR part 73 revised January 1, 2015, incorporated by reference, available under R9-7-101, and containing no future editions or amendments; or the security orders for access to safeguards information, safeguards information-modified handling, or risk-significant material may have unescorted access to category 1 and category 2 quantities of radioactive material without further investigation. The licensee shall document that the individual was determined to be trustworthy and reliable under the provisions of 10 CFR part 73 revised January 1, 2015, incorporated by reference, available under R9-7-101, and containing no future editions or amendments; or a security order. Security order, in this context, refers to any order that was issued by the NRC that required fingerprints and an FBI criminal history records check for access to safeguards information, safeguards information-modified handling, or risk significant material such as special nuclear material or large quantities of uranium hexafluoride. These individuals shall be subject to the reinvestigation requirement.

- C.** Re-investigations: Licensees shall conduct a reinvestigation every 10 years for any individual with unescorted access to category 1 or category 2 quantities of radioactive material. The reinvestigation shall consist of fingerprinting and an FBI identification and criminal history records check in accordance with R9-7-1927. The re-investigations shall be completed within 10 years of the date on which these elements were last completed.

**Historical Note**

New Section R9-7-1925 recodified from R12-1-1925 at 24 A.A.R. 813, effective March 22, 2018 (Supp. 18-1).

**R9-7-1926. Reserved****Historical Note**

Section R9-7-1926 reserved when the Chapter was recodified from 12 A.A.C. 1 (Supp. 18-1).

**R9-7-1927. Requirements for Criminal History Records Checks of Individuals Granted Unescorted Access to Category 1 or Category 2 Quantities of Radioactive Material****A. General performance objective and requirements:**

1. Except for those individuals listed in R9-7-1929 and those individuals grandfathered under R9-7-1925(B), each licensee subject to the provisions of this Article shall fingerprint each individual who is to be permitted unescorted access to category 1 or category 2 quantities of radioactive material. Licensees shall transmit all collected fingerprints to the NRC for transmission to the FBI. The licensee shall use the information received from

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the FBI as part of the required background investigation to determine whether to grant or deny further unescorted access to category 1 or category 2 quantities of radioactive materials for that individual.

2. The licensee shall notify each affected individual that his or her fingerprints will be used to secure a review of his or her criminal history record, and shall inform him or her of the procedures for revising the record or adding explanations to the record.
3. Fingerprinting is not required if a licensee is reinstating an individual's unescorted access authorization to category 1 or category 2 quantities of radioactive materials if:
  - a. The individual returns to the same facility that granted unescorted access authorization within 365 days of the termination of his or her unescorted access authorization; and
  - b. The previous access was terminated under favorable conditions.
4. Fingerprints do not need to be taken if an individual who is an employee of a licensee, contractor, manufacturer, or supplier has been granted unescorted access to category 1 or category 2 quantities of radioactive material, access to safeguards information, or safeguards information-modified handling by another licensee, based upon a background investigation conducted under this Article, the Fingerprint Orders, or 10 CFR part 73, revised December 12, 2018, incorporated by reference, available under R9-7-101, and containing no future editions or amendments. An existing criminal history records check file may be transferred to the licensee asked to grant unescorted access in accordance with the provisions of R9-7-1931(C).
5. Licensees shall use the information obtained as part of a criminal history records check solely for the purpose of determining an individual's suitability for unescorted access authorization to category 1 or category 2 quantities of radioactive materials, access to safeguards information, or safeguards information-modified handling.

**B. Prohibitions:**

1. Licensees may not base a final determination to deny an individual unescorted access authorization to category 1 or category 2 quantities of radioactive material solely on the basis of information received from the FBI involving:
  - a. An arrest more than 1 year old for which there is no information of the disposition of the case; or
  - b. An arrest that resulted in dismissal of the charge or an acquittal.
2. Licensees may not use information received from a criminal history records check obtained under this section in a manner that would infringe upon the rights of any individual under the First Amendment to the Constitution of the United States, nor shall licensees use the information in any way that would discriminate among individuals on the basis of race, religion, national origin, gender, or age.

**C. Procedures for processing of fingerprint checks:**

1. For the purpose of complying with this Article, licensees shall use an appropriate method listed in 10 CFR 37.7, revised November 29, 2019, incorporated by reference, available under R9-7-101, and containing no future editions or amendments; to submit to the U.S. Nuclear Regulatory Commission, Division of Physical and Cyber Security Policy, 11545 Rockville Pike, ATTN: Criminal History Program/Mail Stop T-8B20, Rockville, MD 20852, one completed, legible standard fingerprint card (Form FD-258, ORIMDNRCOOOZ), electronic fingerprint scan or, where practicable, other fingerprint record

for each individual requiring unescorted access to category 1 or category 2 quantities of radioactive material. Copies of these forms may be obtained by emailing [MAILSVS.Resource@nrc.gov](mailto:MAILSVS.Resource@nrc.gov). Guidance on submitting electronic fingerprints can be found at <https://www.nrc.gov/security/chp.html>.

2. Fees for the processing of fingerprint checks are due upon application. Licensees shall submit payment with the application for the processing of fingerprints through corporate check, certified check, cashier's check, money order, or electronic payment, made payable to "U.S. NRC." (For guidance on making electronic payments, contact the Division of Physical and Cyber Security Policy by e-mailing [Crimhist.Resource@NRC.gov](mailto:Crimhist.Resource@NRC.gov).) Combined payment for multiple applications is acceptable. The Commission publishes the amount of the fingerprint check application fee on the NRC's public website. (To find the current fee amount, go to the Licensee Criminal History Records Checks & Firearms Background Check information page at <https://www.nrc.gov/security/chp.html> and see the link for "How do I determine how much to pay for the request?").
3. The U.S. Nuclear Regulatory Commission will forward to the submitting licensee all data received from the FBI as a result of the licensee's application or applications for criminal history records checks.

**Historical Note**

New Section R9-7-1927 recodified from R12-1-1927 at 24 A.A.R. 813, effective March 22, 2018 (Supp. 18-1). Amended by final expedited rulemaking at 24 A.A.R. 2151, effective July 12, 2018 (Supp. 18-3). Amended by final expedited rulemaking at 26 A.A.R. 1067, with an immediate effective date of May 6, 2020 (Supp. 20-2).

**R9-7-1928. Reserved**

**Historical Note**

Section R9-7-1928 reserved when the Chapter was recodified from 12 A.A.C. 1 (Supp. 18-1).

**R9-7-1929. Relief From Fingerprinting, Identification, and Criminal History Records Checks and Other Elements of Background Investigations for Designated Categories of Individuals Permitted Unescorted Access to Certain Radioactive Materials**

- A.** Fingerprinting, and the identification and criminal history records checks required by section 149 of the Atomic Energy Act of 1954, as amended, and other elements of the background investigation are not required for the following individuals prior to granting unescorted access to category 1 or category 2 quantities of radioactive materials:
1. An employee of the U.S. Nuclear Regulatory Commission or of the Executive Branch of the U.S. Government who has undergone fingerprinting for a prior U.S. Government criminal history records check;
  2. A Member of Congress;
  3. An employee of a member of Congress or Congressional committee who has undergone fingerprinting for a prior U.S. Government criminal history records check;
  4. The Governor of a State or his or her designated State employee representative;
  5. Federal, State, or local law enforcement personnel;
  6. State Radiation Control Program Directors and State Homeland Security Advisors or their designated State employee representatives;
  7. Agreement State employees conducting security inspections on behalf of the NRC under an agreement executed under section 274.i. of the Atomic Energy Act;

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8. Representatives of the International Atomic Energy Agency (IAEA) engaged in activities associated with the U.S./IAEA Safeguards Agreement who have been certified by the NRC;
9. Emergency response personnel who are responding to an emergency;
10. Commercial vehicle drivers for road shipments of category 1 and category 2 quantities of radioactive material;
11. Package handlers at transportation facilities such as freight terminals and railroad yards;
12. Any individual who has an active Federal security clearance, provided that he or she makes available the appropriate documentation. Written confirmation from the agency/employer that granted the Federal security clearance or reviewed the criminal history records check shall be provided to the licensee. The licensee shall retain this documentation for a period of 3 years from the date the individual no longer requires unescorted access to category 1 or category 2 quantities of radioactive material; and
13. Any individual employed by a service provider licensee for which the service provider licensee has conducted the background investigation for the individual and approved the individual for unescorted access to category 1 or category 2 quantities of radioactive material. Written verification from the service provider shall be provided to the licensee. The licensee shall retain the documentation for a period of 3 years from the date the individual no longer requires unescorted access to category 1 or category 2 quantities of radioactive material.

- B.** Fingerprinting, and the identification and criminal history records checks required by section 149 of the Atomic Energy Act of 1954, as amended, are not required for an individual who has had a favorably adjudicated U.S. Government criminal history records check within the last 5 years, under a comparable U.S. Government program involving fingerprinting and an FBI identification and criminal history records check provided that he or she makes available the appropriate documentation. Written confirmation from the agency/employer that reviewed the criminal history records check shall be provided to the licensee. The licensee shall retain this documentation for a period of 3 years from the date the individual no longer requires unescorted access to category 1 or category 2 quantities of radioactive material. These programs include, but are not limited to:
1. National Agency Check;
  2. Transportation Worker Identification Credentials (TWIC) under 49 CFR part 1572;
  3. Bureau of Alcohol, Tobacco, Firearms, and Explosives background check and clearances under 27 CFR part 555;
  4. Health and Human Services security risk assessments for possession and use of select agents and toxins under 42 CFR part 73;
  5. Hazardous Material security threat assessment for hazardous material endorsement to commercial driver's license under 49 CFR part 1572; and
  6. Customs and Border Protection's Free and Secure Trade (FAST) Program.

**Historical Note**

New Section R9-7-1929 recodified from R12-1-1929 at 24 A.A.R. 813, effective March 22, 2018 (Supp. 18-1).

**R9-7-1930. Reserved****Historical Note**

Section R9-7-1930 reserved when the Chapter was recodified from 12 A.A.C. 1 (Supp. 18-1).

**R9-7-1931. Protection of Information**

- A.** Each licensee who obtains background information on an individual under this Article shall establish and maintain a system of files and written procedures for protection of the record and the personal information from unauthorized disclosure.
- B.** The licensee may not disclose the record or personal information collected and maintained to persons other than the subject individual, his or her representative, or to those who have a need to have access to the information in performing assigned duties in the process of granting or denying unescorted access to category 1 or category 2 quantities of radioactive material, safeguards information, or safeguards information-modified handling. No individual authorized to have access to the information may disseminate the information to any other individual who does not have a need to know.
- C.** The personal information obtained on an individual from a background investigation may be provided to another licensee:
  1. Upon the individual's written request to the licensee holding the data to disseminate the information contained in his or her file; and
  2. The recipient licensee verifies information such as name, date of birth, social security number, gender, and other applicable physical characteristics.
- D.** The licensee shall make background investigation records obtained under this Article available for examination by an authorized representative of the Department to determine compliance with the rules and laws.
- E.** The licensee shall retain all fingerprint and criminal history records (including data indicating no record) received from the FBI, or a copy of these records if the individual's file has been transferred, on an individual for 3 years from the date the individual no longer requires unescorted access to category 1 or category 2 quantities of radioactive material.

**Historical Note**

New Section R9-7-1931 recodified from R12-1-1931 at 24 A.A.R. 813, effective March 22, 2018 (Supp. 18-1).

**R9-7-1932. Reserved****Historical Note**

Section R9-7-1932 reserved when the Chapter was recodified from 12 A.A.C. 1 (Supp. 18-1).

**R9-7-1933. Access Authorization Program Review**

- A.** Each licensee shall be responsible for the continuing effectiveness of the access authorization program. Each licensee shall ensure that access authorization programs are reviewed to confirm compliance with the requirements of this Article and that comprehensive actions are taken to correct any noncompliance that is identified. The review program shall evaluate all program performance objectives and requirements. Each licensee shall periodically (at least annually) review the access program content and implementation.
- B.** The results of the reviews, along with any recommendations, shall be documented. Each review report shall identify conditions that are adverse to the proper performance of the access authorization program, the cause of the condition(s), and, when appropriate, recommend corrective actions, and corrective actions taken. The licensee shall review the findings and take any additional corrective actions necessary to preclude repetition of the condition, including reassessment of the deficient areas where indicated.
- C.** Review records shall be maintained for 3 years.

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**Historical Note**

New Section R9-7-1933 recodified from R12-1-1933 at 24 A.A.R. 813, effective March 22, 2018 (Supp. 18-1).

**R9-7-1934. Reserved****Historical Note**

Section R9-7-1934 reserved when the Chapter was recodified from 12 A.A.C. 1 (Supp. 18-1).

**R9-7-1935. Reserved****Historical Note**

Section R9-7-1935 reserved when the Chapter was recodified from 12 A.A.C. 1 (Supp. 18-1).

**R9-7-1936. Reserved****Historical Note**

Section R9-7-1936 reserved when the Chapter was recodified from 12 A.A.C. 1 (Supp. 18-1).

**R9-7-1937. Reserved****Historical Note**

Section R9-7-1937 reserved when the Chapter was recodified from 12 A.A.C. 1 (Supp. 18-1).

**R9-7-1938. Reserved****Historical Note**

Section R9-7-1938 reserved when the Chapter was recodified from 12 A.A.C. 1 (Supp. 18-1).

**R9-7-1939. Reserved****Historical Note**

Section R9-7-1939 reserved when the Chapter was recodified from 12 A.A.C. 1 (Supp. 18-1).

**R9-7-1940. Reserved****Historical Note**

Section R9-7-1940 reserved when the Chapter was recodified from 12 A.A.C. 1 (Supp. 18-1).

**R9-7-1941. Security Program****A. Applicability:**

1. Each licensee that possesses an aggregated category 1 or category 2 quantity of radioactive material shall establish, implement, and maintain a security program in accordance with the requirements of this Article.
2. An applicant for a new license and each licensee that would become newly subject to the requirements of this Article upon application for modification of its license shall implement the requirements of this Article, as appropriate, before taking possession of an aggregated category 1 or category 2 quantity of radioactive material.
3. Any licensee that has not previously implemented the Security Orders or been subject to the provisions of R9-7-1941 through R9-7-1957 shall provide written notification to the Department, as specified in R9-7-1907, at least 90 days before aggregating radioactive material to a quantity that equals or exceeds the category 2 threshold.

**B. General performance objective:** Each licensee shall establish, implement, and maintain a security program that is designed to monitor and, without delay, detect, assess, and respond to an actual or attempted unauthorized access to category 1 or category 2 quantities of radioactive material.**C. Program features:** Each licensee's security program shall include the program features, as appropriate, described in R9-7-1943, R9-7-1945, R9-7-1947, R9-7-1949, R9-7-1951, R9-7-1953, and R9-7-1955.**Historical Note**

New Section R9-7-1941 recodified from R12-1-1941 at 24 A.A.R. 813, effective March 22, 2018 (Supp. 18-1).

**R9-7-1942. Reserved****Historical Note**

Section R9-7-1942 reserved when the Chapter was recodified from 12 A.A.C. 1 (Supp. 18-1).

**R9-7-1943. General Security Program Requirements****A. Security plan:**

1. Each licensee identified in R9-7-1941(A) shall develop a written security plan specific to its facilities and operations. The purpose of the security plan is to establish the licensee's overall security strategy to ensure the integrated and effective functioning of the security program required by this Article. The security plan shall, at a minimum:
  - a. Describe the measures and strategies used to implement the requirements of this Article; and
  - b. Identify the security resources, equipment, and technology used to satisfy the requirements of this Article.
2. The security plan shall be reviewed and approved by the individual with overall responsibility for the security program.
3. A licensee shall revise its security plan as necessary to ensure the effective implementation of Department requirements. The licensee shall ensure that:
  - a. The revision has been reviewed and approved by the individual with overall responsibility for the security program; and
  - b. The affected individuals are instructed on the revised plan before the changes are implemented.
4. The licensee shall retain a copy of the current security plan as a record for 3 years after the security plan is no longer required. If any portion of the plan is superseded, the licensee shall retain the superseded material for 3 years after the record is superseded.

**B. Implementing procedures:**

1. The licensee shall develop and maintain written procedures that document how the requirements of this Article and the security plan will be met.
2. The implementing procedures and revisions to these procedures shall be approved in writing by the individual with overall responsibility for the security program.
3. The licensee shall retain a copy of the current procedure as a record for 3 years after the procedure is no longer needed. Superseded portions of the procedure shall be retained for 3 years after the record is superseded.

**C. Training:**

1. Each licensee shall conduct training to ensure that those individuals implementing the security program possess and maintain the knowledge, skills, and abilities to carry out their assigned duties and responsibilities effectively. The training shall include instruction in:
  - a. The licensee's security program and procedures to secure category 1 or category 2 quantities of radioactive material, and in the purposes and functions of the security measures employed;
  - b. The responsibility to report promptly to the licensee any condition that causes or may cause a violation of Department requirements;
  - c. The responsibility of the licensee to report promptly to the local law enforcement agency and licensee any actual or attempted theft, sabotage, or diversion

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of category 1 or category 2 quantities of radioactive material; and

- d. The appropriate response to security alarms.
2. In determining those individuals who shall be trained on the security program, the licensee shall consider each individual's assigned activities during authorized use and response to potential situations involving actual or attempted theft, diversion, or sabotage of category 1 or category 2 quantities of radioactive material. The extent of the training shall be commensurate with the individual's potential involvement in the security of category 1 or category 2 quantities of radioactive material.
3. Refresher training shall be provided at a frequency not to exceed 12 months and when significant changes have been made to the security program. This training shall include:
  - a. Review of the training requirements of subsection (c) and any changes made to the security program since the last training;
  - b. Reports on any relevant security issues, problems, and lessons learned;
  - c. Relevant results of Department inspections; and
  - d. Relevant results of the licensee's program review and testing and maintenance.
4. The licensee shall maintain records of the initial and refresher training for 3 years from the date of the training. The training records shall include dates of the training, topics covered, a list of licensee personnel in attendance, and related information.

**D. Protection of information:**

1. Licensees authorized to possess category 1 or category 2 quantities of radioactive material shall limit access to and unauthorized disclosure of their security plan, implementing procedures, and the list of individuals that have been approved for unescorted access.
2. Efforts to limit access shall include the development, implementation, and maintenance of written policies and procedures for controlling access to, and for proper handling and protection against unauthorized disclosure of, the security plan and implementing procedures.
3. Before granting an individual access to the security plan or implementing procedures, licensees shall:
  - a. Evaluate an individual's need to know the security plan or implementing procedures; and
  - b. If the individual has not been authorized for unescorted access to category 1 or category 2 quantities of radioactive material, safeguards information, or safeguards information-modified handling, the licensee shall complete a background investigation to determine the individual's trustworthiness and reliability. A trustworthiness and reliability determination shall be conducted by the reviewing official and shall include the background investigation elements contained in R9-7-1925(A)(2) through (A)(7).
4. Licensees need not subject the following individuals to the background investigation elements for protection of information:
  - a. The categories of individuals listed in R9-7-1929(A); or
  - b. Security service provider employees, provided written verification that the employee has been determined to be trustworthy and reliable, by the required background investigation in R9-7-1925(A)(2) through (A)(7), has been provided by the security service provider.

5. The licensee shall document the basis for concluding that an individual is trustworthy and reliable and should be granted access to the security plan or implementing procedures.
6. Licensees shall maintain a list of persons currently approved for access to the security plan or implementing procedures. When a licensee determines that a person no longer needs access to the security plan or implementing procedures or no longer meets the access authorization requirements for access to the information, the licensee shall remove the person from the approved list as soon as possible, but no later than 7 working days, and take prompt measures to ensure that the individual is unable to obtain the security plan or implementing procedures.
7. When not in use, the licensee shall store its security plan and implementing procedures in a manner to prevent unauthorized access. Information stored in non-removable electronic form shall be password protected.
8. The licensee shall retain as a record for 3 years after the document is no longer needed:
  - a. A copy of the information protection procedures; and
  - b. The list of individuals approved for access to the security plan or implementing procedures.
9. State officials, State employees, and other individuals, whether or not licensees of the Commission or an Agreement State, who receive schedule information of the kind specified in subsection (D)(1) shall protect that information against unauthorized disclosure as specified in subsection (D)(2).

**Historical Note**

New Section R9-7-1943 recodified from R12-1-1943 at 24 A.A.R. 813, effective March 22, 2018 (Supp. 18-1).  
Amended by final expedited rulemaking at 24 A.A.R. 2151, effective July 12, 2018 (Supp. 18-3).

**R9-7-1944. Reserved**

**Historical Note**

Section R9-7-1944 reserved when the Chapter was recodified from 12 A.A.C. 1 (Supp. 18-1).

**R9-7-1945. Local Law Enforcement Agency (LLEA) Coordination**

- A.** A licensee subject to this Article shall coordinate, to the extent practicable, with an LLEA for responding to threats to the licensee's facility, including any necessary armed response. The information provided to the LLEA shall include:
  1. A description of the facilities and the category 1 and category 2 quantities of radioactive materials along with a description of the licensee's security measures that have been implemented to comply with this Article; and
  2. A notification that the licensee will request a timely armed response by the LLEA to any actual or attempted theft, sabotage, or diversion of category 1 or category 2 quantities of material.
- B.** The licensee shall notify the Department as listed in R9-7-1907 of this Article within 3 business days if:
  1. The LLEA has not responded to the request for coordination within 60 days of the coordination request; or
  2. The LLEA notifies the licensee that the LLEA does not plan to participate in coordination activities.
- C.** The licensee shall document its efforts to coordinate with the LLEA. The documentation shall be kept for 3 years.
- D.** The licensee shall coordinate with the LLEA at least every 12 months, or when changes to the facility design or operation

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adversely affect the potential vulnerability of the licensee's material to theft, sabotage, or diversion.

**Historical Note**

New Section R9-7-1945 recodified from R12-1-1945 at 24 A.A.R. 813, effective March 22, 2018 (Supp. 18-1).

**R9-7-1946. Reserved****Historical Note**

Section R9-7-1946 reserved when the Chapter was recodified from 12 A.A.C. 1 (Supp. 18-1).

**R9-7-1947. Security Zones**

- A.** Licensees shall ensure that all aggregated category 1 and category 2 quantities of radioactive material are used or stored within licensee established security zones. Security zones may be permanent or temporary.
- B.** Temporary security zones shall be established as necessary to meet the licensee's transitory or intermittent business activities, such as periods of maintenance, source delivery, and source replacement.
- C.** Security zones shall, at a minimum, allow unescorted access only to approved individuals through:
1. Isolation of category 1 and category 2 quantities of radioactive materials by the use of continuous physical barriers that allow access to the security zone only through established access control points. A physical barrier is a natural or man-made structure or formation sufficient for the isolation of the category 1 or category 2 quantities of radioactive material within a security zone; or
  2. Direct control of the security zone by approved individuals at all times; or
  3. A combination of continuous physical barriers and direct control.
- D.** For category 1 quantities of radioactive material during periods of maintenance, source receipt, preparation for shipment, installation, or source removal or exchange, the licensee shall, at a minimum, provide sufficient individuals approved for unescorted access to maintain continuous surveillance of sources in temporary security zones and in any security zone in which physical barriers or intrusion detection systems have been disabled to allow such activities.
- E.** Individuals not approved for unescorted access to category 1 or category 2 quantities of radioactive material shall be escorted by an approved individual when in a security zone.

**Historical Note**

New Section R9-7-1947 recodified from R12-1-1947 at 24 A.A.R. 813, effective March 22, 2018 (Supp. 18-1).

**R9-7-1948. Reserved****Historical Note**

Section R9-7-1948 reserved when the Chapter was recodified from 12 A.A.C. 1 (Supp. 18-1).

**R9-7-1949. Monitoring, Detection, and Assessment**

- A.** Monitoring and detection:
1. Licensees shall establish and maintain the capability to continuously monitor and detect without delay all unauthorized entries into its security zones. Licensees shall provide the means to maintain continuous monitoring and detection capability in the event of a loss of the primary power source, or provide for an alarm and response in the event of a loss of this capability to continuously monitor and detect unauthorized entries.
  2. Monitoring and detection shall be performed by:

- a. A monitored intrusion detection system that is linked to an onsite or offsite central monitoring facility; or
  - b. Electronic devices for intrusion detection alarms that will alert nearby facility personnel; or
  - c. A monitored video surveillance system; or
  - d. Direct visual surveillance by approved individuals located within the security zone; or
  - e. Direct visual surveillance by a licensee designated individual located outside the security zone.
3. A licensee subject to this Article shall also have a means to detect unauthorized removal of the radioactive material from the security zone. This detection capability shall provide:
- a. For category 1 quantities of radioactive material, immediate detection of any attempted unauthorized removal of the radioactive material from the security zone. Such immediate detection capability shall be provided by:
    - i. Electronic sensors linked to an alarm; or
    - ii. Continuous monitored video surveillance; or
    - iii. Direct visual surveillance.
  - b. For category 2 quantities of radioactive material, weekly verification through physical checks, tamper indicating devices, use, or other means to ensure that the radioactive material is present.
- B.** Assessment: Licensees shall immediately assess each actual or attempted unauthorized entry into the security zone to determine whether the unauthorized access was an actual or attempted theft, sabotage, or diversion.
- C.** Personnel communications and data transmission: For personnel and automated or electronic systems supporting the licensee's monitoring, detection, and assessment systems, licensees shall:
1. Maintain continuous capability for personnel communication and electronic data transmission and processing among site security systems; and
  2. Provide an alternative communication capability for personnel, and an alternative data transmission and processing capability, in the event of a loss of the primary means of communication or data transmission and processing. Alternative communications and data transmission systems may not be subject to the same failure modes as the primary systems.
- D.** Response: Licensees shall immediately respond to any actual or attempted unauthorized access to the security zones, or actual or attempted theft, sabotage, or diversion of category 1 or category 2 quantities of radioactive material at licensee facilities or temporary job sites. For any unauthorized access involving an actual or attempted theft, sabotage, or diversion of category 1 or category 2 quantities of radioactive material, the licensee's response shall include requesting, without delay, an armed response from the LLEA.

**Historical Note**

New Section R9-7-1949 recodified from R12-1-1949 at 24 A.A.R. 813, effective March 22, 2018 (Supp. 18-1).

**R9-7-1950. Reserved****Historical Note**

Section R9-7-1950 reserved when the Chapter was recodified from 12 A.A.C. 1 (Supp. 18-1).

**R9-7-1951. Maintenance and Testing**

- A.** Each licensee subject to this R9-7-1941 through R9-7-1957 shall implement a maintenance and testing program to ensure that intrusion alarms, associated communication systems, and

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other physical components of the systems used to secure or detect unauthorized access to radioactive material are maintained in operable condition and are capable of performing their intended function when needed. The equipment relied on to meet the security requirements of this part shall be inspected and tested for operability and performance at the manufacturer's suggested frequency. If there is no suggested manufacturer's suggested frequency, the testing shall be performed at least annually, not to exceed 12 months.

- B. The licensee shall maintain records on the maintenance and testing activities for 3 years. The record shall include:
1. The date of activity;
  2. Type of activity performed;
  3. A list of the equipment involved;
  4. The results of the activity;
  5. The name of the individual that conducted the activity;
  6. The repair or maintenance (if applicable) that was performed.

**Historical Note**

New Section R9-7-1951 recodified from R12-1-1951 at 24 A.A.R. 813, effective March 22, 2018 (Supp. 18-1).

**R9-7-1952. Reserved****Historical Note**

Section R9-7-1952 reserved when the Chapter was recodified from 12 A.A.C. 1 (Supp. 18-1).

**R9-7-1953. Requirements for Mobile Devices**

Each licensee that possesses mobile devices containing category 1 or category 2 quantities of radioactive material shall:

- A. Have two independent physical controls that form tangible barriers to secure the material from unauthorized removal when the device is not under direct control and constant surveillance by the licensee; and
- B. For devices in or on a vehicle or trailer, unless the health and safety requirements for a site prohibit the disabling of the vehicle, the licensee shall utilize a method to disable the vehicle or trailer when not under direct control and constant surveillance by the licensee. Licensees shall not rely on the removal of an ignition key to meet this requirement.

**Historical Note**

New Section R9-7-1953 recodified from R12-1-1953 at 24 A.A.R. 813, effective March 22, 2018 (Supp. 18-1).

**R9-7-1954. Reserved****Historical Note**

Section R9-7-1954 reserved when the Chapter was recodified from 12 A.A.C. 1 (Supp. 18-1).

**R9-7-1955. Security Program Review**

- A. Each licensee shall be responsible for the continuing effectiveness of the security program. Each licensee shall ensure that the security program is reviewed to confirm compliance with the requirements of this Article and that comprehensive actions are taken to correct any noncompliance that is identified. The review shall include the radioactive material security program content and implementation. Each licensee shall periodically (at least annually) review the security program content and implementation.
- B. The results of the review, along with any recommendations, shall be documented. Each review report shall identify conditions that are adverse to the proper performance of the security program, the cause of the condition(s), and, when appropriate, recommend corrective actions, and corrective actions taken. The licensee shall review the findings and take any additional corrective actions necessary to preclude repetition of the con-

dition, including reassessment of the deficient areas where indicated.

- C. The licensee shall maintain the review documentation for 3 years.

**Historical Note**

New Section R9-7-1955 recodified from R12-1-1955 at 24 A.A.R. 813, effective March 22, 2018 (Supp. 18-1).

**R9-7-1956. Reserved****Historical Note**

Section R9-7-1956 reserved when the Chapter was recodified from 12 A.A.C. 1 (Supp. 18-1).

**R9-7-1957. Reporting of Events**

- A. The licensee shall immediately notify the LLEA after determining that an unauthorized entry resulted in an actual or attempted theft, sabotage, or diversion of a category 1 or category 2 quantity of radioactive material. As soon as possible after initiating a response, but not at the expense of causing delay or interfering with the LLEA response to the event, the licensee shall notify the Department. Notification shall be to a live person, a voice mail is not considered adequate notification. In no case shall the notification to the Department be later than 4 hours after the discovery of any attempted or actual theft, sabotage, or diversion.
- B. The licensee shall assess any suspicious activity related to possible theft, sabotage, or diversion of category 1 or category 2 quantities of radioactive material and notify the LLEA as appropriate. As soon as possible but not later than 4 hours after notifying the LLEA, the licensee shall notify the Department.
- C. The initial telephonic notification required by subsection (A) shall be followed within a period of 30 days by a written report submitted to the Department by an appropriate method listed in R9-7-1907. The report shall include sufficient information for Department analysis and evaluation, including identification of any necessary corrective actions to prevent future instances.

**Historical Note**

New Section R9-7-1957 recodified from R12-1-1957 at 24 A.A.R. 813, effective March 22, 2018 (Supp. 18-1).

**R9-7-1958. Reserved****Historical Note**

Section R9-7-1958 reserved when the Chapter was recodified from 12 A.A.C. 1 (Supp. 18-1).

**R9-7-1959. Reserved****Historical Note**

Section R9-7-1959 reserved when the Chapter was recodified from 12 A.A.C. 1 (Supp. 18-1).

**R9-7-1960. Reserved****Historical Note**

Section R9-7-1960 reserved when the Chapter was recodified from 12 A.A.C. 1 (Supp. 18-1).

**R9-7-1961. Reserved****Historical Note**

Section R9-7-1961 reserved when the Chapter was recodified from 12 A.A.C. 1 (Supp. 18-1).

**R9-7-1962. Reserved**

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**Historical Note**

Section R9-7-1962 reserved when the Chapter was recodified from 12 A.A.C. 1 (Supp. 18-1).

**R9-7-1963. Reserved****Historical Note**

Section R9-7-1963 reserved when the Chapter was recodified from 12 A.A.C. 1 (Supp. 18-1).

**R9-7-1964. Reserved****Historical Note**

Section R9-7-1964 reserved when the Chapter was recodified from 12 A.A.C. 1 (Supp. 18-1).

**R9-7-1965. Reserved****Historical Note**

Section R9-7-1965 reserved when the Chapter was recodified from 12 A.A.C. 1 (Supp. 18-1).

**R9-7-1966. Reserved****Historical Note**

Section R9-7-1966 reserved when the Chapter was recodified from 12 A.A.C. 1 (Supp. 18-1).

**R9-7-1967. Reserved****Historical Note**

Section R9-7-1967 reserved when the Chapter was recodified from 12 A.A.C. 1 (Supp. 18-1).

**R9-7-1968. Reserved****Historical Note**

Section R9-7-1968 reserved when the Chapter was recodified from 12 A.A.C. 1 (Supp. 18-1).

**R9-7-1969. Reserved****Historical Note**

Section R9-7-1969 reserved when the Chapter was recodified from 12 A.A.C. 1 (Supp. 18-1).

**R9-7-1970. Reserved****Historical Note**

Section R9-7-1970 reserved when the Chapter was recodified from 12 A.A.C. 1 (Supp. 18-1).

**R9-7-1971. Additional Requirements for Transfer of Category 1 and Category 2 Quantities of Radioactive Material**

A licensee transferring a category 1 or category 2 quantity of radioactive material to a licensee of the Department, the NRC, or an Agreement State shall meet the license verification provisions listed below instead of those listed in sections of this chapter:

1. Any licensee transferring category 1 quantities of radioactive material to a licensee of the Department, the NRC, or an Agreement State, prior to conducting such transfer, shall verify with the Department's license verification system or the license issuing authority that the transferee's license authorizes the receipt of the type, form, and quantity of radioactive material to be transferred and that the licensee is authorized to receive radioactive material at the location requested for delivery. If the verification is conducted by contacting the license issuing authority, the transferor shall document the verification. For transfers within the same organization, the licensee does not need to verify the transfer.
2. Any licensee transferring category 2 quantities of radioactive material to a licensee of the Department, the NRC, or an Agreement State, prior to conducting such transfer,

shall verify with the Department's license verification system or the license issuing authority that the transferee's license authorizes the receipt of the type, form, and quantity of radioactive material to be transferred. If the verification is conducted by contacting the license issuing authority, the transferor shall document the verification. For transfers within the same organization, the licensee does not need to verify the transfer.

3. In an emergency where the licensee cannot reach the license issuing authority and the license verification system is nonfunctional, the licensee may accept a written certification by the transferee that it is authorized by license to receive the type, form, and quantity of radioactive material to be transferred. The certification shall include the license number, current revision number, issuing agency, expiration date, and for a category 1 shipment the authorized address. The licensee shall keep a copy of the certification. The certification shall be confirmed by use of the NRC's license verification system or by contacting the license issuing authority by the end of the next business day.
4. The transferor shall keep a copy of the verification documentation as a record for 3 years.

**Historical Note**

New Section R9-7-1971 recodified from R12-1-1971 at 24 A.A.R. 813, effective March 22, 2018 (Supp. 18-1).

**R9-7-1972. Reserved****Historical Note**

Section R9-7-1972 reserved when the Chapter was recodified from 12 A.A.C. 1 (Supp. 18-1).

**R9-7-1973. Applicability of Physical Protection of Category 1 and Category 2 Quantities of Radioactive Material During Transit**

- A. For shipments of category 1 quantities of radioactive material, each shipping licensee shall comply with the requirements for physical protection contained in Sections R9-7-1975(A) and (E); R9-7-1977; R9-7-1979(A)(1), (B)(1), and (C); and R9-7-1981(A), (C), (E), (G) and (H).
- B. For shipments of category 2 quantities of radioactive material, each shipping licensee shall comply with the requirements for physical protection contained in R9-7-1975(B) through (E); R9-7-1979(A)(2), (A)(3), (B)(2), and (C); and R9-7-1981(B), (D), (F), (G), and (H). For those shipments of category 2 quantities of radioactive material that meet the criteria of Article 15 of this Chapter, the shipping licensee shall also comply with the advance notification provisions of R9-7-1508 or R9-7-1512 as appropriate.
- C. The shipping licensee shall be responsible for meeting the requirements of R9-7-1971 through R9-7-1981 unless the receiving licensee has agreed in writing to arrange for the in-transit physical protection required under R9-7-1971 through R9-7-1981.
- D. Each licensee that imports or exports category 1 quantities of radioactive material shall comply with the requirements for physical protection during transit contained in R9-7-1975(A)(2) and (E); R9-7-1977; R9-7-1979(A)(1), (B)(1), and (C); and R9-7-1981(A), (C), (E), (G), and (H) for the domestic portion of the shipment.
- E. Each licensee that imports or exports category 2 quantities of radioactive material shall comply with the requirements for physical protection during transit contained in R9-7-1979(A)(2), (A)(3), and (B)(2); and R9-7-1981(B), (D), (F), (G), and (H) for the domestic portion of the shipment.



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**Historical Note**

New Section R9-7-1973 recodified from R12-1-1973 at 24 A.A.R. 813, effective March 22, 2018 (Supp. 18-1).

**R9-7-1974. Reserved****Historical Note**

Section R9-7-1974 reserved when the Chapter was recodified from 12 A.A.C. 1 (Supp. 18-1).

**R9-7-1975. Preplanning and Coordination of Shipment of Category 1 or Category 2 Quantities of Radioactive Material**

- A. Each licensee that plans to transport, or deliver to a carrier for transport, licensed material that is a category 1 quantity of radioactive material outside the confines of the licensee's facility or other place of use or storage shall:
  1. Preplan and coordinate shipment arrival and departure times with the receiving licensee;
  2. Preplan and coordinate shipment information with the governor or the governor's designee of any State through which the shipment will pass to:
    - a. Discuss the State's intention to provide law enforcement escorts; and
    - b. Identify safe havens; and
  3. Document the preplanning and coordination activities.
- B. Each licensee that plans to transport, or deliver to a carrier for transport, licensed material that is a category 2 quantity of radioactive material outside the confines of the licensee's facility or other place of use or storage shall coordinate the shipment no-later-than arrival time and the expected shipment arrival with the receiving licensee. The licensee shall document the coordination activities.
- C. Each licensee who receives a shipment of a category 2 quantity of radioactive material shall confirm receipt of the shipment with the originator. If the shipment has not arrived by the no-later-than arrival time, the receiving licensee shall notify the originator.
- D. Each licensee, who transports or plans to transport a shipment of a category 2 quantity of radioactive material, and determines that the shipment will arrive after the no-later-than arrival time provided pursuant to paragraph (B), shall promptly notify the receiving licensee of the new no-later-than arrival time.
- E. The licensee shall retain a copy of the documentation for preplanning and coordination and any revision thereof, as a record for 3 years.

**Historical Note**

New Section R9-7-1975 recodified from R12-1-1975 at 24 A.A.R. 813, effective March 22, 2018 (Supp. 18-1).

**R9-7-1976. Reserved****Historical Note**

Section R9-7-1976 reserved when the Chapter was recodified from 12 A.A.C. 1 (Supp. 18-1).

**R9-7-1977. Advance Notification of Shipment of Category 1 Quantities of Radioactive Material**

Each licensee shall provide advance notification to the Department and the governor of a State, or the governor's designee, of the shipment of licensed material in a category 1 quantity, through or across the boundary of the State, before the transport, or delivery to a carrier for transport of the licensed material outside the confines of the licensee's facility or other place of use or storage.

1. Procedures for submitting advance notification:
  - a. The notification shall be made to the Department and to the office of each appropriate governor or governor's designee. The contact information,

including telephone and mailing addresses, of governors and governors' designees and participating Tribes is available on the NRC's website at <https://scp.nrc.gov/special/designee.pdf>. A list of the contact information is also available upon request from the Director, Division of Material Safety, Security, State, and Tribal Programs, Office of Nuclear Material Safety and Safeguards, U.S. Nuclear Regulatory Commission, Washington, DC 20555-0001. The notification to the Department may be made by email to [ram@azdhs.gov](mailto:ram@azdhs.gov) or by fax to (602) 437-0705.

- b. A notification delivered by mail shall be postmarked at least 7 days before transport of the shipment commences at the shipping facility.
- c. A notification delivered by any means other than mail shall reach the Department at least 4 days before the transport of the shipment commences and shall reach the office of the governor or the governor's designee at least 4 days before transport of a shipment within or through the State.
2. Information to be furnished in advance notification of shipment: Each advance notification of shipment of category 1 quantities of radioactive material shall contain the following information, if available at the time of notification:
  - a. The name, address, and telephone number of the shipper, carrier, and receiver of the category 1 radioactive material;
  - b. The license numbers of the shipper and receiver;
  - c. A description of the radioactive material contained in the shipment, including the radionuclides and quantity;
  - d. The point of origin of the shipment and the estimated time and date that shipment will commence;
  - e. The estimated time and date that the shipment is expected to enter each State along the route;
  - f. The estimated time and date of arrival of the shipment at the destination; and
  - g. A point of contact, with a telephone number, for current shipment information.
3. Revision notice:
  - a. The licensee shall provide any information not previously available at the time of the initial notification, as soon as the information becomes available but not later than commencement of the shipment, to the governor of the State or the governor's designee and to the Department at the contact information available in R9-7-1907.
  - b. A licensee shall promptly notify the governor of the state or the governor's designee of any changes to the information provided in accordance with subsections (B) and (C)(1). The licensee shall also immediately notify the Department at the contact information available in R9-7-1907 of any such changes.
4. Cancellation notice: Each licensee who cancels a shipment for which advance notification has been sent shall send a cancellation notice to the governor of each State or to the governor's designee previously notified and to the Department Director at the contact information available in R9-7-1907. The licensee shall send the cancellation notice before the shipment would have commenced or as soon thereafter as possible. The licensee shall state in the notice that it is a cancellation and identify the advance notification that is being cancelled.

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5. Records: The licensee shall retain a copy of the advance notification and any revision and cancellation notices as a record for 3 years.
6. Protection of information: State officials, State employees, and other individuals, whether or not licensees of the Department, the NRC, or an Agreement State, who receive schedule information of the kind specified in this Section shall protect that information against unauthorized disclosure as specified in R9-7-1943(D) of this Article.

**Historical Note**

New Section R9-7-1977 recodified from R12-1-1977 at 24 A.A.R. 813, effective March 22, 2018 (Supp. 18-1).

Amended by final expedited rulemaking at 24 A.A.R. 2151, effective July 12, 2018 (Supp. 18-3). Amended by final expedited rulemaking at 26 A.A.R. 1067, with an immediate effective date of May 6, 2020 (Supp. 20-2).

**R9-7-1978. Reserved****Historical Note**

Section R9-7-1978 reserved when the Chapter was recodified from 12 A.A.C. 1 (Supp. 18-1).

**R9-7-1979. Requirements for Physical Protection of Category 1 and Category 2 Quantities of Radioactive Material During Shipment****A. Shipments by road:**

1. Each licensee who transports, or delivers to a carrier for transport, in a single shipment, a category 1 quantity of radioactive material shall:
  - a. Ensure that movement control centers are established that maintain position information from a remote location. These control centers shall monitor shipments 24 hours a day, 7 days a week, and have the ability to communicate immediately, in an emergency, with the appropriate law enforcement agencies.
  - b. Ensure that redundant communications are established that allow the transport to contact the escort vehicle (when used) and movement control center at all times. Redundant communications may not be subject to the same interference factors as the primary communication.
  - c. Ensure that shipments are continuously and actively monitored by a telemetric position monitoring system or an alternative tracking system reporting to a movement control center. A movement control center shall provide positive confirmation of the location, status, and control over the shipment. The movement control center shall be prepared to promptly implement preplanned procedures in response to deviations from the authorized route or a notification of actual, attempted, or suspicious activities related to the theft, loss, or diversion of a shipment. These procedures will include, but not be limited to, the identification of and contact information for the appropriate LLEA along the shipment route.
  - d. Provide an individual to accompany the driver for those highway shipments with a driving time period greater than the maximum number of allowable hours of service in a 24-hour duty day as established by the Department of Transportation Federal Motor Carrier Safety Administration. The accompanying individual may be another driver.

- e. Develop written normal and contingency procedures to address:
  - i. Notifications to the communication center and law enforcement agencies;
  - ii. Communication protocols. Communication protocols shall include a strategy for the use of authentication codes and duress codes and provisions for refueling or other stops, detours, and locations where communication is expected to be temporarily lost;
  - iii. Loss of communications; and
  - iv. Responses to an actual or attempted theft or diversion of a shipment.
- f. Each licensee who makes arrangements for the shipment of category 1 quantities of radioactive material shall ensure that drivers, accompanying personnel, and movement control center personnel have access to the normal and contingency procedures.

2. Each licensee that transports category 2 quantities of radioactive material shall maintain constant control and/or surveillance during transit and have the capability for immediate communication to summon appropriate response or assistance.

3. Each licensee who delivers to a carrier for transport, in a single shipment, a category 2 quantity of radioactive material shall:

- a. Use carriers that have established package tracking systems. An established package tracking system is a documented, proven, and reliable system routinely used to transport objects of value. In order for a package tracking system to maintain constant control and/or surveillance, the package tracking system shall allow the shipper or transporter to identify when and where the package was last and when it should arrive at the next point of control.
- b. Use carriers that maintain constant control and/or surveillance during transit and have the capability for immediate communication to summon appropriate response or assistance; and
- c. Use carriers that have established tracking systems that require an authorized signature prior to releasing the package for delivery or return.

**B. Shipments by rail:**

1. Each licensee who transports, or delivers to a carrier for transport, in a single shipment, a category 1 quantity of radioactive material shall:

- a. Ensure that rail shipments are monitored by a telemetric position monitoring system or an alternative tracking system reporting to the licensee, third-party, or railroad communications center. The communications center shall provide positive confirmation of the location of the shipment and its status. The communications center shall implement preplanned procedures in response to deviations from the authorized route or to a notification of actual, attempted, or suspicious activities related to the theft or diversion of a shipment. These procedures will include, but not be limited to, the identification of and contact information for the appropriate LLEA along the shipment route.
- b. Ensure that periodic reports to the communications center are made at preset intervals.

2. Each licensee who transports, or delivers to a carrier for transport, in a single shipment, a category 2 quantity of radioactive material shall:

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- a. Use carriers that have established package tracking systems. An established package tracking system is a documented, proven, and reliable system routinely used to transport objects of value. In order for a package tracking system to maintain constant control and/or surveillance, the package tracking system shall allow the shipper or transporter to identify when and where the package was last and when it should arrive at the next point of control.
  - b. Use carriers that maintain constant control and/or surveillance during transit and have the capability for immediate communication to summon appropriate response or assistance; and
  - c. Use carriers that have established tracking systems that require an authorized signature prior to releasing the package for delivery or return.
- C. Investigations: Each licensee who makes arrangements for the shipment of category 1 quantities of radioactive material shall immediately conduct an investigation upon the discovery that a category 1 shipment is lost or missing. Each licensee who makes arrangements for the shipment of category 2 quantities of radioactive material shall immediately conduct an investigation, in coordination with the receiving licensee, of any shipment that has not arrived by the designated no-later-than arrival time.

**Historical Note**

New Section R9-7-1979 recodified from R12-1-1979 at 24 A.A.R. 813, effective March 22, 2018 (Supp. 18-1).

**R9-7-1980. Reserved****Historical Note**

Section R9-7-1980 reserved when the Chapter was recodified from 12 A.A.C. 1 (Supp. 18-1).

**R9-7-1981. Reporting of Events**

- A. Within one hour of its determination that a shipment of category 1 quantities of radioactive material is lost or missing, a shipping licensee shall notify the appropriate LLEA and the Department. The Department shall be notified by calling (602) 255-4845 during business hours, or by calling the after-hours emergency Department of Public Safety dispatch line, at (602) 223-2212. The appropriate LLEA is the law enforcement agency in the area of the shipment's last confirmed location. During the investigation required by R9-7-1979(C), the shipping licensee shall provide agreed upon updates to the Department on the status of the investigation.
- B. Within four (4) hours of its determination that a shipment of category 2 quantities of radioactive material is lost or missing, a shipping licensee shall notify the appropriate LLEA and the Department. The Department shall be notified by calling (602) 255-4845 during business hours, or by calling the after-hours emergency Department of Public Safety dispatch line, at (602) 223-2212. If, after 24 hours of its determination that the shipment is lost or missing, the radioactive material has not been located and secured, the licensee shall immediately notify the Department.
- C. The shipping licensee shall notify the designated LLEA along the shipment route as soon as possible upon discovery of any actual or attempted theft or diversion of a shipment or suspicious activities related to the theft or diversion of a shipment of a category 1 quantity of radioactive material. As soon as possible after notifying the LLEA, the licensee shall notify the Department upon discovery of any actual or attempted theft or diversion of a shipment, or any suspicious activity related to the shipment of category 1 radioactive material. The Department shall be notified by calling (602) 255-4845 during business

hours, or by calling the after-hours emergency Department of Public Safety dispatch line, at (602) 223-2212.

- D. The shipping licensee shall notify the Department as soon as possible upon discovery of any actual or attempted theft or diversion of a shipment, or any suspicious activity related to the shipment, of a category 2 quantity of radioactive material. The Department shall be notified by calling (602) 255-4845 during business hours, or by calling the after-hours emergency Department of Public Safety dispatch line, at (602) 223-2212.
- E. The shipping licensee shall notify the Department and the LLEA as soon as possible upon recovery of any lost or missing category 1 quantities of radioactive material. The Agency shall be notified by calling (602) 255-4845 during business hours, or by calling the after-hours emergency Department of Public Safety dispatch line, at (602) 223-2212.
- F. The shipping licensee shall notify the Department as soon as possible upon recovery of any lost or missing category 2 quantities of radioactive material. The Department shall be notified by calling (602) 255-4845 during business hours, or by calling the after-hours emergency Department of Public Safety dispatch line, at (602) 223-2212.
- G. The initial telephonic notification required by subsections (A) through (D) shall be followed within a period of 30 days by a written report submitted to the Department by an appropriate method listed in R9-7-1907. A written report is not required for notifications on suspicious activities required by subsections (C) and (D). The report shall set forth the following information:
  1. A description of the licensed material involved, including kind, quantity, and chemical and physical form;
  2. A description of the circumstances under which the loss or theft occurred;
  3. A statement of disposition, or probable disposition, of the licensed material involved;
  4. Actions that have been taken, or will be taken, to recover the material; and
  5. Procedures or measures that have been, or will be, adopted to ensure against a recurrence of the loss or theft of licensed material.
- H. Subsequent to filing the written report, the licensee shall also report any additional substantive information on the loss or theft within 30 days after the licensee learns of such information.

**Historical Note**

New Section R9-7-1981 recodified from R12-1-1981 at 24 A.A.R. 813, effective March 22, 2018 (Supp. 18-1).

**R9-7-1982. Reserved****Historical Note**

Section R9-7-1982 reserved when the Chapter was recodified from 12 A.A.C. 1 (Supp. 18-1).

**R9-7-1983. Reserved****Historical Note**

Section R9-7-1983 reserved when the Chapter was recodified from 12 A.A.C. 1 (Supp. 18-1).

**R9-7-1984. Reserved****Historical Note**

Section R9-7-1984 reserved when the Chapter was recodified from 12 A.A.C. 1 (Supp. 18-1).

**R9-7-1985. Reserved**

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**Historical Note**

Section R9-7-1985 reserved when the Chapter was recodified from 12 A.A.C. 1 (Supp. 18-1).

**R9-7-1986. Reserved****Historical Note**

Section R9-7-1986 reserved when the Chapter was recodified from 12 A.A.C. 1 (Supp. 18-1).

**R9-7-1987. Reserved****Historical Note**

Section R9-7-1987 reserved when the Chapter was recodified from 12 A.A.C. 1 (Supp. 18-1).

**R9-7-1988. Reserved****Historical Note**

Section R9-7-1988 reserved when the Chapter was recodified from 12 A.A.C. 1 (Supp. 18-1).

**R9-7-1989. Reserved****Historical Note**

Section R9-7-1989 reserved when the Chapter was recodified from 12 A.A.C. 1 (Supp. 18-1).

**R9-7-1990. Reserved****Historical Note**

Section R9-7-1990 reserved when the Chapter was recodified from 12 A.A.C. 1 (Supp. 18-1).

**R9-7-1991. Reserved****Historical Note**

Section R9-7-1991 reserved when the Chapter was recodified from 12 A.A.C. 1 (Supp. 18-1).

**R9-7-1992. Reserved****Historical Note**

Section R9-7-1992 reserved when the Chapter was recodified from 12 A.A.C. 1 (Supp. 18-1).

**R9-7-1993. Reserved****Historical Note**

Section R9-7-1993 reserved when the Chapter was recodified from 12 A.A.C. 1 (Supp. 18-1).

**R9-7-1994. Reserved****Historical Note**

Section R9-7-1994 reserved when the Chapter was recodified from 12 A.A.C. 1 (Supp. 18-1).

**R9-7-1995. Reserved****Historical Note**

Section R9-7-1995 reserved when the Chapter was recodified from 12 A.A.C. 1 (Supp. 18-1).

**R9-7-1996. Reserved****Historical Note**

Section R9-7-1996 reserved when the Chapter was recodified from 12 A.A.C. 1 (Supp. 18-1).

**R9-7-1997. Reserved****Historical Note**

Section R9-7-1997 reserved when the Chapter was recodified from 12 A.A.C. 1 (Supp. 18-1).

**R9-7-1998. Reserved****Historical Note**

Section R9-7-1998 reserved when the Chapter was recodified from 12 A.A.C. 1 (Supp. 18-1).

**R9-7-1999. Reserved****Historical Note**

Section R9-7-1999 reserved when the Chapter was recodified from 12 A.A.C. 1 (Supp. 18-1).

**R9-7-19100. Reserved****Historical Note**

Section R9-7-19100 reserved when the Chapter was recodified from 12 A.A.C. 1 (Supp. 18-1).

**R9-7-19101. Form of Records**

A. Each record required by this Article shall be legible throughout the retention period specified by each Department rule. The record may be the original or a reproduced copy or a microform, provided that the copy or microform is authenticated by authorized personnel and that the microform is capable of producing a clear copy throughout the required retention period. The record may also be stored in electronic media with the capability for producing legible, accurate, and complete records during the required retention period. Records such as letters, drawings, and specifications, shall include all pertinent information such as stamps, initials, and signatures. The licensee shall maintain adequate safeguards against tampering with and loss of records.

B. The licensee who transferred the material shall retain each record of the transfer of source or byproduct material until the Department terminates each license that authorizes the activity that is subject to the recordkeeping requirement.

**Historical Note**

New Section R9-7-19101 recodified from R12-1-19101 at 24 A.A.R. 813, effective March 22, 2018 (Supp. 18-1).

Amended by final expedited rulemaking at 24 A.A.R. 2151, effective July 12, 2018 (Supp. 18-3).

**R9-7-19102. Reserved****Historical Note**

Section R9-7-19102 reserved when the Chapter was recodified from 12 A.A.C. 1 (Supp. 18-1).

**R9-7-19103. Record Retention**

Licensees shall maintain the records that are required by the rules in this Article for the period specified by the appropriate rule. If a retention period is not otherwise specified, these records shall be retained until the Department terminates the facility's license. All records related to this Article may be destroyed upon Department termination of the facility's license.

**Historical Note**

New Section R9-7-19103 recodified from R12-1-19103 at 24 A.A.R. 813, effective March 22, 2018 (Supp. 18-1).

**R9-7-19104. Reserved****Historical Note**

Section R9-7-19104 reserved when the Chapter was recodified from 12 A.A.C. 1 (Supp. 18-1).

**R9-7-19105. Inspections**

A. Each licensee shall afford to the Department, at all reasonable times, opportunity to inspect category 1 or category 2 quantities of radioactive material and the premises and facilities wherein the nuclear material is used, produced, or stored.

B. Each licensee shall make available to the Department for inspection, upon reasonable notice, records kept by the

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licensee pertaining to its receipt, possession, use, acquisition, import, export, or transfer of category 1 or category 2 quantities of radioactive material.

**Historical Note**

New Section R9-7-19105 recodified from R12-1-19105 at 24 A.A.R. 813, effective March 22, 2018 (Supp. 18-1).

**R9-7-19106. Reserved****Historical Note**

Section R9-7-19106 reserved when the Chapter was recodified from 12 A.A.C. 1 (Supp. 18-1).

**R9-7-19107. Violations**

- A. The Department may obtain an injunction or other court order to prevent a violation of the provisions of:
  1. A.R.S. § 30-685, as amended;
  2. A.A.C. Title 9, Chapter 7; or
  3. A rule or order issued by the Department pursuant to Statute or the rules under A.A.C. Title 9, Chapter 7.
- B. The Department may obtain a court order for the payment of a civil penalty imposed under A.R.S. § 30-687, as amended:
  1. For violations of:
    - a. The rules in A.A.C. Title 9, Chapter 7, as amended;
    - b. Nonpayment of fees listed in A.A.C. Title 9, Chapter 7, Article 13;

- c. Any rule, or order issued pursuant to the sections specified in subsection (B)(1)(a);
- d. Any term, condition, or limitation of any license issued under the sections specified in subsection (B)(1)(a).

2. For any violation for which a license may be revoked.

**Historical Note**

New Section R9-7-19107 recodified from R12-1-19107 at 24 A.A.R. 813, effective March 22, 2018 (Supp. 18-1).

**R9-7-19108. Reserved****Historical Note**

Section R9-7-19108 reserved when the Chapter was recodified from 12 A.A.C. 1 (Supp. 18-1).

**R9-7-19109. Criminal Penalties**

Arizona Revised Statutes § 30-673, as amended, provides for criminal sanctions for willful violation of, attempted violation of, or conspiracy to violate, any rule issued under A.A.C. Title 9, Chapter 7. For purposes of this section, all the rules in this Article are issued under A.R.S. § 30-673 or the rules of the Department.

**Historical Note**

New Section R9-7-19109 recodified from R12-1-19109 at 24 A.A.R. 813, effective March 22, 2018 (Supp. 18-1).

**Appendix A. - Table 1 - Category 1 and Category 2 Threshold**

The terabecquerel (TBq) values are the regulatory standard. The curie (Ci) values specified are obtained by converting from the TBq value. The curie values are provided for practical usefulness only.

Radioactive Material	Category 1 (TBq)	Category 1 (Ci)	Category 2 (TBq)	Category 2 (Ci)
Americium-241	60	1,620	0.6	16.2
Americium-241/Be	60	1,620	0.6	16.2
Californium-252	20	540	0.2	5.40
Cobalt-60	30	810	0.3	8.10
Curium-244	50	1,350	0.5	13.5
Cesium-137	100	2,700	1	27.0
Gadolinium-153	1,000	27,000	10	270
Iridium-192	80	2,160	0.8	21.6
Plutonium-238	60	1,620	0.6	16.2
Plutonium-239/Be	60	1,620	0.6	16.2
Promethium-147	40,000	1,080,000	400	10,800
Radium-226	40	1,080	0.4	10.8
Selenium-75	200	5,400	2	54.0
Strontium-90	1,000	27,000	10	270
Thulium-170	20,000	540,000	200	5,400
Ytterbium-169	300	8,100	3	81.0

**Note: Calculations Concerning Multiple Sources or Multiple Radionuclides**

The “sum of fractions” methodology for evaluating combinations of multiple sources or multiple radionuclides is to be used in determining whether a location meets or exceeds the threshold and is thus subject to the requirements of this part.

1. If multiple sources of the same radionuclide and/or multiple radionuclides are aggregated at a location, the sum of the ratios of the total activity of each of the radionuclides shall be determined to verify whether the activity at the location is less than the category 1 or category 2 thresholds of Table 1, as appropriate. If the calculated sum of the ratios, using the equation below, is greater than or equal to 1.0, then the applicable requirements of this part apply.
2. First determine the total activity for each radionuclide from Table 1. This is done by robaddding the activity of

each individual source, material in any device, and any loose or bulk material that contains the radionuclide. Then use the equation below to calculate the sum of the ratios by inserting the total activity of the applicable radionuclides from Table 1 in the numerator of the equation and the corresponding threshold activity from Table 1 in the denominator of the equation.

Calculations shall be performed in metric values (i.e., TBq) and the numerator and denominator values shall be in the same units.

$R1 = \text{total activity for radionuclide 1}$

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R2 = total activity for radionuclide 2  
RN = total activity for radionuclide n  
AR1 = activity threshold for radionuclide 1  
AR2 = activity threshold for radionuclide 2  
ARN = activity threshold for radionuclide n

**Historical Note**

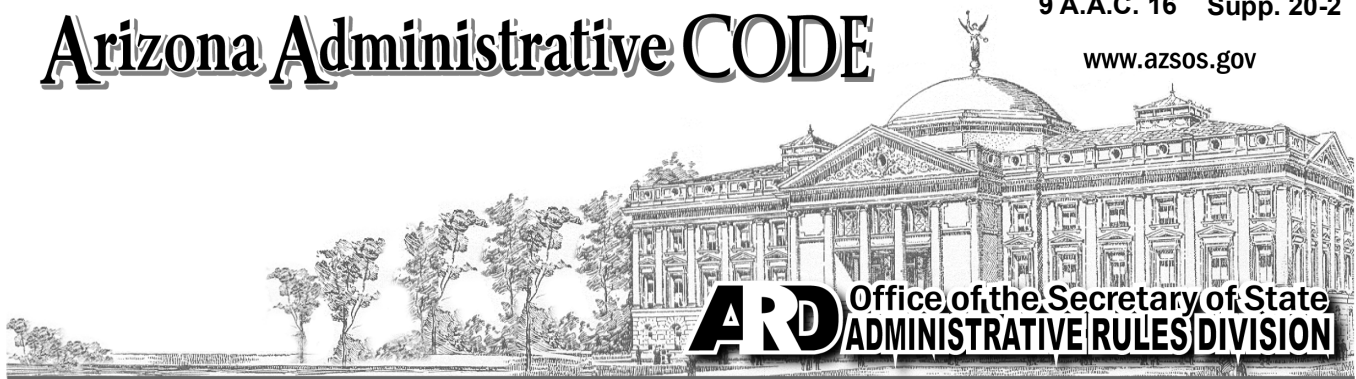
New Article 19, Appendix A, Table 1 recodified from 12  
A.A.C. 1, Article 19, Appendix A, Table 1 at 24 A.A.R.  
813, effective March 22, 2018 (Supp. 18-1).

$$\sum_{i=1}^n \left[ \frac{R1}{AR1} + \frac{R2}{AR2} + \frac{Rn}{ARN} \right] \geq 1.0$$

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## TITLE 9. HEALTH SERVICES

### CHAPTER 16. DEPARTMENT OF HEALTH SERVICES - OCCUPATIONAL LICENSING

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**The release of this Chapter in Supp. 20-2 replaces Supp. 20-1, 1-50 pages**

Please note that the Chapter you are about to replace may have rules still in effect after the publication date of this supplement. Therefore, all superseded material should be retained in a separate binder and archived for future reference.





## Administrative Rules Division

The Arizona Secretary of State electronically publishes each A.A.C. Chapter with a digital certificate. The certificate-based signature displays the date and time the document was signed and can be validated in Adobe Acrobat Reader.

**TITLE 9. HEALTH SERVICES****CHAPTER 16. DEPARTMENT OF HEALTH SERVICES - OCCUPATIONAL LICENSING****ARTICLE 1. LICENSING OF MIDWIFERY**

*Article 1, consisting of Sections R9-16-101 through R9-16-112 and Exhibits A through E, adopted effective as noted in Section Historical Notes (Supp. 94-1).*

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*Article 2, consisting of Sections R9-16-201 through R9-16-209, adopted by final rulemaking at 5 A.A.R. 4359, effective October 28, 1999 (Supp. 99-4).*

*Article 2, consisting of Sections R9-16-201 through R9-16-207 and R9-16-211 through R9-16-214, repealed effective March 14, 1994 (Supp. 94-1).*

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*Article 3, consisting of Sections R9-16-301 through R9-16-314, adopted effective June 25, 1993 (Supp. 93-1).*

*Article 3, consisting of Sections R9-16-301 through R9-16-305, repealed effective June 25, 1993 (Supp. 93-1).*

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## CHAPTER 16. DEPARTMENT OF HEALTH SERVICES - OCCUPATIONAL LICENSING

## ARTICLE 1. LICENSING OF MIDWIFERY

**R9-16-101. Definitions**

In addition to the definitions in A.R.S. § 36-751, the following definitions apply in this Article unless otherwise specified:

1. "Abnormal presentation" means the fetus is not in a head-down position with the crown of the head being the leading body part.
2. "Addiction" means a condition that results when a person ingests a substance that becomes compulsive and interferes with ordinary life responsibilities, such as work, relationships, or health.
3. "Amniotic" means the fluid surrounding the fetus while in the mother's uterus.
4. "Apgar score" means the number indicating a newborn's physical condition attained by rating selected body functions.
5. "Aseptic" means free of germs.
6. "Breech" means a complete breech, a frank breech, or an incomplete breech.
7. "Certified nurse midwife" means an individual who meets the criteria in 4 A.A.C. 19, Article 5 and is certified by the Arizona State Board of Nursing.
8. "Complete breech" means that at the time of birth the buttocks of a fetus is pointing downward with both legs folded at the knees and the feet near the buttocks.
9. "Calendar day" means each day, not including the day of the act, event, or default from which a designated period of time begins to run, but including the last day of the period unless it is a Saturday, Sunday, statewide furlough day, or legal holiday, in which case the period runs until the end of the next day that is not a Saturday, Sunday, statewide furlough day, or legal holiday.
10. "Cervix" means the narrow lower end of the uterus which protrudes into the cavity of the vagina.
11. "Consultation" means communication between a midwife and a physician or a midwife and a certified nurse midwife for the purpose of receiving a written or verbal recommendation and implementing prospective advice regarding the care of a pregnant woman or the woman's child.
12. "Current photograph" means an image of an individual, taken no more than 60 calendar days before the submission of the individual's application, in a Department-approved electronic format capable of producing an image that:
  - a. Has a resolution of at least 600 x 600 pixels but not more than 1200 x 1200 pixels;
  - b. Is 2 inches by 2 inches in size;
  - c. Is in natural color;
  - d. Is a front view of the individual's full face, without a hat or headgear that obscures the hair or hairline;
  - e. Has a plain white or off-white background; and
  - f. Has between 1 and 1 3/8 inches from the bottom of the chin to the top of the head.
13. "Dilation" means opening of the cervix during the mechanism of labor to allow for passage of the fetus.
14. "Effacement" means the gradual thinning of the cervix during the mechanism of labor and indicates progress in labor.
15. "Emergency care plan" means the arrangements established by a midwife for a client's transfer of care in a situation in which the health or safety of the client or newborn are determined to be at risk.
16. "Emergency medical services provider" has the same meaning as in A.R.S. § 36-2201.
17. "Episiotomy" means the cutting of the perineum, center, middle, or midline, in order to enlarge the vaginal opening for delivery.
18. "Fetus" means a child in utero from conception to birth.
19. "Frank breech" means that at the time of birth the buttocks of a fetus is pointing downward with both legs folded flat up against the head.
20. "Gestation" means the length of time from conception to birth, as calculated from the first day of the last normal menstrual period.
21. "Gravida" means the number of times the mother has been pregnant, including a current pregnancy, regardless of whether these pregnancies were carried to term.
22. "Incomplete breech" means that at the time of birth the buttocks of a fetus is pointing downward with one leg folded at the knee with the foot near the buttocks.
23. "Infant" has the same meaning as in A.R.S. § 36-694.
24. "Informed consent" means a document signed by a client, as provided in R9-16-109, agreeing to the provision of midwifery services.
25. "Intrapartum" means occurring from the onset of labor until after the delivery of the placenta.
26. "Jurisprudence test" means an assessment of an individual's knowledge of the:
  - a. Laws of this state concerning the reporting of births, prenatal blood tests, and newborn screening; and
  - b. Rules pertaining to the practice of midwifery.
27. "Ketones" means certain harmful chemical elements which are present in the body in excessive amounts when there is a compromised bodily function.
28. "Local registrar" means a person appointed by the state's registrar of vital statistics for a registration district whose duty includes receipt of birth and death certificates for births and deaths occurring within that district for review, registration, and transmittal to the state office of vital records according to A.R.S. Title 36, Chapter 3.
29. "Meconium" means the first bowel movement of the newborn, which is greenish black in color and tarry in consistency.
30. "Midwifery services" means health care, provided by a midwife to a mother, related to pregnancy, labor, delivery or postpartum care.
31. "Newborn" has the same meaning as in A.R.S. § 36-694.
32. "Para" means the number of births that are greater than 20 weeks of gestation, including viable and non-viable births, where multiples are counted as one birth.
33. "Parity" means the number of newborns a woman has delivered.
34. "Perineum" means the muscular region in the female between the vaginal opening and the anus.
35. "Physician" means an allopathic, an osteopathic, or a naturopathic practitioner licensed according to A.R.S. Title 32, Chapters 13, 14, or 17.
36. "Postpartum" means the six-week period following delivery of a newborn and placenta.
37. "Prenatal" means the period from conception to the onset of labor and birth.
38. "Prenatal care" means the on-going risk assessments, clinical examinations, and prenatal, nutritional, and anticipatory guidance offered to a pregnant woman.
39. "Prenatal visit" means each clinical examination of a pregnant woman for the purpose of monitoring the course of gestation and the overall health of the woman.
40. "Primigravida" means a woman who is pregnant for the first time.

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41. "Primipara" means a woman who has given birth to her first newborn.
  42. "Quickening" means the first perceptible movement of the fetus in the uterus, occurring usually in the 16th to the 20th week of gestation.
  43. "Rh" means a blood antigen.
  44. "Serious mental illness" means a condition in an individual who is 18 years of age or older and who exhibits emotional or behavioral functioning, as a result of a mental disorder as defined in A.R.S. § 36-501, that:
    - a. Is severe and persistent, resulting in a long-term limitation of their functional capacities for primary activities of daily living such as interpersonal relationships, homemaking, self-care, employment and recreation; and
    - b. Impairs or substantially interferes with the capacity of the individual to remain in the community without supportive treatment or services of a long-term or indefinite duration.
  45. "Substance abuse" means the continued use of alcohol or other drugs in spite of negative consequences.
  46. "Shoulder dystocia" means the shoulders of the fetus are wedged in the mother's pelvis in such a way that the fetus is unable to be born without emergency action.
  47. "Transfer of care" means that a midwife refers the care of a client or newborn to an emergency medical services provider, a certified nurse midwife, a hospital, or a physician who then assumes responsibility for the direct care of the client or newborn.
  48. "Working day" means a Monday, Tuesday, Wednesday, Thursday, or Friday that is not a state holiday or a state-wide furlough day.
- b. Birth certificate;
  - c. Naturalization documents; or
  - d. Documentation of legal resident alien status;
3. Documentation that demonstrates the applicant is 21 years of age or older if the documentation submitted in subsection (A)(2) does not demonstrate that the applicant is 21 years of age or older;
  4. Current documentation of completion of training in:
    - a. Adult basic cardiopulmonary resuscitation through a course recognized by the American Heart Association, and
    - b. Neonatal resuscitation through a course recognized by the American Academy of Pediatrics or American Heart Association;
  5. Documentation of a high school diploma, a high school equivalency diploma, an associate degree, or a higher degree;
  6. Documentation that the applicant is certified by the North American Registry of Midwives as a Certified Professional Midwife;
  7. A current photograph of the applicant;
  8. A non-refundable application fee of \$25; and
  9. A non-refundable testing fee of \$100 for a jurisprudence test administered by the Department.
- B.** The Department shall review an application for an initial license to practice midwifery according to R9-16-107 and Table 1.1.
- C.** If an applicant receives notification of eligibility to take the jurisprudence test, the applicant:
1. Shall take the jurisprudence test administered by the Department,
  2. Shall provide proof of identity by a government-issued photographic identification card upon the request of the individual administering the jurisprudence test,
  3. May take the jurisprudence test as many times as desired without paying an additional testing fee, and
  4. Shall score 80% or higher correct answers on the jurisprudence test to be eligible to receive an initial license to practice midwifery.
- D.** If an applicant scores 80% or higher correct answers on the jurisprudence test, the Department shall provide written notice to the applicant, within five working days after the date of the jurisprudence test, to submit to the Department:
1. A licensing fee of \$25; and
  2. The documentation required in subsection (A)(4) or (6), if the training required in subsection(A)(4) or certification required in subsection (A)(6) is not current.
- E.** The Department shall issue an initial license to practice midwifery within five working days after receiving the applicable documentation and licensing fee required in subsection (D).
- F.** The Department shall provide to an applicant a written notice of denial that complies with A.R.S. § 41-1092.03(A) and inform the applicant that the applicant may reapply under subsection (A) if the applicant does not:
1. Score 80% or higher correct answers on the jurisprudence test within 180 calendar days after the date of the notification of eligibility to take the jurisprudence test, or
  2. Submit to the Department the applicable documentation and licensing fee required in subsection (D) within 120 calendar days after the date of the notification in subsection (D).

**Historical Note**

Section repealed, new Section adopted effective March 14, 1994 (Supp. 94-1). Section amended by exempt rulemaking at 19 A.A.R. 1805, effective July 1, 2013 (Supp. 13-2).

**R9-16-102. Application for Initial Licensure**

- A.** An applicant for an initial license to practice midwifery shall submit:
1. An application in a format provided by the Department that contains:
    - a. The applicant's name, address, telephone number, and e-mail address;
    - b. The applicant's Social Security Number, as required under A.R.S. §§ 25-320 and 25-502;
    - c. Whether the applicant has ever been convicted of a felony or a misdemeanor in this or another state or jurisdiction;
    - d. If the applicant was convicted of a felony or misdemeanor:
      - i. The date of the conviction,
      - ii. The state or jurisdiction of the conviction,
      - iii. An explanation of the crime of which the applicant was convicted, and
      - iv. The disposition of the case;
    - e. Whether the applicant agrees to allow the Department to submit supplemental requests for information under R9-16-107(C)(2);
    - f. An attestation that information required as part of the application has been submitted and is true and accurate; and
    - g. The applicant's signature and date of signature;
  2. A copy of the applicant's:
    - a. U.S. passport, current or expired;

**Historical Note**

Section repealed, new Section adopted effective March 14, 1994 (Supp. 94-1). Amended by final rulemaking at 8 A.A.R. 2896, effective June 18, 2002 (Supp. 02-2). Section R9-16-102 repealed; new Section R9-16-102 renumbered.

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bered from R9-16-103 and amended by exempt rulemaking at 19 A.A.R. 1805, effective July 1, 2013 (Supp. 13-2).

**Exhibit A. Repealed****Historical Note**

Section repealed, new Section adopted effective March 14, 1994 (Supp. 94-1). Exhibit A repealed by final rulemaking at 8 A.A.R. 2896, effective June 18, 2002 (Supp. 02-2).

**R9-16-103. Renewal**

- A.** At least 30 calendar days and no more than 60 calendar days before the expiration date of a midwifery license, a midwife shall submit to the Department:
1. An application for renewal of a midwifery license in a format provided by the Department, that contains:
    - a. The midwife's name, address, telephone number, and e-mail address;
    - b. The midwife's license number;
    - c. Whether the midwife has been convicted of a felony or a misdemeanor in this or another state or jurisdiction in the previous two years;
    - d. If the midwife was convicted of a felony or misdemeanor:
      - i. The date of the conviction,
      - ii. The state or jurisdiction of the conviction,
      - iii. An explanation of the crime of which the midwife was convicted, and
      - iv. The disposition of the case;
    - e. Whether the midwife agrees to allow the Department to submit supplemental requests for information under R9-16-107(C)(2);
    - f. An attestation that the midwife has completed the continuing education requirement in R9-16-105;
    - g. An attestation that the midwife is complying with the requirements in A.R.S. § 32-3211;
    - h. An attestation that information required as part of the application has been submitted and is true and accurate; and
    - i. The midwife's signature and date of signature;
  2. Either:
    - a. Documentation that the midwife is currently certified by the North American Registry of Midwives as a Certified Professional Midwife; or
    - b. For a midwife who has been continuously licensed as a midwife by the Department since 1999, a copy of both sides of documentation showing the completion of current training in:
      - i. Adult basic cardiopulmonary resuscitation that meets the requirements in R9-16-102(A)(4)(a), and
      - ii. Neonatal resuscitation that meets the requirements in R9-16-102(A)(4)(b); and
  3. A non-refundable renewal fee of \$25.
- B.** The Department shall review an application for renewal of a license to practice midwifery according to R9-16-107 and Table 1.

**Historical Note**

Adopted effective March 14, 1994 (Supp. 94-1). Section R9-16-103 renumbered to R9-16-102; new Section R9-16-103 made by exempt rulemaking at 19 A.A.R. 1805, effective July 1, 2013 (Supp. 13-2).

**Exhibit B. Repealed****Historical Note**

Adopted effective March 14, 1994 (Supp. 94-1). Exhibit B repealed by exempt rulemaking at 19 A.A.R. 1805, effective July 1, 2013 (Supp. 13-2).

**Exhibit C. Repealed****Historical Note**

Adopted effective March 14, 1994 (Supp. 94-1). Exhibit C repealed by exempt rulemaking at 19 A.A.R. 1805, effective July 1, 2013 (Supp. 13-2).

**R9-16-104. Administration**

- A.** A midwife may submit a written request for the Department to:
1. Add the midwife's name, address, and telephone number to a list of licensed midwives on the Department's website; or
  2. Remove the midwife's name, address, and telephone number from a list of licensed midwives on the Department's website.
- B.** A midwife shall:
1. Notify the Department in a format provided by the Department within five working days after:
    - a. A client has died while under the midwife's care,
    - b. A stillborn child has been delivered by the midwife, or
    - c. A newborn delivered by the midwife has died within the first 6 weeks after birth; and
  2. Provide a summary of the:
    - a. Circumstances leading up to the event, and
    - b. Actions taken by the midwife in response to the event.
- C.** A midwife shall:
1. Maintain documentation of:
    - a. Completion of current training in:
      - i. Adult basic cardiopulmonary resuscitation that meets the requirements in R9-16-102(A)(4)(a), and
      - ii. Neonatal resuscitation that meets the requirements in R9-16-102(A)(4)(b);
    - b. Except as provided in R9-16-103(A)(2)(b), current certification as a Certified Professional Midwife by the North American Registry of Midwives; and
    - c. The continuing education required in subsection R9-16-105 for at least the previous three years; and
  2. Provide a copy of documentation required in subsection (C)(1) to the Department within 2 working days after the Department's request.

**Historical Note**

Adopted effective March 14, 1994 (Supp. 94-1). Section repealed; new Section made by exempt rulemaking at 19 A.A.R. 1805, effective July 1, 2013 (Supp. 13-2).

**R9-16-105. Continuing Education**

During the term of a midwifery license, the midwife shall obtain at least 20 continuing education units that:

1. Improve the midwife's ability to:
  - a. Provide services within the midwife's scope of practice,
  - b. Recognize and respond to situations outside the midwife's scope of practice, or
  - c. Provide guidance to other services a client may need; and
2. Have been approved as applicable to the practice of midwifery by the:
  - a. American Nurses Association,

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- b. American Congress of Obstetrics and Gynecologists,
- c. Midwives Alliance of North America,
- d. Arizona Medical Association,
- e. American College of Nurse Midwives,
- f. Midwifery Education Accreditation Council, or
- g. Another health professional organization.

**Historical Note**

Adopted effective March 14, 1994, except for subsections (B)(3) and (C) which are effective September 15, 1994 (Supp. 94-1). Section repealed; new Section made by exempt rulemaking at 19 A.A.R. 1805, effective July 1, 2013 (Supp. 13-2).

**Exhibit D. Repealed****Historical Note**

Adopted effective March 14, 1994 (Supp. 94-1). Exhibit D repealed by exempt rulemaking at 19 A.A.R. 1805, effective July 1, 2013 (Supp. 13-2).

**R9-16-105.01. Repealed****Historical Note**

New Section made by final rulemaking at 8 A.A.R. 2896, effective June 18, 2002 (Supp. 02-2). Section repealed by exempt rulemaking at 19 A.A.R. 1805, effective July 1, 2013 (Supp. 13-2).

**Table 1. Repealed****Historical Note**

Table 1 made by final rulemaking at 8 A.A.R. 2896, effective June 18, 2002 (Supp. 02-2). Table 1 repealed by exempt rulemaking at 19 A.A.R. 1805, effective July 1, 2013 (Supp. 13-2).

**R9-16-106. Name Change; Duplicate License**

- A. To request a name change on a midwifery license or a duplicate midwifery license, a midwife shall submit in writing to the Department:
  - 1. The midwife's name on the current midwifery license;
  - 2. If applicable, the midwife's new name;
  - 3. The midwife's address, license number, and e-mail address;
  - 4. As applicable:
    - a. Documentation supporting the midwife's name change, or
    - b. A statement that the midwife is requesting a duplicate midwifery license; and
  - 5. A non-refundable fee of \$10.00.
- B. Upon receipt of the written request required in subsection (A), the Department shall issue, as applicable:
  - 1. An amended midwifery license that incorporates the name change but retains the expiration date of the midwifery license, or
  - 2. A duplicate midwifery license.

**Historical Note**

Adopted effective March 14, 1994 (Supp. 94-1). Section R9-16-106 renumbered to R9-16-108; new Section R9-16-106 made by exempt rulemaking at 19 A.A.R. 1805, effective July 1, 2013 (Supp. 13-2).

**R9-16-107. Time-frames**

- A. The overall time-frame described in A.R.S. § 41-1072(2) for each type of license granted by the Department is specified in Table 1.1. The applicant or midwife and the Department may agree in writing to extend the substantive review time-frame

and the overall time-frame. The substantive review time-frame and the overall time-frame may not be extended by more than 25 percent of the overall time-frame.

- B. The administrative completeness review time-frame described in A.R.S. § 41-1072(1) for each type of license granted by the Department is specified in Table 1.1.

- 1. The administrative completeness review time-frame begins:

- a. For an applicant submitting an application for initial licensure, when the Department receives the application packet required in R9-16-102(A); and
- b. For a licensed midwife applying to renew a midwifery license, when the Department receives the application packet required in R9-16-103(A).

- 2. If an application is incomplete, the Department shall provide a notice of deficiencies to the applicant or midwife describing the missing documentation or incomplete information. The administrative completeness review time-frame and the overall time-frame are suspended from the date of the notice until the date the Department receives the documentation or information listed in the notice of deficiencies. An applicant or midwife shall submit to the Department the documentation or information listed in the notice of deficiencies within the time specified in Table 1.1 for responding to a notice of deficiencies.

- 3. If the applicant or midwife submits the documentation or information listed in the notice of deficiencies within the time specified in Table 1.1, the Department shall provide a written notice of administrative completeness to the applicant or midwife.

- 4. If the applicant or midwife does not submit the documentation or information listed in the notice of deficiencies within the time specified in Table 1.1, the Department shall consider the application withdrawn.

- 5. When an application is complete the Department shall provide a notice of administrative completeness to the applicant or midwife.

- 6. If the Department issues a notice of eligibility to take the jurisprudence test or a license during the administrative completeness review time-frame, the Department shall not issue a separate written notice of administrative completeness.

- C. The substantive review time-frame described in A.R.S. § 41-1072(3) is specified in Table 1.1 and begins on the date of the notice of administrative completeness.

- 1. If an application complies with the requirements in this Article and A.R.S. Title 36, Chapter 6, Article 7, the Department shall issue a notice of eligibility to take the jurisprudence test to an applicant or a license to a midwife.

- 2. If an application does not comply with the requirements in this Article or A.R.S. Title 36, Chapter 6, Article 7, the Department shall make one comprehensive written request for additional information, unless the applicant or midwife has agreed in writing to allow the Department to submit supplemental requests for information. The substantive review time-frame and the overall time-frame are suspended from the date that the Department sends a comprehensive written request for additional information or a supplemental request for information until the date that the Department receives all of the information requested.

- 3. An applicant or midwife shall submit to the Department all of the information requested in a comprehensive written request for additional information or a supplemental

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request for information within the time specified in Table 1.1.

4. If the applicant or midwife does not submit the additional information within the time specified in Table 1.1 or the additional information submitted by the applicant or midwife does not demonstrate compliance with this Article and A.R.S. Title 36, Chapter 6, Article 7, the Department shall provide to the applicant a written notice of denial that complies with A.R.S. § 41-1092.03(A).
5. If the applicant or midwife submits the additional information within the time specified in Table 1.1 and the

additional information submitted by the applicant or midwife demonstrates compliance with this Article and A.R.S. Title 36, Chapter 6, Article 7, the Department shall issue a notice of eligibility to take the jurisprudence test to an applicant or a license to a midwife.

**Historical Note**

Adopted effective March 14, 1994 (Supp. 94-1). Section R9-16-107 renumbered to R9-16-115; new Section R9-16-107 made by exempt rulemaking at 19 A.A.R. 1805, effective July 1, 2013 (Supp. 13-2).

**Table 1.1. Time-frames (in calendar days)**

Type of Approval	Statutory Authority	Overall Time-Frame	Administrative Completeness Review Time-Frame	Time to Respond to Notice of Deficiency	Substantive Review Time-Frame	Time to Respond to Comprehensive Written Request
Eligibility for Jurisprudence Test (R9-16-102)	A.R.S. §§ 36-753, 36-754, and 36-755	30	15	60	15	30
Midwifery License Renewal (R9-16-103)	A.R.S. § 36-754	30	15	30	15	15

**Historical Note**

Table 1.1 made by exempt rulemaking at 19 A.A.R. 1805, effective July 1, 2013 (Supp. 13-2).

**Exhibit E. Repealed****Historical Note**

Adopted effective March 14, 1994 (Supp. 94-1).  
Amended to correct printing errors (Supp. 99-4). Exhibit E repealed by exempt rulemaking at 19 A.A.R. 1805, effective July 1, 2013 (Supp. 13-2).

**R9-16-108. Responsibilities of a Midwife; Scope of Practice**

- A. A midwife shall provide midwifery services only to a healthy woman, determined through a physical assessment and review of the woman's obstetrical history, whose expected outcome of pregnancy is most likely to be the delivery of a healthy newborn and an intact placenta.
- B. Except as provided in R9-16-111(C) or (D), a midwife who is certified by the North American Registry of Midwives as a Certified Professional Midwife may accept a client for a vaginal delivery:
  1. After prior Cesarean section, or
  2. Of a fetus in a complete breech or frank breech presentation.
- C. Before providing services to a client, a midwife shall:
  1. Inform a client, both orally and in writing, of:
    - a. The midwife's scope of practice, educational background, and credentials;
    - b. If applicable to the client's condition, the midwife's experience with:
      - i. Vaginal birth after prior Cesarean section delivery, or
      - ii. Delivery of a fetus in a complete breech or frank breech presentation;
    - c. The potential risks; adverse outcomes; neonatal or maternal complications, including death; and alternatives associated with an at-home delivery specific to the client's condition, including the conditions described in subsection (C)(1)(b);
    - d. The requirement for tests specified in subsections (I) and (K)(4)(c), and the potential risks for declining a test, and, if a test is declined, the need for a written assertion of a client's decision to decline testing;
  - e. The requirement for consultation for a condition specified in R9-16-112; and
  - f. The requirement for the transfer of care for a condition specified in R9-16-111; and
2. Obtain a written informed consent for midwifery services according to R9-16-109.
- D. A midwife shall establish an emergency care plan for the client that includes:
  1. The name, address, and phone number of:
    - a. The hospital closest to the birthing location that provides obstetrical services, and
    - b. An emergency medical services provider that provides service between the birthing location and the hospital identified in subsection (D)(1)(a);
  2. The hospital identified in subsection (D)(1)(a) is within 25 miles of the birthing location for a delivery identified in subsection (B);
  3. The signature of the client and the date signed; and
  4. The signature of the midwife and the date signed.
- E. A midwife shall ensure the client receives a copy of the emergency care plan required in subsection (D).
- F. A midwife shall implement the emergency care plan by immediately calling the emergency medical services provider identified in subsection (D)(1)(b) for any condition that threatens the life of the client or the client's child.
- G. A midwife shall maintain all instruments used for delivery in an aseptic manner and other birthing equipment and supplies in clean and good condition.
- H. A midwife shall assess a client's physical condition in order to establish the client's continuing eligibility to receive midwifery services.
- I. During the prenatal period, the midwife shall:
  1. Until October 1, 2013, schedule or arrange for the following tests for the client within 28 weeks gestation:
    - a. Blood type, including ABO and Rh, with antibody screen;
    - b. Urinalysis;
    - c. HIV;
    - d. Hepatitis B;

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- e. Hepatitis C;
  - f. Syphilis as required in A.R.S. § 36-693;
  - g. Rubella titer;
  - h. Chlamydia; and
  - i. Gonorrhea;
2. Until October 1, 2013, schedule or arrange for the following tests for the client:
    - a. A blood glucose screening test for diabetes completed between 24 and 28 weeks of gestation;
    - b. A hematocrit and hemoglobin or complete blood count test completed between 28 and 36 weeks of gestation;
    - c. A vaginal-rectal swab for Group B Strep Streptococcus culture completed between 35 and 37 weeks of gestation;
    - d. At least one ultrasound and recommended follow-up testing to determine placental location and risk for placenta previa and placenta accrete; and
    - e. An ultrasound at 36-37 weeks gestation to confirm fetal presentation and estimated fetal weight for a breech pregnancy;
  3. As of October 1, 2013, except as provided in R9-16-110, ensure that the tests in subsection (I)(1) are completed by the client within 28 weeks gestation;
  4. As of October 1, 2013, except as provided in R9-16-110, ensure that the tests in subsection (I)(2) are completed by the client;
  5. Conduct a prenatal visit at least once every 4 weeks until the beginning of 28 weeks of gestation, once every 2 weeks from the beginning of 28 weeks until the end of 36 weeks of gestation, and once a week after 36 weeks of gestation that includes:
    - a. Taking the client's weight, urinalysis for protein, nitrites, glucose and ketones; blood pressure; and assessment of the lower extremities for swelling;
    - b. Measurement of the fundal height and listening for fetal heart tones and, later in the pregnancy, feeling the abdomen to determine the position of the fetus;
    - c. Documentation of fetal movement beginning at 28 weeks of gestation;
    - d. Document of:
      - i. The occurrence of bleeding or invasive uterine procedures, and
      - ii. Any medications taken during the pregnancy that are specific to the needs of an Rh negative client;
    - e. Referral of a client for lab tests or other assessments, if applicable, based upon examination or history; and
    - f. Recommendation of administration of the drug RhoGam to unsensitized Rh negative mothers after 28 weeks, or any time bleeding or invasive uterine procedures are done, or midwife administration of RhoGam under a physician's written orders;
  6. Monitor fetal heart tones with fetoscope and document the client's report of first quickening, between 18 and 20 weeks of gestation;
  7. Conduct weekly visits until signs of first quickening have occurred if first quickening has not been reported by 20 weeks of gestation;
  8. Initiate a consultation if first quickening has not occurred by the end of 22 weeks of gestation; and
  9. Conduct a prenatal visit of the birthing location before the end of 35 weeks of gestation to ensure that the birthing environment is appropriate for birth and that communication is available to the hospital and emergency medical services provider identified in subsection (D)(1).
- J. During the intrapartum period, a midwife shall:**
1. Determine if the client is in labor and the appropriate course of action to be taken by:
    - a. Assessing the interval, duration, intensity, location, and pattern of the contractions;
    - b. Determining the condition of the membranes, whether intact or ruptured, and the amount and color of fluid;
    - c. Reviewing with the client the need for an adequate fluid intake, relaxation, activity, and emergency management; and
    - d. Deciding whether to go to client's home, remain in telephone contact, or arrange for transfer of care or consultation;
  2. Contact the hospital identified in subsection (D)(1)(a) according to the policies and procedures established by the hospital regarding communication with midwives when the client begins labor and ends labor;
  3. During labor, assess the condition of the client and fetus upon initial contact, every half hour in active labor until completely dilated, and every 15 to 20 minutes during pushing, following rupture of the amniotic bag, or until the newborn is delivered, including:
    - a. Initial physical assessment and checking of vital signs every 2 to 4 hours of the client;
    - b. Assessing fetal heart tones every 30 minutes in active first stage labor, and every 15 minutes during second stage, following rupture of the amniotic bag, or with any significant change in labor patterns;
    - c. Periodically assessing contractions, fetal presentation, dilation, effacement, and fetal position by vaginal examination;
    - d. Maintaining proper fluid balance for the client throughout labor as determined by urinary output and monitoring urine for presence of ketones; and
    - e. Assisting in support and comfort measures to the client and family;
  4. For deliveries described in subsection (B), during labor determine:
    - a. For primiparas, the progress of active labor by monitoring whether dilation occurs at an average of 1 centimeter per hour until completely dilated, and a second stage does not exceed 2 hours, if applicable;
    - b. Normal progress of active labor for multigravidas by monitoring whether dilation occurs at an average of 1.5 to 2 centimeters per hour until completely dilated, and a second stage does not exceed 1 hour, if applicable; or
    - c. The progress of active labor according to the Management Guidelines recommended by the American Congress of Obstetricians and Gynecologists;
  5. After delivery of the newborn:
    - a. Assess the newborn at 1 minute and 5 minutes to determine the Apgar scores;
    - b. Physically assess the newborn for any abnormalities;
    - c. Inspect the client's perineum, vagina, and cervix for lacerations;
    - d. Deliver the placenta within 1 hour and assess the client for signs of separation, frank or occult bleeding; and
    - e. Examine the placenta for intactness and to determine the number of umbilical cord vessels; and
  6. Recognize and respond to any situation requiring immediate intervention.



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**K.** During the postpartum period, the midwife shall:

1. During the 2 hours after delivery of the placenta, provide the following care to the client:
  - a. Every 15 to 20 minutes for the first hour and every 30 minutes for the second hour:
    - i. Take vital signs of the client,
    - ii. Perform external massage of the uterus, and
    - iii. Evaluate bleeding;
  - b. Assist the client to urinate within 2 hours following the birth, if applicable;
  - c. Evaluate the perineum, vagina, and cervix for tears, bleeding, or blood clots;
  - d. Assist with maternal newborn and infant bonding;
  - e. Assist with initial breast feeding, instructing the client in the care of the breast, and reviewing potential danger signs, if appropriate;
  - f. Provide instruction to the family about adequate fluid and nutritional intake, rest, and the types of exercise allowed, normal and abnormal bleeding, bladder and bowel function, appropriate baby care, signs and symptoms of postpartum depression, and any symptoms that may pose a threat to the health or life of the client or the client's newborn and appropriate emergency phone numbers;
  - g. Recommend or administer under physician's written orders, the drug RhoGam to an unsensitized Rh-negative mother who delivers an Rh-positive newborn. Administration shall occur not later than 72 hours after birth; and
  - h. Document any medications taken by the client in the client's record to an unsensitized Rh-negative client who delivers an Rh-positive newborn;
2. During the 2 hours after delivery of the placenta, provide the following care to the newborn:
  - a. Perform a newborn physical exam to determine the newborn's gestational age and any abnormalities;
  - b. Comply with the requirements in A.A.C. R9-6-332;
  - c. Recommend or administer Vitamin K under physician's written orders to the newborn. Administration shall occur not later than 72 hours after birth; and
  - d. Document the administration of any medications or vitamins to the newborn in the newborn's record according to the physician's written orders;
3. Evaluate the client or newborn for any abnormal or emergency situation and seek consultation or intervention, if applicable, according to these rules; and
4. Re-evaluate the condition of the client and newborn between 24 and 72 hours after delivery to determine whether the recovery is following a normal course, including:
  - a. Assessing baseline indicators such as the client's vital signs, bowel and bladder function, bleeding, breasts, feeding of the newborn, sleep/rest cycle, activity with any recommendations for change;
  - b. Assessing baseline indicators of well-being in the newborn such as vital signs, weight, cry, suck and feeding, fontanel, sleeping, and bowel and bladder function with documentation of meconium, and providing any recommendations for changes made to the family;
  - c. Submitting blood obtained from a heel stick to the newborn to the state laboratory for screening according to A.R.S. § 36-694(B) and 9 A.A.C. 13, Article 2, unless a written refusal is obtained from the client and documented in the client's record and the newborn's record; and

- d. Recommending to the client that the client secure medical follow-up for her newborn.

- L.** A midwife shall file a birth certificate with the local registrar within seven calendar days after the birth of the newborn.
- M.** Subsections (B), (C)(1)(b), (C)(1)(d) and (J)(2) and (4) are effective July 1, 2014.

**Historical Note**

Adopted effective March 14, 1994 (Supp. 94-1). R9-16-108 renumbered to R9-16-111; new Section R9-16-108 renumbered from R9-16-106 and amended by exempt rulemaking at 19 A.A.R. 1805, effective July 1, 2013 (Supp. 13-2).

**R9-16-109. Informed Consent for Midwifery Services**

- A.** A midwife shall obtain a written informed consent for midwifery services in a format provided by the Department that contains:
  1. The midwife's:
    - a. Name,
    - b. Telephone number,
    - c. License number, and
    - d. E-mail address;
  2. The client's:
    - a. Name;
    - b. Address;
    - c. Telephone number;
    - d. Date of birth; and
    - e. E-mail address, if applicable;
  3. An attestation that the client was:
    - a. Provided the information required in R9-16-108(C)(1);
    - b. Informed of the emergency care plan as required in R9-16-108(D); and
    - c. Given an opportunity to have questions answered, have an understanding of the information provided, and choose to continue with midwifery services; and
  4. The signatures of the client and midwife and date signed.
- B.** A midwife shall ensure that the written informed consent for midwifery services is placed in the client file.
- C.** A midwife shall ensure that a copy of the written informed consent for midwifery services is provided to the:
  1. Client, and
  2. Department within five calendar days after a Department request.
- D.** This Section is effective October 1, 2013.

**Historical Note**

Adopted effective March 14, 1994 (Supp. 94-1). R9-16-109 renumbered to R9-16-112; new Section R9-16-109 made by exempt rulemaking at 19 A.A.R. 1805, effective July 1, 2013 (Supp. 13-2). Manifest typographical errors corrected in subsections (A)(3)(a) and (b) to rule Section reference of incorrect Chapter number; request made by department at file number R13-232 (Supp. 13-3).

**R9-16-110. Assertion to Decline Required Tests**

- A.** Except for R9-16-108(I)(1)(f), if the client declines a test required in R9-16-108(I)(3) and (4), a midwife shall obtain a written assertion of a client's decision to decline a required test in a format provided by the Department, that contains:
  1. The midwife's:
    - a. Name,
    - b. Telephone number,
    - c. License number, and
    - d. E-mail address;
  2. The client's:
    - a. Name;

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- b. Address;
    - c. Telephone number;
    - d. Date of birth; and
    - e. E-mail address, if applicable;
  - 3. The required test being declined by the client;
  - 4. Additional information as required by the Department;
  - 5. An attestation that the client:
    - a. Was provided the information as required in R9-16-108(C)(1)(d), and
    - b. Is declining testing; and
  - 6. The signatures of the client and midwife and date signed.
  - B.** A midwife shall ensure that the written assertion of the decision to decline a test is placed in the client file.
  - C.** A midwife shall ensure that a copy of the written assertion of the decision to decline a test is provided to the:
    - 1. Client, and
    - 2. Department within five calendar days after a Department request.
  - D.** This Section is effective October 1, 2013.
- Historical Note**
- Adopted effective March 14, 1994 (Supp. 94-1). R9-16-110 renumbered to R9-16-113; new Section R9-16-110 made by exempt rulemaking at 19 A.A.R. 1805, effective July 1, 2013 (Supp. 13-2). Manifest typographical error corrected in subsection (A)(5)(a) to rule Section reference of incorrect Chapter number; request made by department at file number R13-232 (Supp. 13-3).
- R9-16-111. Prohibited Practice; Transfer of Care**
- A.** A midwife shall not provide midwifery services in a location that has the potential to cause harm to the client or the client's child.
  - B.** A midwife shall not accept for midwifery services or continue midwifery services for a client who has or develops any of the following:
    - 1. A previous surgery that involved:
      - a. An incision in the uterus, except as provided in R9-16-108(B)(1); or
      - b. A previous uterine surgery that enters the myometrium;
    - 2. Multiple fetuses;
    - 3. Placenta previa or placenta accreta;
    - 4. A history of severe postpartum bleeding, of unknown cause, which required transfusion;
    - 5. Deep vein thrombosis or pulmonary embolism;
    - 6. Uncontrolled gestational diabetes;
    - 7. Insulin-dependent diabetes;
    - 8. Hypertension;
    - 9. Rh disease with positive titers;
    - 10. Active:
      - a. Tuberculosis;
      - b. Syphilis;
      - c. Genital herpes at the onset of labor;
      - d. Hepatitis until treated and recovered, following which midwifery services may resume; or
      - e. Gonorrhea until treated and recovered, following which midwifery services may resume;
    - 11. Preeclampsia or eclampsia persisting after the second trimester;
    - 12. A blood pressure of 140/90 or an increase of 30 millimeters of Mercury systolic or 15 millimeters of Mercury diastolic over the client's lowest baseline blood pressure for two consecutive readings taken at least six hours apart;
    - 13. A persistent hemoglobin level below 10 grams or a hematocrit below 30 during the third trimester;
    - 14. A pelvis that will not safely allow a baby to pass through during labor;
    - 15. A serious mental illness;
    - 16. Evidence of substance abuse, including six months prior to pregnancy, to one of the following, evident during an assessment of a client:
      - a. Alcohol,
      - b. Narcotics, or
      - c. Other drugs;
    - 17. Except as provided in R9-16-108(B)(2), a fetus with an abnormal presentation;
    - 18. Labor beginning before the beginning of 36 weeks gestation;
    - 19. A progression of labor that does not meet the requirements of R9-16-108(J)(4), if applicable;
    - 20. Gestational age greater than 34 weeks with no prior prenatal care;
    - 21. A gestation beyond 42 weeks;
    - 22. Presence of ruptured membranes without onset of labor within 24 hours;
    - 23. Abnormal fetal heart rate consistently less than 120 beats per minute or more than 160 beats per minute;
    - 24. Presence of thick meconium, blood-stained amniotic fluid, or abnormal fetal heart tones;
    - 25. A postpartum hemorrhage of greater than 500 milliliters in the current pregnancy; or
    - 26. A non-bleeding placenta retained for more than 60 minutes.
  - C.** A midwife shall not perform a vaginal delivery after prior Cesarean section for a client who:
    - 1. Had:
      - a. More than one previous Cesarean section;
      - b. A previous Cesarean section:
        - i. With a classical, vertical, or unknown uterine incision;
        - ii. Within 18 months before the expected delivery;
        - iii. With complications, including uterine infection; or
        - iv. Due to failure to progress as a result of cephalopelvic insufficiency; or
      - c. Complications during a previous vaginal delivery after a Cesarean section; or
    - 2. Has a fetus:
      - a. With fetal anomalies, confirmed by an ultrasound; or
      - b. In a breech presentation.
  - D.** A midwife shall not perform a vaginal delivery of a fetus in a breech presentation for a client who:
    - 1. Had a previous:
      - a. Unsuccessful vaginal delivery or other demonstration of an inadequate maternal pelvis, or
      - b. Cesarean section; or
    - 2. Has a fetus:
      - a. With fetal anomalies, confirmed by an ultrasound;
      - b. With an estimated fetal weight less than 2500 grams or more than 3800 grams; or
      - c. In an incomplete breech presentation.
  - E.** If the client has any of the conditions in subsections (B) through (D), a midwife shall:
    - 1. Document the condition in the client record, and
    - 2. Initiate transfer of care.
  - F.** A midwife shall not perform any operative procedures except as provided in R9-16-113.
  - G.** A midwife shall not:
    - 1. Use any artificial, forcible, or mechanical means to assist birth; or

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2. Attempt to correct fetal presentations by external or internal movement of the fetus.
- H.** A midwife shall not administer drugs or medications except as provided in R9-16-108(I)(5)(f), (K)(1)(g), (K)(2)(c), or R9-16-113.
- I.** Except as provided in R9-16-113, a midwife shall:
  1. Discontinue midwifery services and transfer care of a newborn in which any of the following conditions are present:
    - a. Birth weight less than 2000 grams;
    - b. Pale, blue, or gray color after 10 minutes;
    - c. Excessive edema;
    - d. Major congenital anomalies; or
    - e. Respiratory distress; and
  2. Document the condition in subsection (I)(1) in the newborn record.

**Historical Note**

Adopted effective March 14, 1994 (Supp. 94-1). R9-16-111 renumbered to R9-16-116; new Section R9-16-111 renumbered from R9-16-108 and amended by exempt rulemaking at 19 A.A.R. 1805, effective July 1, 2013 (Supp. 13-2).

**R9-16-112. Required Consultation**

- A.** A midwife shall obtain a consultation at the time a client is determined to have any of the following during the current pregnancy:
  1. A positive culture for Group B Streptococcus;
  2. History of seizure disorder;
  3. History of stillbirth, premature labor, or parity greater than 5;
  4. Age younger than 16 years;
  5. A primigravida older than 40 years of age;
  6. Failure to auscultate fetal heart tones by the beginning of 22 weeks gestation;
  7. Failure to gain 12 pounds by the beginning of 30 weeks gestation or gaining more than 8 pounds in any two-week period during pregnancy;
  8. Greater than 1+ sugar, ketones, or protein in the urine on two consecutive visits;
  9. Excessive vomiting or continued vomiting after the end of 20 weeks gestation;
  10. Symptoms of decreased fetal movement;
  11. A fever of 100.4° F or 38° C or greater measured twice at 24 hours apart;
  12. Tender uterine fundus;
  13. Effacement or dilation of the cervix, greater than a fingertip, accompanied by contractions, prior to the beginning of 36 weeks gestation;
  14. Measurements for fetal growth that are not within 2 centimeters of the gestational age;
  15. Second degree or greater lacerations of the birth canal;
  16. Except as provided in R9-16-111(B)(19), an abnormal progression of labor;
  17. An unengaged head at 7 centimeters dilation in active labor;
  18. Failure of the uterus to return to normal size in the current postpartum period;
  19. Persistent shortness of breath requiring more than 24 breaths per minute, or breathing which is difficult or painful;
  20. Gonorrhea;
  21. Chlamydia;
  22. Syphilis;
  23. Heart disease;
  24. Kidney disease;

25. Blood disease; or
26. A positive test result for:
  - a. HIV,
  - b. Hepatitis B, or
  - c. Hepatitis C.

- B.** A midwife shall obtain a consultation at the time a newborn demonstrates any of the following conditions:
  1. Weight less than 2500 grams or 5 pounds, 8 ounces;
  2. Congenital anomalies;
  3. An Apgar score less than 7 at 5 minutes;
  4. Persistent breathing at a rate of more than 60 breaths per minute;
  5. An irregular heartbeat;
  6. Persistent poor muscle tone;
  7. Less than 36 weeks gestation or greater than 42 weeks gestation by gestational exam;
  8. Yellowish-colored skin within 48 hours;
  9. Abnormal crying;
  10. Meconium staining of the skin;
  11. Lethargy;
  12. Irritability;
  13. Poor feeding;
  14. Excessively pink coloring over the entire body;
  15. Failure to urinate or pass meconium in the first 24 hours of life;
  16. A hip examination which results in a clicking or incorrect angle;
  17. Skin rashes not commonly seen in the newborn; or
  18. Temperature persistently above 99.0° or below 97.6° F.
- C.** The midwife shall inform the client of the consultation required in subsections (A) or (B) and recommendations of the physician or certified nurse midwife.
- D.** The midwife shall document the consultation required in subsections (A) or (B) and recommendations received in the client record or newborn record.

**Historical Note**

Adopted effective March 14, 1994 (Supp. 94-1). Section expired under A.R.S. § 41-1056(E) at 7 A.A.R. 5029, effective September 30, 2001 (Supp. 01-4). New Section R9-16-112 renumbered from R9-16-109 and amended by exempt rulemaking at 19 A.A.R. 1805, effective July 1, 2013 (Supp. 13-2).

**R9-16-113. Emergency Measures**

- A.** In an emergency situation in which the health or safety of the client or newborn are determined to be at risk, a midwife:
  1. Shall ensure that an emergency medical services provider is called; and
  2. May perform the following procedures as necessary:
    - a. Cardiopulmonary resuscitation of the client or newborn with a bag and mask;
    - b. Administration of oxygen at no more than 8 liters per minute via mask for the client and 5 liters per minute for the newborn via neonatal mask;
    - c. Episiotomy to expedite the delivery during fetal distress;
    - d. Suturing of episiotomy or tearing of the perineum to stop active bleeding, following administration of local anesthetic, contingent upon consultation with a physician or certified nurse midwife, or physician's written orders;
    - e. Release of shoulder dystocia by utilizing:
      - i. Hyperflexion of the client's legs to the abdomen,
      - ii. Application of external pressure suprapubically,

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- iii. Rotation of the nonimpacted shoulder until the impacted shoulder is released,
  - iv. Delivery of the posterior shoulder,
  - v. Application of posterior pressure on the anterior shoulder, or
  - vi. Positioning of the client on all fours with the back arched;
  - f. Manual exploration of the uterus for control of severe bleeding; or
  - g. Manual removal of placenta.
- B.** A licensed midwife may administer a maximum dose of 20 units of pitocin intramuscularly, in 10-unit dosages each, 30 minutes apart, to a client for the control of postpartum hemorrhage, contingent upon physician or certified nurse midwife consultation and written orders by a physician, and arrangements for immediate transport of the client to a hospital.
- C.** A midwife shall document in the client's record any medications taken by a client for the control of postpartum hemorrhage.
- 6. Whether the client required transfer of care and, if applicable:
    - a. Method of transport,
    - b. Type of facility or individual to which the midwife transferred care of the client,
    - c. Name of destination,
    - d. Time arrived at destination,
    - e. Confirmation the emergency care plan was utilized, and
    - f. Medical reason for transfer of care;
  - 7. The date midwifery services were terminated;
  - 8. Reason for the termination of midwifery services;
  - 9. If termination of midwifery services was due to a medical condition, the specific medical condition;
  - 10. Whether information was provided on newborn screening; and
  - 11. Whether newborn screening tests were ordered as required in A.R.S. § 36-694.
- B.** The midwife shall submit a midwife report for a client to the Department within 30 calendar days after the termination of midwifery services to the client.

**Historical Note**

New Section R9-16-113 renumbered from R9-16-110 and amended by exempt rulemaking at 19 A.A.R. 1805, effective July 1, 2013 (Supp. 13-2).

**R9-16-114. Midwife Report after Termination of Midwifery Services**

- A.** A midwife shall complete a midwife report for each client, in a format provided by the Department, that includes the following:
- 1. The midwife's:
    - a. First name,
    - b. Last name, and
    - c. License number;
  - 2. The client's:
    - a. Date of birth;
    - b. Client number;
    - c. Date of last menstrual period;
    - d. Estimated date of delivery;
    - e. Gravida (number);
    - f. Para (number); and
    - g. If applicable, whether the client had a vaginal delivery after prior Cesarean section or vaginal delivery of a fetus in a complete breech or frank breech presentation;
  - 3. A description of the maternal outcome, including any complications;
  - 4. If a vaginal delivery after prior Cesarean section or vaginal delivery of a fetus in a complete breech or frank breech presentation:
    - a. Rate of dilation, and
    - b. Duration of second stage labor;
  - 5. If applicable, the newborn's:
    - a. Date of birth;
    - b. Gender;
    - c. Weight;
    - d. Length;
    - e. Head circumference;
    - f. Designation of average, small, or large for gestational age;
    - g. Apgar score at 1 minute;
    - h. Apgar score at 5 minutes;
    - i. Existence of complications;
    - j. Description of complications, if applicable;
    - k. Birth certificate filing date; and
    - l. Birth certificate number, if available;

**Historical Note**

Section made by exempt rulemaking at 19 A.A.R. 1805, effective July 1, 2013 (Supp. 13-2).

**R9-16-115. Client and Newborn Records**

- A.** A midwife shall ensure that a record is established and maintained according to A.R.S. §§ 12-2291 and 12-2297 for each:
- 1. Client, and
  - 2. Newborn delivered by the midwife from a client.
- B.** A midwife shall ensure that a record for each client includes the following:
- 1. The client's full name, date of birth, address, and client number;
  - 2. Names, addresses, and telephone numbers of the client's spouse or other individuals designated by the client to be contacted in an emergency;
  - 3. Written informed consent for midwifery services, as required in R9-16-108(C)(2);
  - 4. Assertion to decline required tests, as required in R9-16-110(A)(3);
  - 5. A copy of the emergency care plan, as required in R9-16-108(E);
  - 6. The date the midwife began providing midwifery services to the client;
  - 7. The date the client is expected to deliver the newborn;
  - 8. The date the newborn was delivered, if applicable;
  - 9. An initial assessment of the client to:
    - a. Determine whether the client has a history of a condition or circumstance that would preclude care of the client by the midwife, as specified in R9-16-111; and
    - b. Determine the:
      - i. Number and outcome of previous pregnancies, and
      - ii. Number of previous medical or midwife visits the client has had during the current pregnancy;
  - 10. Progress notes documenting the midwifery services provided to the client;
  - 11. For a delivery identified in R9-16-108(B):
    - a. Rate of dilation, and
    - b. Duration of second stage labor;
  - 12. Laboratory and diagnostic reports, according to R9-16-108(I);
  - 13. Documentation of consultations as required in R9-16-112, including:

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- a. Reason for the consultation,
    - b. Name of physician or certified nurse midwife,
    - c. Date of consultation,
    - d. Time of consultation, and
    - e. Recommendation made by the physician or certified nurse midwife;
  14. Written reports received from consultations as required in R9-16-112;
  15. A description of any conditions or circumstances arising during the pregnancy that required the transfer of care;
  16. The name of the physician, certified nurse midwife, or hospital to which the care of the client was transferred, if applicable;
  17. Documentation of medications or vitamins taken by the client;
  18. Documentation of medications or vitamins administered to the client and the physician's written orders for the medications or vitamins;
  19. The outcome of the pregnancy;
  20. The date the midwife stopped providing midwifery services to the client; and
  21. Instructions provided to the client before the midwife stopped providing midwifery services to the client.
- C. A midwife shall ensure that a record for each newborn includes the following:
1. The full name, date of birth, and address of the newborn's mother;
  2. The newborn's:
    - a. Date of birth,
    - b. Gender,
    - c. Weight at birth,
    - d. Length at birth, and
    - e. Apgar scores at 1 minute and 5 minutes after birth;
  3. The newborn's estimated gestational age at birth;
  4. Progress notes documenting the midwifery services provided to the newborn;
  5. Laboratory and diagnostic reports, as required in R9-16-108(I);
  6. Documentation of consultations as required in R9-16-112:
    - a. Reason for the consultation,
    - b. Name of physician or certified nurse midwife,
    - c. Date of consultation,
    - d. Time of consultation, and
    - e. Recommendation made by the physician or certified nurse midwife;
  7. Written reports received from consultations as required in R9-16-112;
  8. A description of any conditions or circumstances arising during or after the newborn's birth that required the transfer of care;
  9. The name of the physician, certified nurse midwife, or hospital to which the care of the newborn was transferred, if applicable;
  10. Documentation of medications or vitamins taken by the newborn;
  11. Documentation of medications or vitamins administered to the newborn and the physician's written orders for the medications or vitamins;
  12. Documentation of newborn screening, including when the specimen collection kit, as defined in A.A.C. R9-13-201, was submitted and results received, as required in R9-16-108(K)(4)(c);
  13. The date the midwife stopped providing midwifery services to the newborn; and

14. Instructions provided to the client about the newborn before the midwife stopped providing midwifery services to the newborn.

**Historical Note**

New Section R9-16-115 renumbered from R9-16-107 and amended by exempt rulemaking at 19 A.A.R. 1805, effective July 1, 2013 (Supp. 13-2).

**R9-16-116. Denial, Suspension, or Revocation of License; Civil Penalties; Procedures**

In addition to the grounds specified in A.R.S. §§ 36-756 and 13-904(E), the Department may deny, suspend, or revoke a license permanently or for a definite period of time, and may assess a civil penalty for each violation, for any of the following causes:

1. Practicing under a false name or alias so as to interfere with or obstruct the investigative or regulatory process,
2. Practicing under the influence of drugs or alcohol,
3. Falsification of records,
4. Obtaining any fee for midwifery services by fraud or misrepresentation,
5. Permitting another to use the midwife's license, or
6. Knowingly providing false information to the Department.

**Historical Note**

New Section R9-16-116 renumbered from R9-16-111 and amended by exempt rulemaking at 19 A.A.R. 1805, effective July 1, 2013 (Supp. 13-2).

**R9-16-117. Expired****Historical Note**

New Section made by exempt rulemaking at 19 A.A.R. 1805, effective July 1, 2013 (Supp. 13-2). Section expired under A.R.S. § 41-1056(J) at 23 A.A.R. 1044, effective August 26, 2017 (Supp. 17-3).

**ARTICLE 2. LICENSING AUDIOLOGISTS AND SPEECH-LANGUAGE PATHOLOGISTS****R9-16-201. Definitions**

1. "Accredited" means approved by the:
  - a. New England Commission of Higher Education,
  - b. Middle States Commission on Higher Education,
  - c. Higher Learning Commission,
  - d. Northwest Commission on Colleges and Universities,
  - e. Southern Association of Colleges and Schools Commission on Colleges, or
  - f. WASC Senior College and University Commission.
2. "Applicant" means an individual who submits an application and required documentation for approval to practice as an audiologist or a speech-language pathologist.
3. "ASHA" means the American Speech-Language-Hearing Association, a national professional, scientific, and credentialing association for audiologists; speech-language pathologists; speech, language, and hearing scientists; audiology and speech-language pathology support personnel; and students.
4. "Calendar day" means each day, not including the day of the act, event, or default, from which a designated period of time begins to run, but including the last day of the period unless it is a Saturday, Sunday, statewide furlough day, or legal holiday, in which case the period runs until the end of the next day that is not a Saturday, Sunday, statewide furlough day, or legal holiday.
5. "CCC" means Certificate of Clinical Competence, an award issued by ASHA to an individual who:

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- a. Completes a degree in audiology or speech-language pathology from an accredited college or university that includes a clinical practicum,
- b. Passes the ETSNEA or ETSNESLP, and
- c. Completes a clinical fellowship.
6. "Clinical fellow" means an individual engaged in a clinical fellowship.
7. "Clinical fellowship" means an individual's postgraduate professional experience assessing, diagnosing, screening, treating, writing reports, and counseling individuals exhibiting speech, language, hearing, or communication disorders, obtained:
  - a. After completion of graduate level academic course work and a clinical practicum;
  - b. Under the supervision of a clinical fellowship supervisor; and
  - c. While employed on a full-time or part-time equivalent basis.
8. "Clinical fellowship agreement" means the document submitted to the Department by a clinical fellow to register the initiation of a clinical fellowship.
9. "Clinical fellowship report" means a document completed by a clinical fellowship supervisor containing:
  - a. A summary of the diagnostic and therapeutic procedures performed by the clinical fellow,
  - b. A verification by the clinical fellowship supervisor of the clinical fellow's performance of diagnostic and therapeutic procedures, and
  - c. An evaluation of the clinical fellow's ability to perform the diagnostic and therapeutic procedures.
10. "Clinical fellowship supervisor" means a licensed speech-language pathologist who:
  - a. Is or has been a sponsor of a temporary licensee,
  - b. Had a CCC while supervising a clinical fellow before October 28, 1999, or
  - c. Has a CCC while supervising a clinical fellow in another state.
11. "Clinical practicum" means the experience acquired by an individual who is completing course work in audiology or speech-language pathology, while supervised by a licensed audiologist, a licensed speech-language pathologist, or an individual holding a CCC, by assessing, diagnosing, evaluating, screening, treating, and counseling individuals exhibiting speech, language, cognitive, hearing, or communication disorders.
12. "Continuing education" means a course that provides instruction and training that is designed to develop or improve a licensee's professional competence in disciplines directly related to the licensee's scope of practice.
13. "Course" means a workshop, seminar, lecture, conference, or class.
14. "Diagnostic and therapeutic procedures" means the principles and methods used by an audiologist in the practice of audiology or a speech-language pathologist in the practice of speech-language pathology.
15. "Disciplinary action" means a proceeding that is brought against a licensee by the Department under A.R.S. § 36-1934 or a state licensing entity.
16. "ETSNEA" means Educational Testing Service National Examination in Audiology, the specialty area test of the Praxis Series given by the Education Testing Service, Princeton, N.J.
17. "ETSNESLP" means Educational Testing Service National Examination in Speech-Language Pathology, the specialty area test of the Praxis Series given by the Education Testing Service, Princeton, N.J.
18. "Full-time" means 30 clock hours or more per week.
19. "Hearing aid dispenser examination" means the International Licensing Examination for Hearing Healthcare Professionals approved by the Department as complying with A.R.S. § 36-1924.
20. "Local education agency" means a governing board established by A.R.S. § 15-101 or A.R.S. Title 15, Chapter 3, Article 3.
21. "Monitoring" means being responsible for and providing direction to a clinical fellow without directly observing diagnostic and therapeutic procedures.
22. "On-site observations" means the presence of a clinical fellowship supervisor who is watching a clinical fellow perform diagnostic and therapeutic procedures.
23. "Part-time equivalent" means:
  - a. 25-29 clock hours per week for 48 weeks,
  - b. 20-24 clock hours per week for 60 weeks, or
  - c. 15-19 clock hours per week for 72 weeks.
24. "Semester credit hour" means one earned academic unit of study based on completing, at an accredited college or university, a 50 to 60 minute class session per calendar week for 15 to 18 weeks.
25. "Semester credit hour equivalent" means one quarter credit, which is equal in value to 2/3 of a semester credit hour.
26. "State-supported institution" means a school, a charter school, a private school, or an accommodation school as defined in A.R.S. § 15-101.
27. "Student" means a child attending a school, a charter school, a private school, or an accommodation school as defined in A.R.S. § 15-101.
28. "Supervision" means being responsible for and providing direction to:
  - a. A clinical fellow during on-site observations or monitoring of the clinical fellow's performance of diagnostic and therapeutic procedures; or
  - b. An individual completing a clinical practicum.
29. "Supervisory activities" means evaluating and assessing a clinical fellow's performance of diagnostic and therapeutic procedures in assessing, diagnosing, evaluating, screening, treating, and counseling individuals exhibiting speech, language, cognitive, hearing, or communication disorders.

**Historical Note**

Former Section R9-16-201 repealed, new Section R9-16-201 adopted effective January 23, 1978 (Supp. 78-1).

Repealed effective March 14, 1994 (Supp. 94-1).

Adopted by final rulemaking at 5 A.A.R. 4359, effective October 28, 1999 (Supp. 99-4). Amended by exempt rulemaking at 20 A.A.R. 1998, effective July 1, 2014 (Supp. 14-2). Amended by final expedited rulemaking at 26 A.A.R. 816, with an immediate effective date of April 8, 2020 (Supp. 20-2).

**R9-16-202. Application**

A. An applicant for licensure shall submit to the Department:

1. An application in a Department-provided format that contains:
  - a. The applicant's name, home address, telephone number, and e-mail address;
  - b. The applicant's Social Security number, as required under A.R.S. §§ 25-320 and 25-502;
  - c. If applicable, the applicant's business addresses and telephone number;
  - d. The applicant's current employment, if applicable, including:

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- i. The employer's name,
  - ii. The licensee's position,
  - iii. Dates of employment,
  - iv. The address of the employer,
  - v. The supervisor's name,
  - vi. The supervisor's email address, and
  - vii. The supervisor's telephone number;
  - e. If applicable, whether the applicant is requesting an audiology license to fit and dispense;
  - f. Whether the applicant has ever been convicted of a felony or a misdemeanor in this or another state;
  - g. If the applicant has been convicted of a felony or a misdemeanor:
    - i. The date of the conviction,
    - ii. The state or jurisdiction of the conviction,
    - iii. An explanation of the crime of which the applicant was convicted, and
    - iv. The disposition of the case;
  - h. Whether the applicant is or has been licensed as an audiologist, an audiologist to fit and dispense hearing aids, or a speech-language pathologist in another state or country;
  - i. Whether the applicant has had a license revoked or suspended by any state;
  - j. Whether the applicant is currently ineligible for licensing in any state because of a license revocation or suspension;
  - k. Whether any disciplinary action has been imposed by any state, territory or district in this country for an act related to the applicant's practice of audiology or a speech-language pathologist license;
  - l. Whether the applicant agrees to allow the Department to submit supplemental requests for information under R9-16-214(C);
  - m. An attestation that the information submitted as part of the application is true and accurate; and
  - n. The applicant's signature and date of signature;
  2. If a license for the applicant has been revoked or suspended by any state documentation that includes:
    - a. The date of the revocation or suspension,
    - b. The state or jurisdiction of the revocation or suspension, and
    - c. An explanation of the revocation or suspension;
  3. If the applicant is currently ineligible for licensing in any state because of a license revocation or suspension, documentation that includes:
    - a. The date of the ineligibility for licensing,
    - b. The state or jurisdiction of the ineligibility for licensing, and
    - c. An explanation of the ineligibility for licensing;
  4. If the applicant has been disciplined by any state, territory, or district of this country for an act related to the applicant's license to practice audiology or a speech-language pathologist license that is consistent with A.R.S. Title 36, Chapter 17, documentation that includes:
    - a. The date of the disciplinary action,
    - b. The state or jurisdiction of the disciplinary action,
    - c. An explanation of the disciplinary action, and
    - d. Any other applicable documents, including a legal order or settlement agreement;
  5. Documentation of the applicant's citizenship or alien status that complies with A.R.S. § 41-1080; and
  6. A fee specified in R9-16-216.
- B.** In addition to complying with subsection (A), an applicant that may be eligible for licensure under A.R.S. § 36-1922 shall submit documentation to the Department that includes:
1. The name of each state that issued the applicant a current license, including:
    - a. The license number of each current license, and
    - b. The date each current license was issued;
  2. Documentation of the professional license or certification issued to the applicant by each state in which the applicant holds a professional license or certification;
  3. For each state named in subsection (B)(1), a statement, signed and dated by the applicant, attesting that the applicant:
    - a. Has been licensed or certified in another state for at least one year, with a scope of practice consistent with the scope of practice for which licensure is being requested;
    - b. Has met minimum education requirements according to A.R.S. §§ 36-1940 or 36-1940.01;
    - c. Has not voluntarily surrendered a license or certification in any other state or country while under investigation for unprofessional conduct; and
    - d. Does not have a complaint, allegation, or investigation pending before another regulatory entity in another state or country related to unprofessional conduct.
- C.** The Department shall review the application and required documentation for a license according to R9-16-214 and Table 2.1.

**Historical Note**

Former Section R9-16-202 repealed, new Section R9-16-202 adopted effective January 23, 1978 (Supp. 78-1).

Repealed effective March 14, 1994 (Supp. 94-1).

Adopted by final rulemaking at 5 A.A.R. 4359, effective October 28, 1999 (Supp. 99-4). Section R9-16-202 repealed; new Section R9-16-202 renumbered from R9-16-203 and amended by exempt rulemaking at 20 A.A.R. 1998, effective July 1, 2014 (Supp. 14-2). Section R9-16-202 repealed; new Section made by final expedited rulemaking at 26 A.A.R. 816, with an immediate effective date of April 8, 2020 (Supp. 20-2).

**R9-16-203. Initial Application for an Audiologist**

- A.** In addition to complying with R9-16-202, an applicant for initial licensure as an audiologist shall submit to the Department the following:
1. A transcript or equivalent documentation issued to the applicant from an accredited college or university after the applicant's completion of a doctoral degree consistent with the standards of this state's universities, as required in A.R.S. § 36-1940(A)(2) or documentation of the applicant's current CCC.
  2. Documentation of a passing grade on a ETSNEA or current CCC dated within three years before the date of application required in A.R.S. §§ 36-1902(E) and 36-1940(A)(3) or current license from other state.
  3. Documentation of completing supervised clinical rotation consistent with the standards of this state's universities required in A.R.S. § 36-1940(B)(2) or current CCC.
  4. Whether the applicant is applying to fit and dispense hearing aids.
  5. If applicable, a list of all states and countries in which the applicant is or has been licensed as an audiologist or an audiologist to fit and dispense hearing aids.
- B.** In addition to complying with R9-16-202, an applicant for initial licensure as an audiologist licensed to fit and dispense hearing aids who was awarded a master's degree before December 31, 2007 shall submit to the Department the following:

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1. A transcript or equivalent documentation issued to the applicant from an accredited college or university demonstrating the applicant's completion of a master's degree in audiology before December 31, 2007 or documentation of the applicant's current CCC;
2. Documentation of a passing grade on an ETSNEA or current CCC dated within three years before the date of application; and
3. Documentation of a passing grade obtained by the applicant on a written hearing aid dispenser examination as required in A.R.S. § 36-1940(C)(4).

**Historical Note**

Former Section R9-16-203 repealed, new Section R9-16-203 adopted effective January 23, 1978 (Supp. 78-1).

Repealed effective March 14, 1994 (Supp. 94-1).

Adopted by final rulemaking at 5 A.A.R. 4359, effective October 28, 1999 (Supp. 99-4). Amended by final rulemaking at 10 A.A.R. 2063, effective July 3, 2004 (Supp. 04-2). Section R9-16-203 renumbered to R9-16-202; new Section R9-16-203 made by exempt rulemaking at 20 A.A.R. 1998, effective July 1, 2014 (Supp. 14-2). Section R9-16-203 repealed; new Section made by final expedited rulemaking at 26 A.A.R. 816, with an immediate effective date of April 8, 2020 (Supp. 20-2).

**R9-16-204. Initial Application for a Speech-language Pathologist**

In addition to complying with R9-16-202(A), an applicant for initial licensure as a speech-language pathologist shall submit to the Department the following:

1. A transcript or equivalent documentation issued to the applicant by an accredited college or university after the applicant's completion of a master's degree consistent with the standards of this state's universities, as required in A.R.S. § 36-1940.01(A)(2)(a) or documentation of current CCC;
2. Completion of a clinical practicum, as required in A.R.S. § 36-1940.01(A)(2)(b) or documentation of current CCC;
3. Documentation of the applicant's completion of the ETS-NESLP as required in A.R.S. § 36-1940.01(A)(3) or documentation of current CCC; and
4. Documentation of the completion of clinical fellowship or documentation of current CCC.

**Historical Note**

Former Section R9-16-204 repealed, new Section R9-16-204 adopted effective January 23, 1978 (Supp. 78-1).

Repealed effective March 14, 1994 (Supp. 94-1).

Adopted by final rulemaking at 5 A.A.R. 4359, effective October 28, 1999 (Supp. 99-4). Amended by final rulemaking at 10 A.A.R. 2063, effective July 3, 2004 (Supp. 04-2). Section R9-16-204 renumbered to R9-16-209; new Section R9-16-204 made by exempt rulemaking at 20 A.A.R. 1998, effective July 1, 2014 (Supp. 14-2). Section R9-16-204 repealed; new Section made by final expedited rulemaking at 26 A.A.R. 816, with an immediate effective date of April 8, 2020 (Supp. 20-2).

**R9-16-205. Initial Application for a Temporary Speech-language Pathologist**

A. In addition to complying with R9-16-202(A), an applicant for initial licensure as a temporary speech-language pathologist shall submit to the Department the following:

1. A transcript or equivalent documentation issued to the applicant by an accredited college or university after the applicant's completion of a master's degree consistent

with the standards of this state's universities, as required in A.R.S. § 36-1940.01(A)(2)(a).

2. Completion of a clinical practicum, as required in A.R.S. § 36-1940.01(A)(2)(b).
3. Documentation of the applicant's completion of the ETS-NESLP as required in A.R.S. § 36-1940.01(A)(3).
4. Documentation of the applicant's clinical fellowship agreement that includes:
  - a. The applicant's name, home address, and telephone number;
  - b. The clinical fellowship supervisor's name, business address, telephone number, and speech-language pathology license number;
  - c. The name and address where the clinical fellowship will take place;
  - d. A statement by the clinical fellowship supervisor agreeing to comply with R9-16-209; and
  - e. The signatures of the applicant and the clinical fellowship supervisor.

B. A temporary license issued is effective for 12 months from the date of issuance.

C. A temporary license may be renewed only once.

D. An applicant issued a temporary speech-language pathologist license shall:

1. Practice under the supervision of a licensed speech-language pathologist, and
2. Not practice under the supervision of an individual who has a temporary speech-language pathologist license.

**Historical Note**

Former Section R9-16-205 repealed, new Section R9-16-205 adopted effective January 23, 1978 (Supp. 78-1).

Repealed effective March 14, 1994 (Supp. 94-1).

Adopted by final rulemaking at 5 A.A.R. 4359, effective October 28, 1999 (Supp. 99-4). Section R9-16-205 renumbered to R9-16-210; new Section R9-16-205 renumbered from R9-16-206 and amended by exempt rulemaking at 20 A.A.R. 1998, effective July 1, 2014 (Supp. 14-2). Section R9-16-205 repealed; new Section made by final expedited rulemaking at 26 A.A.R. 816, with an immediate effective date of April 8, 2020 (Supp. 20-2).

**R9-16-206. Requirements for a Speech-language Pathologist - Limited**

In addition to complying with R9-16-202(A), an applicant for initial licensure as a speech-language pathologist - limited as specified in A.R.S. § 36-1940.01(B) shall submit to the Department the following:

1. A certificate in speech and language therapy awarded by the Department of Education.
2. A document representing an employee or contractor relationship with a local education agency or a state supported institution.

**Historical Note**

Former Section R9-16-206 repealed, new Section R9-16-206 adopted effective January 23, 1978 (Supp. 78-1).

Repealed effective March 14, 1994 (Supp. 94-1).

Adopted by final rulemaking at 5 A.A.R. 4359, effective October 28, 1999 (Supp. 99-4). Amended by final rulemaking at 10 A.A.R. 2063, effective July 3, 2004 (Supp. 04-2). Section R9-16-206 renumbered to R9-16-205; new Section R9-16-206 made by exempt rulemaking at 20 A.A.R. 1998, effective July 1, 2014 (Supp. 14-2). Section R9-16-206 repealed; new Section made by final expedited rulemaking at 26 A.A.R. 816, with an immediate



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ate effective date of April 8, 2020 (Supp. 20-2).

**R9-16-207. License Renewal**

**A.** Before the expiration date of a license, a licensee shall submit to the Department:

1. A renewal application in a Department-provided format that contains:
  - a. The licensee's name, home address, telephone number, and e-mail address;
  - b. If applicable, the licensee's business address and telephone number;
  - c. The licensee's current employment, if applicable, including:
    - i. The employer's name,
    - ii. The licensee's position,
    - iii. Dates of employment,
    - iv. The address of the employer,
    - v. The supervisor's name,
    - vi. The supervisor's email address, and
    - vii. The supervisor's telephone number;
  - d. The licensee's license number and date of expiration;
  - e. Since the previous license application, whether the licensee has been convicted of a felony or a misdemeanor in this or another state;
  - f. If the licensee was convicted of a felony or a misdemeanor:
    - i. The date of the conviction,
    - ii. The state or jurisdiction of the conviction,
    - iii. An explanation of the crime of which the licensee was convicted, and
    - iv. The disposition of the case;
  - g. Whether the licensee has had, within two years before the renewal application date, an audiology or speech-language pathology license suspended or revoked by any state;
  - h. If the applicant has been disciplined by any state, territory, or district of this country for an act related to the applicant's license to practice audiology or a speech-language pathologist license that is consistent with A.R.S. Title 36, Chapter 17, documentation that includes:
    - i. The date of the disciplinary action,
    - ii. The state or jurisdiction of the disciplinary action,
    - iii. An explanation of the disciplinary action, and
    - iv. Any other applicable documents, including a legal order or settlement agreement;
  - i. An attestation that the licensee completed continuing education required under A.R.S. § 36-1904 and documentation of completion is available upon request;
  - j. The licensee agrees to allow the Department to submit supplemental requests for information under R9-16-214(C);
  - k. An attestation that the information submitted as part of the application is true and accurate; and
  - l. The licensee's signature and date of signature; and
2. A renewal fee specified in R9-16-216.

**B.** A licensee licensed as a speech-language pathologist, whose practice is limited to providing services to students under the authority of a local education agency or state-supported institution, shall provide documentation required in A.R.S. § 36-1940.01(B);

**C.** If a licensee is renewing a temporary speech-language pathology license:

1. A statement signed and dated by the licensee's clinical fellowship supervisor agreeing to comply with R9-16-209; and
  2. The name, business address, telephone number, and license number of the speech language pathologist providing supervision to the licensee.
- D.** In addition to subsection (A), a licensee who submits a renewal application within 30 calendar days after the license expiration date shall submit a late fee specified in R9-16-216.
- E.** A licensee who does not submit the documentation and the fee in subsection (A) and, if applicable, (B) within 30 calendar days after the license expiration date shall apply for a new license in R9-16-202.
- F.** If a licensee applies for a license according to R9-16-202 more than 30 calendar days but less than one year after the expiration date of the applicant's previous license, the applicant:
1. Is not required to submit ETSNEA or ETSNESLP documentation, and
  2. Shall submit an attestation of continuing education according to R9-16-208, completed within the twenty-four months before the date of application.
- G.** The Department shall review the application for a renewal license according R9-16-214 and Table 2.1.

**Historical Note**

Former Section R9-16-207 repealed, new Section R9-16-207 adopted effective January 23, 1978 (Supp. 78-1).

Repealed effective March 14, 1994 (Supp. 94-1).

Adopted by final rulemaking at 5 A.A.R. 4359, effective

October 28, 1999 (Supp. 99-4). Section R9-16-207

renumbered to R9-16-208; new Section R9-16-207 made

by exempt rulemaking at 20 A.A.R. 1998, effective July

1, 2014 (Supp. 14-2). Section R9-16-207 repealed; new

Section made by final expedited rulemaking at 26 A.A.R.

816, with an immediate effective date of April 8, 2020

(Supp. 20-2).

**R9-16-208. Continuing Education**

**A.** Twenty-four months prior to submitting a renewal application, a licensee shall complete continuing education.

1. Except as provided in (A)(2), a licensed audiologist shall complete at least 20 continuing education hours related to audiology;
2. A licensed audiologist who fits and dispenses hearing aids shall complete:
  - a. At least 20 continuing education hours related to audiology and hearing aid dispensing, and
  - b. No more than eight continuing education hours required in subsection (A)(2)(a) provided by a single manufacturer of hearing aids; and
3. A licensed speech-language pathologist shall complete at least 20 continuing education hours in speech-language pathology related courses.

**B.** Continuing education shall:

1. Directly relate to the practice of audiology, speech-language pathology, or fitting and dispensing hearing aids;
2. Have educational objectives that exceed an introductory level of knowledge of audiology, speech-language pathology, or fitting and dispensing hearing aids; and
3. Consist of courses that include advances within the last five years in:
  - a. Practice of audiology,
  - b. Practice of speech-language pathology,
  - c. Procedures in the selection and fitting of hearing aids,
  - d. Pre- and post-fitting management of clients,
  - e. Instrument circuitry and acoustic performance data,

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- f. Ear mold design and modification contributing to improved client performance,
  - g. Audiometric equipment or testing techniques that demonstrate an improved ability to identify and evaluate hearing loss,
  - h. Auditory rehabilitation,
  - i. Ethics,
  - j. Federal and state statutes or rules, or
  - k. Assistive listening devices.
- C. A continuing education course developed, endorsed, or sponsored by one of the following meets the requirements in subsection (B):
- 1. Hearing Healthcare Providers of Arizona,
  - 2. Arizona Speech-Language-Hearing Association,
  - 3. American Speech-Language-Hearing Association,
  - 4. International Hearing Society,
  - 5. International Institute for Hearing Instruments Studies,
  - 6. American Auditory Society,
  - 7. American Academy of Audiology,
  - 8. Academy of Doctors of Audiology,
  - 9. Arizona Society of Otolaryngology, Head and Neck Surgery,
  - 10. American Academy of Otolaryngology-Head and Neck Surgery, or
  - 11. An organization determined by the Department to be consistent with an organization in subsection (C)(1) through (10).

**Historical Note**

Adopted by final rulemaking at 5 A.A.R. 4359, effective October 28, 1999 (Supp. 99-4). Section R9-16-208 renumbered to R9-16-214; new Section R9-16-208 renumbered from R9-16-207 and amended by exempt rulemaking at 20 A.A.R. 1998, effective July 1, 2014 (Supp. 14-2). Amended by final expedited rulemaking at 26 A.A.R. 816, with an immediate effective date of April 8, 2020 (Supp. 20-2).

**R9-16-209. Clinical Fellowship Supervisors**

In addition to complying with the requirements in A.R.S. § 36-1905, a clinical fellowship supervisor shall complete a minimum of 36 supervisory activities throughout an individual's clinical fellowship that include:

- 1. A minimum of 18 on-site observations,
- 2. No more than six on-site observations in a 24-hour period, and
- 3. A minimum of 18 monitoring activities.

**Historical Note**

Adopted by final rulemaking at 5 A.A.R. 4359, effective October 28, 1999 (Supp. 99-4). Section R9-16-209 renumbered to R9-16-212; new Section R9-16-209 renumbered from R9-16-204 and amended by exempt rulemaking at 20 A.A.R. 1998, effective July 1, 2014 (Supp. 14-2). Section R9-16-209 repealed; new Section made by final expedited rulemaking at 26 A.A.R. 816, with an immediate effective date of April 8, 2020 (Supp. 20-2).

**R9-16-210. Requirements for Supervising a Speech-language Pathologist Assistant**

A licensed speech-language pathologist who provides direct supervision or indirect supervision to a speech-language pathologist assistant shall comply with A.R.S. § 36-1940.04(F) and (G):

- 1. Establish a record for each speech-language pathologist assistant who receives direct supervision and indirect supervision from the speech-language pathologist that includes:

- a. The speech-language pathologist assistant's license number, name, home address, telephone number, and e-mail;
  - b. A plan indicating the types of skills and the number of hours allocated to the development of each skill that the speech-language pathologist assistant is expected to complete;
  - c. A document listing each occurrence of direct supervision or indirect supervision provided to the speech-language pathologist assistant that includes:
    - i. Business name and address where supervision occurred,
    - ii. The date and times when the supervision started and ended,
    - iii. The types of clinical interactions provided, and
    - iv. Notation of speech-language pathologist assistant's progress;
  - d. Documentation of evaluations provided to the speech-language pathologist assistant during the time supervision was provided; and
  - e. Documentation of when supervision was terminated; and
2. Maintain a speech-language pathologist assistant record:
- a. Throughout the period that the speech-language pathologist assistant receives direct supervision and indirect supervision clinical interactions from the supervisor; and
  - b. For at least two years after the last date the speech-language pathologist assistant received clinical interactions from the supervisor.

**Historical Note**

New Section made by final rulemaking at 10 A.A.R. 2063, effective July 3, 2004 (Supp. 04-2). Section R9-16-210 renumbered to R9-16-215; new Section R9-16-210 renumbered from R9-16-205 and amended by exempt rulemaking at 20 A.A.R. 1998, effective July 1, 2014 (Supp. 14-2). Section R9-16-210 repealed; new Section made by final expedited rulemaking at 26 A.A.R. 816, with an immediate effective date of April 8, 2020 (Supp. 20-2).

**R9-16-211. Equipment; Records**

- A. A licensee shall maintain equipment used by the licensee in the practice of audiology or the practice of speech-language pathology according to the manufacturer's specifications.
- B. If a licensee uses equipment that requires calibration, the licensee shall ensure that:
  - 1. The equipment is calibrated a minimum of every 12 months and according to the American National Standard - Specifications for Audiometers S3.6-2018, incorporated by reference and on file with the Department, with no future additions or amendments and available from the Standards Secretariat, c/o Acoustical Society of America, 1305 Walt Whitman Road, Suite 300, Melville, New York, 11747-4300, September 20, 2018; and
  - 2. A written record of the calibration is maintained in the same location as the calibrated equipment for at least 36 months after the date of the calibration.
- C. A licensee shall maintain the following records according to A.R.S. § 32-3211 for each client for at least 36 months after the date the licensee provided a service or dispensed a product while engaged in the practice of audiology, practice of speech-language pathology, or practice of fitting and dispensing hearing aids:
  - 1. The client's name, address, and telephone number;

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2. The name or description and the results of each test and procedure used in evaluating speech, language, and hearing disorders or determining the need for dispensing a product or service; and
3. If a product such as a hearing aid, augmentative communication device, or laryngeal device is dispensed, a record of the following:
  - a. The name of the product dispensed;
  - b. The product's serial number, if any;
  - c. The product's warranty or guarantee, if any;
  - d. The refund policy for the product, if any;
  - e. A statement of whether the product is new or used;
  - f. The total amount charged for the product;
  - g. The name of the licensee; and
  - h. The name of the intended user of the product.

**Historical Note**

Adopted as an emergency effective July 12, 1982, pursuant to A.R.S. § 41-1003, valid for 90 days (Supp. 82-4). Emergency expired. Permanent rule R9-16-211 adopted effective January 14, 1983 (Supp. 83-1). Repealed effective March 14, 1994 (Supp. 94-1). New Section R9-16-211 made by exempt rulemaking at 20 A.A.R. 1998, effective July 1, 2014 (Supp. 14-2). Section R9-16-211 repealed; new Section made by final expedited rulemaking at 26 A.A.R. 816, with an immediate effective date of April 8, 2020 (Supp. 20-2).

**R9-16-212. Bill of Sale Requirements**

An audiologist who dispenses hearing aids shall provide a bill of sale to a client at the time the audiologist provides a hearing aid to the client or at a time requested by the client that complies with the requirements in R9-16-311(A)(7).

**Historical Note**

Adopted as an emergency effective July 12, 1982, pursuant to A.R.S. § 41-1003, valid for 90 days (Supp. 82-4). Emergency expired. Permanent rule R9-16-212 adopted effective January 14, 1983 (Supp. 83-1). Repealed effective March 14, 1994 (Supp. 94-1). New Section R9-16-212 renumbered from R9-16-209 and amended by exempt rulemaking at 20 A.A.R. 1998, effective July 1, 2014 (Supp. 14-2). Section R9-16-212 repealed; new Section made by final expedited rulemaking at 26 A.A.R. 816, with an immediate effective date of April 8, 2020 (Supp. 20-2).

**R9-16-213. Enforcement**

- A. The Department may, as applicable:
  1. Deny, revoke, or suspend an audiology or speech-language pathology's license under A.R.S. § 36-1934;
  2. Request an injunction under A.R.S. § 36-1937; or
  3. Assess a civil money penalty under A.R.S. § 36-1939.
- B. In determining which disciplinary action specified in subsection (A) is appropriate, the Department shall consider:
  1. The type of violation,
  2. The severity of the violation,
  3. The danger to the public health and safety,
  4. The number of violations,
  5. The number of clients affected by the violations,
  6. The degree of harm to the consumer,
  7. A pattern of noncompliance, and
  8. Any mitigating or aggravating circumstances.
- C. A licensee may appeal a disciplinary action taken by the Department according to A.R.S. Title 41, Chapter 6, Article 10.

**Historical Note**

Adopted as an emergency effective July 12, 1982, pursuant to A.R.S. § 41-1003, valid for 90 days (Supp. 82-4). Emergency expired. Permanent rule R9-16-213 adopted effective January 14, 1983 (Supp. 83-1). Repealed effective March 14, 1994 (Supp. 94-1). New Section R9-16-213 made by exempt rulemaking at 20 A.A.R. 1998, effective July 1, 2014 (Supp. 14-2). Section R9-16-213 repealed; new Section made by final expedited rulemaking at 26 A.A.R. 816, with an immediate effective date of April 8, 2020 (Supp. 20-2).

**R9-16-214. Time-frames**

- A. For each type of license issued by the Department under this Article, Table 2.1 specifies the overall time-frame described in A.R.S. § 41-1072(2).
  1. An applicant and the Department may agree in writing to extend the substantive review time-frame and the overall time-frame.
  2. The extension of the substantive review time-frame and the overall time-frame may not exceed 25% of the overall time-frame.
- B. For each type of license issued by the Department under this Article, Table 2.1 specifies the administrative completeness review time-frame described in A.R.S. § 41-1072(1).
  1. The administrative completeness review time-frame begins the date the Department receives an application required in this Article.
  2. Except as provided in subsection (B)(3), the Department shall provide a written notice of administrative completeness or a notice of deficiencies to an applicant within the administrative completeness review time-frame.
    - a. If a license application is not complete, the notice of deficiencies listing each deficiency and the information or documentation needed to complete the application.
    - b. A notice of deficiencies suspends the administrative completeness review time-frame and the overall time-frame from the date of the notice until the date the Department receives the missing information or documentation.
    - c. If the applicant does not submit to the Department all the information or documentation listed in the notice of deficiencies within 30 calendar days after the date of the notice of deficiencies, the Department shall consider the application withdrawn.
  3. If the Department issues a license during the administrative completeness review time-frame, the Department shall not issue a separate written notice of administrative completeness.
- C. For each type of license issued by the Department under this Article, Table 2.1 specifies the substantive review time-frame described in A.R.S. § 41-1072(3), which begins on the date the Department sends a written notice of administrative completeness.
  1. Within the substantive review time-frame, the Department shall provide a written notice to the applicant that the Department approved or denied.
  2. During the substantive review time-frame:
    - a. The Department may make one comprehensive written request for additional information or documentation; and
    - b. If the Department and the applicant agree in writing, the Department may make supplemental requests for additional information or documentation.
  3. A comprehensive written request or a supplemental request for additional information or documentation sus-

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pend the substantive review time-frame and the overall time-frame from the date of the request until the date the Department receives all the information or documentation requested.

4. If the applicant does not submit to the Department all the information or documentation listed in a comprehensive written request or supplemental request for additional information or documentation within 30 calendar days after the date of the request, the Department shall deny the license or approval.

**D.** The Department shall issue a regular license or a temporary license:

1. Within five calendar days after receiving the license fee, and
2. From the date of issue, the license is valid for:
  - a. Two years, if a regular license, and
  - b. Twelve months, if a temporary license.

- E.** An applicant who is denied a license may appeal the denial according to A.R.S. Title 41, Chapter 6, Article 10.

**Historical Note**

Adopted as an emergency effective July 12, 1982, pursuant to A.R.S. § 41-1003, valid for 90 days (Supp. 82-4). Emergency expired. Permanent rule R9-16-214 adopted effective January 14, 1983 (Supp. 83-1). Repealed effective March 14, 1994 (Supp. 94-1). New Section R9-16-214 renumbered from R9-16-208 and amended by exempt rulemaking at 20 A.A.R. 1998, effective July 1, 2014 (Supp. 14-2). Section R9-16-214 repealed; new Section made by final expedited rulemaking at 26 A.A.R. 816, with an immediate effective date of April 8, 2020 (Supp. 20-2).

**Table 2.1 Time-frames (in calendar days)**

Type of Approval	Statutory Authority	Overall Time-Frame	Administrative Completeness Review Time-Frame	Time to Respond to Notice of Deficiency	Substantive Review Time-Frame	Time to Respond to Comprehensive Written Request
Application for an Initial or Temporary License (R9-16-202)	A.R.S. §§ 36-1904 and 36-1940	60	30	30	30	30
License Renewal (R9-16-207)	A.R.S. § 36-1904	60	30	30	30	30

**Historical Note**

Table 2.1 made by exempt rulemaking under R9-16-209 at 20 A.A.R. 1998, effective July 1, 2014 (Supp. 14-2). Table 2.1 repealed; new Table 2.1 made and recodified under new Section R9-16-214, with an immediate effective date of April 8, 2020 (Supp. 20-2).

**R9-16-215. Changes Affecting a License or a Licensee; Request for a Duplicate License**

**A.** A licensee shall submit to the Department a notice in a Department-provided format within 30 calendar days after the effective date of a change in:

1. The licensee's home address or e-mail address, including the new home address or e-mail address;
2. The licensee's name, including a copy of one of the following with the licensee's new name:
  - a. Marriage certificate,
  - b. Divorce decree, or
  - c. Other legal document establishing the licensee's new name; and
3. The place or places, including address or addresses, where the licensee engages in the practice of audiology or speech-language pathology.

**B.** A licensee may obtain a duplicate license by submitting to the Department a written request for a duplicate license in a format provided by the Department that includes:

1. The licensee's name and address,
2. The licensee's license number and expiration date,
3. The licensee's signature and date of signature, and
4. A duplicate license fee specified in R9-16-216.

**Historical Note**

New Section R9-16-215 renumbered from R9-16-210 and amended by exempt rulemaking at 20 A.A.R. 1998, effective July 1, 2014 (Supp. 14-2). Amended by final expedited rulemaking at 26 A.A.R. 816, with an immediate effective date of April 8, 2020 (Supp. 20-2).

**R9-16-216. Fees**

**A.** An applicant shall submit to the Department the following nonrefundable fee for:

1. An initial application as an audiologist, \$100;
2. An initial application as a speech-language pathologist, \$100; and
3. An initial application as a temporary speech-language pathologist, \$100.

**B.** An applicant shall submit to the Department the following fee for:

1. An initial license as an audiologist, \$200;
2. An initial license as a speech-language pathologist, \$200; and
3. A temporary license as a speech-language pathologist, \$100.

**C.** A licensee shall submit to the Department the following fee for:

1. A renewal license as an audiologist, \$200;
2. A renewal license as a speech-language pathologist, \$200; and
3. A temporary renewal license as a speech-language pathologist, \$100.

**D.** If a licensed audiologist or speech-language pathologist submits a renewal license application specified in subsection (C) within 30 calendar days after the license expiration date, the licensee shall submit with the renewal license application a \$25 late fee.

**E.** The fee for a duplicate license is \$25.

**F.** An applicant for initial licensure is not required to submit the applicable fee in subsection (A) and (B) if the applicant, as part of the applicable application in R9-16-202, submits an attestation that the applicant meets the criteria for waiver of licensing fees in A.R.S. § 41-1080.01.

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**Historical Note**

New Section made by final expedited rulemaking at 26 A.A.R. 816, with an immediate effective date of April 8, 2020 (Supp. 20-2).

**ARTICLE 3. LICENSING HEARING AID DISPENSERS****R9-16-301. Definitions**

In addition to the definitions in A.R.S. § 36-1901, the following definitions apply in this Article unless otherwise specified:

1. "Applicant" means an individual or a business organization that submits an application and required documentation for approval to practice as a hearing aid dispenser.
2. "Business organization" means an entity identified in A.R.S. § 36-1910.
3. "Calendar day" means each day, not including the day of the act, event, or default from which a designated period of time begins to run, but including the last day of the period unless it is a Saturday, Sunday, statewide furlough day, or legal holiday, in which case the period runs until the end of the next day that is not a Saturday, Sunday, statewide furlough day, or legal holiday.
4. "Continuing education" means a course that provides instruction and training that directly relates to the practice of fitting and dispensing hearing aids specified in A.R.S. § 36-1904.
5. "Designated agent" means an individual who:
  - a. Is authorized by an applicant or hearing aid dispenser [a person] to receive communications from the Department, including legal service of process;
  - b. May file or sign documents on behalf of the applicant or hearing aid dispenser;
  - c. Is a U.S. citizen or legal resident;
  - d. Has an Arizona address; and
  - e. Is a controlling person of the business organization, if applicable.
6. "Disciplinary action" means a proceeding that is brought against a licensee by the Department under A.R.S. § 36-1934 or a state specified in R9-16-308(A)(2).
7. "GED" means a general education development test.
8. "Hearing aid dispenser examination" means one of the following that has been identified by the Department as complying with the requirements in A.R.S. § 36-1924:
  - a. The International Licensing Examination for Hearing Health Professionals, administered by the International Hearing Society; or
  - b. A test provided by the Department or other organization.
9. "Practical examination" means a test:
  - a. Designated by the Department that demonstrates an applicant's proficiency in the practice of fitting and dispensing of hearing aids, and
  - b. Compliant with A.R.S. § 36-1924(A)(4).
10. "State licensing entity" means a state agency or board that approves licensure and takes disciplinary action of individuals or businesses that practice as a hearing aid dispenser.
11. "Temporary hearing aid dispenser" means a person who is licensed under A.R.S. Title 36, Chapter 17 and this Article for a specified period of time under the sponsorship of a hearing aid dispenser also licensed under A.R.S. Title 36, Chapter 17 and this Article.

**Historical Note**

Section repealed, new Section adopted effective June 25, 1993 (Supp. 93-2). Section amended by exempt rulemaking at 20 A.A.R. 1998, effective July 1, 2014 (Supp. 14-2). Amended by final expedited rulemaking at 26 A.A.R.

835, with an immediate effective date of April 8, 2020 (Supp. 20-2).

**R9-16-302. Examination Requirements**

- A. Within two years after the date an applicant receives the approval notification in R9-16-306(B), or a temporary hearing aid dispenser receives the approval in R9-16-305(B), the applicant or temporary hearing aid dispenser shall take and obtain a passing score on the Department-designated:
  1. Written hearing aid dispenser examination required in subsection (B), and
  2. Practical examination required in subsection (B).
- B. An applicant approved to take the Department-designated practical examination or a temporary hearing aid dispenser approved to take the Department-designated practical examination shall:
  1. Arrive on the scheduled date and time of the examination,
  2. Provide proof of identity by a government-issued photographic identification card that is provided by the applicant or temporary hearing aid dispenser upon the request of the individual administering the examination, and
  3. Exhibit ethical conduct during the examination process.
- C. After the Department receives an applicant's Department-designated written hearing aid dispenser examination results, the Department shall notify the applicant of:
  1. A passing score and approval to take the practical examination; or
  2. A failing score that includes, as applicable, approval to retake the written hearing aid dispenser examination.
- D. An applicant or temporary hearing aid dispenser who does not comply with subsection (B)(1) or (B)(2) is ineligible to take the examination on the scheduled date and time.
- E. An applicant or temporary hearing aid dispenser taking the examination will receive a passing score on the examination if the applicant or temporary hearing aid dispenser demonstrates the proficiencies in A.R.S. § 36-1924, as determined by the Department.
- F. After the Department receives an applicant's practical examination results, the Department shall notify the applicant whether the applicant received:
  1. A passing score; or
  2. A failing score and, as applicable, approval to retake the Department-designated practical examination for the examination sections that the applicant failed.
- G. The Department shall notify an applicant or temporary hearing aid dispenser that the applicant or temporary hearing aid dispenser may apply for an initial hearing aid dispenser license when the applicant or temporary hearing aid dispenser has received a passing score on both of the examinations in subsection (A).

**Historical Note**

Amended effective March 22, 1976 (Supp. 76-2). Section repealed, new Section adopted effective June 25, 1993 (Supp. 93-2). Section repealed; new Section made by exempt rulemaking at 20 A.A.R. 1998, effective July 1, 2014 (Supp. 14-2). Section repealed; new Section made by final expedited rulemaking at 26 A.A.R. 835, with an immediate effective date of April 8, 2020 (Supp. 20-2).

**R9-16-303. Application**

- A. An applicant for licensure shall submit to the Department:
  1. An application in a Department-provided format that contains:
    - a. The applicant's name, home address, telephone number, and e-mail address;

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- b. The applicant's Social Security number, as required under A.R.S. §§ 25-320 and 25-502;
  - c. The applicant's current employment, if applicable, including:
    - i. The employer's name,
    - ii. The licensee's position,
    - iii. Dates of employment,
    - iv. The address of the employer,
    - v. The supervisor's name,
    - vi. The supervisor's email address, and
    - vii. The supervisor's telephone number;
  - d. Whether the applicant has ever been convicted of a felony or a misdemeanor in this or another state or jurisdiction;
  - e. If the applicant was convicted of a felony or misdemeanor:
    - i. The date of the conviction,
    - ii. The state or jurisdiction of the conviction,
    - iii. An explanation of the crime of which the applicant was convicted, and
    - iv. The disposition of the case;
  - f. Whether a hearing aid dispenser license issued to the applicant has been suspended or revoked;
  - g. Whether the applicant is currently ineligible to apply for a hearing aid dispenser license due to a prior revocation or suspension of the applicant's hearing aid dispenser license;
  - h. Whether the applicant has been disciplined by any state, territory or district in this country for an act upon the applicant's hearing aid dispenser license;
  - i. Whether the applicant agrees to allow the Department to submit supplemental requests for information under R9-16-314;
  - j. An attestation that the information submitted as part of the application is true and accurate; and
  - k. The applicant's signature and date of signature;
2. Documentation of the applicant's citizenship or alien status that complies with A.R.S. § 41-1080;
  3. Documentation that the applicant received a high school diploma, a high school equivalency diploma, an associate degree, or a higher degree;
  4. Whether a professional license or certificate has been revoked or suspended by another state or jurisdiction;
  5. If a license for an applicant has been revoked or suspended by any state, documentation that includes:
    - a. The date of the revocation or suspension,
    - b. The state or jurisdiction of the revocation or suspension, and
    - c. An explanation of the revocation or suspension;
  6. If an applicant is currently ineligible for licensing in any state because of a license revocation or suspension, documentation that includes:
    - a. The date of the ineligibility for licensing,
    - b. The state or jurisdiction of the ineligibility for licensing, and
    - c. An explanation of the ineligibility for licensing;
  7. If an applicant has been disciplined by any state, territory or district, in this country for an act upon the applicant's hearing aid dispenser license, documentation that includes:
    - a. The date of the disciplinary action,
    - b. The state or jurisdiction of the disciplinary action,
    - c. An explanation of the disciplinary action, and
    - d. Any other applicable documents, including a legal order or settlement agreement; and
  8. A nonrefundable application fee specified in R9-16-316.
- B.** The Department shall review an application and documentation for approval according to R9-16-314 and Table 3.1.
- Historical Note**
- The Department of Health Services advises that this rule is preempted by Section 521(a) of the federal Food, Drug and Cosmetic Act (21 U.S.C. 360K). See 21 CFR 808.53, effective November 10, 1980 (Supp. 80-6). Section repealed, new Section adopted effective June 25, 1993 (Supp. 93-2). Amended by final rulemaking at 10 A.A.R. 2063, effective July 3, 2004 (Supp. 04-2). Section repealed; new Section made by exempt rulemaking at 20 A.A.R. 1998, effective July 1, 2014 (Supp. 14-2). Section repealed; new Section made by final expedited rulemaking at 26 A.A.R. 835, with an immediate effective date of April 8, 2020 (Supp. 20-2).
- R9-16-304. Requirements for an Initial Hearing Aid Dispenser License**
- A.** An applicant for initial licensure shall submit an application to the Department that includes:
1. The information and documents required in R9-16-303;
  2. Documentation of passing the:
    - a. Written hearing aid dispenser examination, and
    - b. Practical examination; and
  3. The fees specified in R9-16-316.
- B.** In addition to complying with subsections (A)(1) and (A)(3), an applicant that may be eligible for licensure under A.R.S. § 36-1922 shall submit documentation to the Department that includes:
1. The name of each state that issued the applicant a current hearing aid dispenser license, including:
    - a. The license number of each current hearing aid dispenser license, and
    - b. The date each current hearing aid dispenser license was issued;
  2. Documentation of the professional license or certification issued to the applicant by each state in which the applicant holds a professional license or certification;
  3. For each state named in subsection (B)(1), a statement, signed and dated by the applicant, attesting that the applicant:
    - a. Has been licensed or certified in another state for at least one year, with a scope of practice consistent with the scope of practice for which licensure is being requested;
    - b. Has met minimum education requirements according to A.R.S. § 36-1923(A);
    - c. Has not voluntarily surrendered a license or certification in any other state or country while under investigation for unprofessional conduct; and
    - d. Does not have a complaint, allegation, or investigation pending before another regulatory entity in another state or country related to unprofessional conduct.
- C.** An initial hearing aid dispenser license is valid for two years from the date of issue for licensure by examination or licensure by reciprocity.
- D.** If the Department does not issue an initial hearing aid dispenser license to an applicant, the Department shall return the license fee to the applicant.
- Historical Note**
- Amended effective March 22, 1976 (Supp. 76-2). The Department of Health Services advises that this rule is preempted by Section 521(a) of the federal Food, Drug and Cosmetic Act (21 U.S.C. 360K). See 21 CFR 808.53, effective

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tive November 10, 1980 (Supp. 80-6). Section repealed, new Section adopted effective June 25, 1993 (Supp. 93-2). Section repealed; new Section made by exempt rulemaking at 20 A.A.R. 1998, effective July 1, 2014 (Supp. 14-2). Section repealed; new Section made by final expedited rulemaking at 26 A.A.R. 835, with an immediate effective date of April 8, 2020 (Supp. 20-2).

**R9-16-305. Requirements for an Initial Temporary Hearing Aid Dispenser License**

- A. In addition to complying with R9-16-303, an applicant for a temporary hearing aid dispenser license shall submit to the Department:
  1. The sponsor's:
    - a. Name,
    - b. Business address,
    - c. Business telephone number, and
    - d. Arizona hearing aid dispenser license number.
  2. A statement signed by the sponsor that the sponsor is a licensed hearing aid dispenser who agrees to train, supervise, and be responsible for the applicant's hearing aid dispenser practice according to A.R.S. § 36-1905.
- B. If the Department issues a temporary license to the applicant, the Department shall notify the applicant of approval to take the hearing aid dispenser examination as specified in R9-16-302.
- C. A temporary hearing aid dispenser may renew a temporary license according to A.R.S. § 36-1926.
- D. A temporary license is no longer valid on the date the Department receives notice from the sponsor that the sponsor is terminating sponsorship.
- E. A hearing aid dispenser whose temporary license is terminated according to subsection (D):
  1. Shall not practice until issued a new license,
  2. May apply for an initial or temporary license as a hearing aid dispenser according to this Article; and
  3. May choose to:
    - a. Complete the two-year test period issued to the applicant with a previous temporary license, or
    - b. Restart the two-year test period on the date the Department approves the hearing aid dispenser's temporary license in subsection (E)(2); and
  4. If the applicant chooses to restart the two-year test period in subsection (3)(b), the previous test result obtained will not apply.
- F. An initial hearing aid dispenser license is valid for 12 months from the date of issue for a temporary license or in compliance with A.R.S. § 36-1926(D).

**Historical Note**

Section repealed, new Section adopted effective June 25, 1993 (Supp. 93-2). Section repealed; new Section made by exempt rulemaking at 20 A.A.R. 1998, effective July 1, 2014 (Supp. 14-2). Section repealed; new Section made by final expedited rulemaking at 26 A.A.R. 835, with an immediate effective date of April 8, 2020 (Supp. 20-2).

**R9-16-306. Application for Examination**

- A. In addition to complying with R9-16-303, an applicant for initial licensure by examination shall submit an application to the Department that includes:
  1. Information and documentation required in R9-16-303, and
  2. The fee in R9-16-316.

- B. If the Department approves the application, the Department shall notify the applicant of approval to take the written hearing aid dispenser examination as specified in R9-16-302.
- C. If the Department approves an application, the applicant shall not practice fitting and dispensing hearing aids without a license issued by the Department.

**Historical Note**

Adopted effective June 25, 1993 (Supp. 93-2). Section repealed; new Section made by exempt rulemaking at 20 A.A.R. 1998, effective July 1, 2014 (Supp. 14-2). Section repealed; new Section made by final expedited rulemaking at 26 A.A.R. 835, with an immediate effective date of April 8, 2020 (Supp. 20-2).

**R9-16-307. Initial Application for a Business Hearing Aid Dispenser License**

- A. An applicant for a business hearing aid dispenser license shall submit to the Department:
  1. An application in a Department-provided format that contains:
    - a. The name of the business organization;
    - b. The business organization's Arizona business name, address, e-mail address, and telephone number;
    - c. If the business organization has more than one location, provide the name, address, e-mail address, and telephone number for each location;
    - d. The name, address, telephone number, and e-mail address of the individual authorized by the business organization to be the designated agent;
    - e. The name, business telephone number, and Arizona hearing aid dispenser license number of each hearing aid dispenser employed by the business organization in Arizona;
    - f. Whether the business organization or a hearing aid dispenser working for the business organization has had a hearing aid dispenser license suspended or revoked by any state;
    - g. Whether the business organization or a hearing aid dispenser working for the business organization is currently ineligible for licensing in any state due to a suspension or revocation;
    - h. An attestation that the:
      - i. Business organization allows the Department to make supplemental requests for additional information; and
      - ii. Information required as part of the application has been submitted and is true and accurate; and
    - i. The signature and date of signature from the designated agent; and
  2. An application and license fee specified in R9-16-316.
- B. A business organization with more than one location shall submit a duplicate license fee for each additional location according to R9-16-315 and R9-16-316.
- C. The Department shall review an application for an initial business hearing aid dispenser license according to R9-16-314 and Table 3.1.
- D. A business organization licensed according to this Article shall comply with A.R.S. § 36-1910.
- E. An initial license issued to a business organization according to this Section is valid for two years from the date of issue.

**Historical Note**

Adopted effective June 25, 1993 (Supp. 93-2). Amended by final rulemaking at 10 A.A.R. 2063, effective July 3, 2004 (Supp. 04-2). Section repealed; new Section made

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by exempt rulemaking at 20 A.A.R. 1998, effective July 1, 2014 (Supp. 14-2). Section repealed; new Section made by final expedited rulemaking at 26 A.A.R. 835, with an immediate effective date of April 8, 2020 (Supp. 20-2).

**R9-16-308. License Renewal**

**A.** A licensee, except for a temporary hearing aid dispenser, shall submit a renewal application in a Department-provided format that contains:

1. For an individual licensed as a hearing aid dispenser:
  - a. The licensee's name, home address, telephone number, and e-mail address;
  - b. The licensee's current employment, if applicable, including:
    - i. The employer's name,
    - ii. The licensee's position,
    - iii. Dates of employment,
    - iv. The address of the employer,
    - v. The supervisor's name,
    - vi. The supervisor's email address, and
    - vii. The supervisor's telephone number;
  - c. The licensee's license number and expiration date;
  - d. Since the hearing aid dispenser's previous license application, whether the licensee has been convicted of a felony or a misdemeanor in this or another state or jurisdiction;
  - e. If the licensee was convicted of a felony or misdemeanor:
    - i. The date of the conviction,
    - ii. The state or jurisdiction of the conviction,
    - iii. An explanation of the crime of which the licensee was convicted, and
    - iv. The disposition of the case;
  - f. Whether the licensee has had a license revoked or suspended by any state within the previous two years;
  - g. Whether the licensee is currently ineligible for licensure in any state because of a prior license revocation or suspension;
  - h. Whether the licensee agrees to allow the Department to submit supplemental requests for information under R9-16-314;
  - i. An attestation that the licensee completed continuing education required under A.R.S. § 36-1904 and that documentation of completion is available upon request;
  - j. An attestation that the information required as part of the application has been submitted and is true and accurate; and
  - k. The licensee's signature and date of signature;
2. Whether the licensee has, within the two years before the date of the application, had:
  - a. A license issued under this Article suspended or revoked; or
  - b. A professional license or certificate revoked by another state or jurisdiction; and
3. A license renewal fee specified in R9-16-316; or
4. For a business organization licensed as a hearing aid dispenser:
  - a. The information in subsection R9-16-307(A)(1), and
  - b. A license renewal fee specified in R9-16-316.

**B.** A licensee, except for a temporary hearing aid dispenser, who renews a license within 30 calendar days after the expiration date of the license, shall submit to the Department:

1. The information and renewal fee required in subsection (A), and

2. A late fee specified in R9-16-316.

- C.** A renewal license issued to a licensee, except for temporary hearing aid dispenser, is valid for two years after the expiration date of the previous license issued by the Department.
- D.** If a licensee does not comply with subsections (A) or (B), the license is nonrenewable and:
  1. The hearing aid dispenser may apply for a new license according to subsection (E), or
  2. The business organization may apply for a new license according to R9-16-307.
- E.** A licensee whose license is nonrenewable, according to subsection (D)(1), and is within one year after the expiration date of the hearing aid dispenser's license, the licensee shall submit:
  1. The information in R9-16-303(A);
  2. An attestation of continuing education, according to R9-16-309, completed with twenty-four months before the date of the date of application; and
  3. A nonrefundable application fee and a license fee specified in R9-16-316.
- F.** If allowed in R9-16-303, a temporary hearing aid dispenser shall submit at least 30 calendar days before the expiration date on the license, a renewal application to the Department in a Department-provided format that contains:
  1. The information in R9-16-303(A);
  2. The applicant's sponsor's:
    - a. Name,
    - b. Business address,
    - c. Business telephone number, and
    - d. Arizona hearing aid dispenser license number;
  3. A statement signed by the sponsor that the sponsor is a licensed hearing aid dispenser who agrees to train, supervise, and be responsible for the applicant's hearing aid dispenser practice according to A.R.S. § 36-1905; and
  4. A license renewal fee specified in R9-16-316.
- G.** A renewal license issued to a licensee according to subsection (F) is valid for one year after the expiration date of the previous license issued by the Department.
- H.** The Department shall review a renewal application according to R9-16-314 and Table 3.1.

**Historical Note**

Adopted effective June 25, 1993 (Supp. 93-2). Section repealed; new Section made by exempt rulemaking at 20 A.A.R. 1998, effective July 1, 2014 (Supp. 14-2). Section repealed; new Section made by final expedited rulemaking at 26 A.A.R. 835, with an immediate effective date of April 8, 2020 (Supp. 20-2).

**R9-16-309. Continuing Education**

- A.** Twenty-four months prior to submitting a renewal application, a licensee shall complete 24 continuing education hours that includes no more than eight continuing education hours provided by a single manufacturer of hearing aids.
- B.** Continuing education shall:
  1. Directly relate to the practice of fitting and dispensing hearing aids;
  2. Have educational objectives that exceed an introductory level of knowledge of fitting and dispensing hearing aids; and
  3. Consist of courses that include advances within the last five years in:
    - a. Procedures in the selection and fitting of hearing aids,
    - b. Pre- and post-fitting management of clients,
    - c. Instrument circuitry and acoustic performance data,



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- d. Ear mold design and modification contributing to improved client performance,
  - e. Audiometric equipment or testing techniques that demonstrate an improved ability to identify and evaluate hearing loss,
  - f. Auditory rehabilitation,
  - g. Ethics,
  - h. Federal and state statutes or rules, or
  - i. Assistive listening devices.
- C. A continuing education course developed, endorsed, or sponsored by one of the following meets the requirements in subsection (B):
- 1. Hearing Healthcare Providers of Arizona,
  - 2. Arizona Speech-Language-Hearing Association,
  - 3. American Speech-Language-Hearing Association,
  - 4. International Hearing Society,
  - 5. International Institute for Hearing Instruments Studies,
  - 6. American Auditory Society,
  - 7. American Academy of Audiology,
  - 8. Academy of Doctors of Audiology,
  - 9. Arizona Society of Otolaryngology, Head and Neck Surgery,
  - 10. American Academy of Otolaryngology-Head and Neck Surgery, or
  - 11. An organization determined by the Department to be consistent with an organization in subsection (B)(1) through (10).

**Historical Note**

Adopted effective June 25, 1993 (Supp. 93-2). Section repealed; new Section made by exempt rulemaking at 20 A.A.R. 1998, effective July 1, 2014 (Supp. 14-2). Section repealed; new Section made by final expedited rulemaking at 26 A.A.R. 835, with an immediate effective date of April 8, 2020 (Supp. 20-2).

**R9-16-310. Sponsors**

- A. A sponsor shall:
- 1. Provide to a temporary hearing aid dispenser for on-site training and supervision that:
    - a. Consists of coordinating, directing, watching, inspecting, and evaluating the fitting and dispensing activities of the temporary hearing aid dispenser; and
    - b. Directly relates to the type of training and education needed to pass the licensing examination required in A.R.S. § 36-1924;
  - 2. Maintain a training record that:
    - a. Is signed by the temporary hearing aid dispenser;
    - b. Has the date, time, and content of the training and supervision provided to the temporary hearing aid dispenser, as required in subsection (A)(1); and
    - c. Is available for inspection by the Department for at least 12 months after the end of the sponsorship agreement; and
  - 3. Not provide sponsorship to more than two temporary hearing aid dispenser licensees at one time.
- B. When a sponsor terminates a sponsorship agreement with a temporary hearing aid dispenser, the sponsor shall:
- 1. Provide to the temporary hearing aid dispenser a:
    - a. Written notice indicating termination of the sponsorship agreement, and
    - b. Copy of the hearing aid dispenser's records in subsection (A)(2); and
  - 2. Provide to the Department documentation of the notice required in subsection (B)(1)(a).

**Historical Note**

Adopted effective June 25, 1993 (Supp. 93-2). Section expired under A.R.S. § 41-1056(E) at 7 A.A.R. 5029, effective September 30, 2001 (Supp. 01-4). New Section made by exempt rulemaking at 20 A.A.R. 1998, effective July 1, 2014 (Supp. 14-2). Amended by final expedited rulemaking at 26 A.A.R. 835, with an immediate effective date of April 8, 2020 (Supp. 20-2).

**R9-16-311. Responsibilities of a Hearing Aid Dispenser**

- A. A hearing aid dispenser licensed shall:
- 1. Upon licensure, notify the Department in writing of the address where the hearing aid dispenser practices the fitting and dispensing of hearing aids;
  - 2. Conspicuously post the license received in the hearing aid dispenser's office or place of business;
  - 3. Except as specified in subsections (A)(4) or (A)(5), conduct audiometric tests before selecting a hearing aid for a client that provides detailed information about the client's hearing loss, including:
    - a. Type, degree, and configuration of hearing loss;
    - b. Ability, as measured by the percentage of words the client is able to repeat correctly, to discriminate speech; and
    - c. The client's most comfortable and uncomfortable loudness levels in decibels;
  - 4. Have the option to conduct audiometric testing required in subsection (A)(3) before selling a client a hearing aid if the client provides to the dispenser the information required in subsection (A)(3) from a licensed professional and the information was:
    - a. Obtained within the previous 12 months for an adult, or
    - b. Within the previous six months for an individual under the age of 18;
  - 5. Have the option to conduct audiometric testing required in subsection (A)(3) if the tests cannot be performed on the client due to:
    - a. The client's young age, or
    - b. A physical or mental disability;
  - 6. Evaluate the performance characteristics of the hearing aid as it functions on the client's ear for the purpose of assessing the degree of audibility provided by the device and benefit to the client;
  - 7. Provide a bill of sale to a client according to A.R.S. § 36-1909(A) that contains:
    - a. Information required in A.R.S. § 36-1909;
    - b. A complete description of:
      - i. Warranty information, and
      - ii. The conditions of any offer of a trial period with a money back guarantee or partial refund; and
    - c. The client's signature and date of signature; and
  - 8. Not:
    - a. Practice without a license according to A.R.S. § 36-1907,
    - b. Commit unlawful acts according to A.R.S. § 36-1936, or
    - c. Commit actions described in A.R.S. § 36-1934(A).
- B. The trial period described in subsection (A)(7)(b)(ii) shall not include any time that the hearing aid is in the possession of the hearing aid dispenser or the manufacturer of the hearing aid.

**Historical Note**

Adopted effective June 25, 1993 (Supp. 93-2). Section repealed; new Section made by exempt rulemaking at 20 A.A.R. 1998, effective July 1, 2014 (Supp. 14-2). Section

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repealed; new Section made by final expedited rulemaking at 26 A.A.R. 835, with an immediate effective date of April 8, 2020 (Supp. 20-2).

**R9-16-312. Equipment and Records**

- A. A licensee shall maintain an audiometer and other hearing devices according to the manufacturer's specifications.
- B. If a licensee uses equipment that requires calibration, the licensee shall ensure that:
  - 1. The equipment is calibrated at least every 12 months and according to the American National Standard Institution/Acoustical Society incorporated by reference and on file with the Department, with no future additions or amendments, and available from the American National Standards Institution at <http://webstore.ansi.org>; and
  - 2. A written record of the calibration is maintained in the same location as the calibrated equipment for at least 36 months after the date of the calibration.
- C. A licensee shall maintain a record according to A.R.S. § 32-3211 for each client with the following documents for at least 36 months after the date the licensee provided a service or dispensed a product while engaged in the practice of fitting and dispensing hearing aids:
  - 1. The name, address, and telephone number of the individual to whom services are provided;
  - 2. A written statement from a licensed physician that the client has medical clearance to use hearing aids or a medical waiver signed by the client who is 18 years of age or older;
  - 3. For each audiometric test conducted for the client, the:
    - a. Audiometric test results by date and procedure used in evaluating hearing disorders or determining the need for dispensing a product or service,
    - b. Name of the individual who performed the audiometric tests, and
    - c. Signature of the individual who performed the audiometric tests;
  - 4. A copy of the bill of sale required in R9-16-311(A)(7);
  - 5. Documented verification of the effectiveness of the hearing aid required in R9-16-311(A)(6); and
  - 6. The contracts, agreements, warranties, trial periods, or other documents involving the client.

**Historical Note**

Adopted effective June 25, 1993 (Supp. 93-2). Section repealed; new Section made by exempt rulemaking at 20 A.A.R. 1998, effective July 1, 2014 (Supp. 14-2). Section repealed; new Section made by final expedited rulemaking at 26 A.A.R. 835, with an immediate effective date of April 8, 2020 (Supp. 20-2).

**R9-16-313. Enforcement**

- A. The Department may, as applicable:
  - 1. Deny, revoke, or suspend a license under A.R.S. § 36-1934,
  - 2. Request an injunction under A.R.S. § 36-1937, or
  - 3. Assess a civil money penalty under A.R.S. § 36-1939.
- B. In determining which disciplinary action specified in subsection (A), the Department shall consider:
  - 1. The type of violation,
  - 2. The severity of the violation,
  - 3. The danger to the public health and safety,
  - 4. The number of violations,
  - 5. The number of clients affected by the violations,
  - 6. The degree of harm to the consumer,
  - 7. A pattern of noncompliance, and
  - 8. Any mitigating or aggravating circumstances.

- C. A licensee may appeal a disciplinary action taken by the Department according to A.R.S. Title 41, Chapter 6, Article 10.

**Historical Note**

Adopted effective June 25, 1993 (Supp. 93-2). Section repealed; new Section made by exempt rulemaking at 20 A.A.R. 1998, effective July 1, 2014 (Supp. 14-2). Section repealed; new Section made by final expedited rulemaking at 26 A.A.R. 835, with an immediate effective date of April 8, 2020 (Supp. 20-2).

**R9-16-314. Time-frames**

- A. For each type of license issued by the Department under this Article, Table 6.1 specifies the overall time-frame described in A.R.S. § 41-1072(2).
  - 1. An applicant or licensee and the Department may agree in writing to extend the substantive review time-frame and the overall time-frame.
  - 2. The extension of the substantive review time-frame and overall time-frame may not exceed 25% of the overall time-frame.
- B. For each type of license issued by the Department under this Article, Table 6.1 specifies the administrative completeness review time-frame described in A.R.S. § 41-1072(1).
  - 1. The administrative completeness review time-frame begins on the date the Department receives an application required in this Article.
  - 2. Except as provided in subsection (B)(3), the Department shall provide written notice of administrative completeness or a notice of deficiencies to an applicant within the administrative completeness review time-frame.
    - a. If an application and required documentation is not complete, the notice of deficiencies shall list each deficiency and the information or documentation needed to complete the application.
    - b. A notice of deficiencies suspends the administrative completeness review time-frame and the overall time-frame from the date of the notice until the date the Department receives the missing information or documentation.
    - c. If the applicant does not submit to the Department all the information or documentation listed in the notice of deficiencies within 30 calendar days after the date of the notice of deficiencies, the Department shall consider the application withdrawn.
  - 3. If the Department issues a license during the administrative completeness review time-frame, the Department shall not issue a separate written notice of administrative completeness.
- C. For each type of license issued by the Department under this Article, Table 6.1 specifies the substantive review time-frame described in A.R.S. § 41-1072(3), which begins on the date the Department sends a written notice of administrative completeness.
  - 1. Within the substantive review time-frame, the Department shall provide written notice to the applicant that the Department approved or denied the application.
  - 2. During the substantive review time-frame:
    - a. The Department may make one comprehensive written request for additional information or documentation; and
    - b. If the Department and the applicant agree in writing, the Department may make supplemental requests for additional information or documentation.
  - 3. A comprehensive written request or a supplemental request for additional information or documentation sus-

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pends the substantive review time-frame and the overall time-frame from the date of the request until the date the Department receives all the information or documentation requested.

4. If the applicant does not submit to the Department all the information or documentation listed in a comprehensive written request or supplemental request for additional information or documentation within 30 calendar days after the date of the request, the Department shall deny the license.

- D. An applicant who is denied a license may appeal the denial according to A.R.S. Title 41, Chapter 6, Article 10.

**Historical Note**

Adopted effective June 25, 1993 (Supp. 93-2). Section repealed; new Section made by exempt rulemaking at 20 A.A.R. 1998, effective July 1, 2014 (Supp. 14-2). Section repealed; new Section made by final expedited rulemaking at 26 A.A.R. 835, with an immediate effective date of April 8, 2020 (Supp. 20-2).

**Table 3.1. Time-frames (in calendar days)**

Type of Approval	Statutory Authority	Overall Time-frame	Administrative Completeness Review Time-frame	Time to Respond to Notice of Deficiency	Substantive Review Time-frame	Time to Respond to Comprehensive Written Request
Initial Application for a Hearing Aid Dispenser	A.R.S. §§ 36-1904, 36-1923	60	30	30	30	30
Initial Application for a Business Organization	A.R.S. § 36-1910	60	30	30	30	30
License Renewal	A.R.S. § 36-1904	60	30	30	30	30

**Historical Note**

Table 3.1 renumbered from Table 1 and amended by exempt rulemaking at 20 A.A.R. 1998, effective July 1, 2014 (Supp. 14-2). Table 3.1 repealed; new Table 3.1 made and recodified under R9-16-314 by final expedited rulemaking at 26 A.A.R. 835, with an immediate effective date of April 8, 2020 (Supp. 20-2).

**R9-16-315. Change Affecting a License or a Licensee; Request for Duplicate License**

- A. A hearing aid dispenser licensee or temporary hearing aid dispenser licensee shall submit a written notice to the Department in writing within 30 calendar days after the effective date of a change in:
  1. The licensee's home address or e-mail address, including the new home address or e-mail address;
  2. The licensee's name, including a copy of one of the following with the licensee's new name:
    - a. Marriage certificate,
    - b. Divorce decree, or
    - c. Other legal document establishing the licensee's new name; or
  3. The place or places where the licensee engages in the practice of hearing aid dispensing, including the address or addresses of the place or places where the licensee engages in the practice of hearing aid dispensing.
- B. A licensee may obtain a duplicate license by submitting to the Department a request for a duplicate license in a Department-provided format that includes:
  1. The licensee's name and address,
  2. The licensee's license number and expiration date,
  3. The licensee's signature and date of signature, and
  4. A duplicate license fee specified in R9-16-316.
- C. A business hearing aid dispenser licensee shall submit a written notice to the Department within 30 calendar days after the licensee:
  1. Has a change in the information provided in R9-16-307(A)(1)(b).
  2. Closes a location specified in R9-16-307(A)(1)(b) and (c), including the location address.
  3. Begins operating at new location, not specified in R9-16-307(A)(1)(c), including the new location address.

**Historical Note**

New Section made by final rulemaking at 8 A.A.R. 2688, effective June 7, 2002 (Supp. 02-2). Section repealed; new Section made by exempt rulemaking at 20 A.A.R. 1998, effective July 1, 2014 (Supp. 14-2). Section repealed; new Section made by final expedited rulemaking at 26 A.A.R. 835, with an immediate effective date of April 8, 2020 (Supp. 20-2).

**Table 1. Renumbered****Historical Note**

Table 1 made by final rulemaking at 8 A.A.R. 2688, effective June 7, 2002 (Supp. 02-2). Table 1 renumbered to Table 3.1 by exempt rulemaking at 20 A.A.R. 1998, effective July 1, 2014 (Supp. 14-2).

**R9-16-316. Fees**

- A. An applicant shall submit to the Department the following fee for:
  1. A nonrefundable initial application, \$100;
  2. An initial license for a regular or business hearing aid dispenser, \$200;
  3. A renewal application for temporary hearing aid dispenser license, \$100.
  4. A regular or business hearing aid dispenser licensee for a renewal license, \$200.
- B. If a renewal application is submitted within 30 calendar days after the license expiration date, a licensee shall submit with the renewal application a \$25 late fee.
- C. The fee for a duplicate license is \$25.
- D. An applicant, who is not a business organization, for initial licensure is not required to submit the applicable fee in subsection (A) if the applicant, as part of the applicable application in R9-16-303 or R9-16-306, submits an attestation that the applicant meets the criteria for waiver of licensing fees in A.R.S. § 41-1080.01.

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**Historical Note**

New Section made by final rulemaking at 10 A.A.R. 2063, effective July 3, 2004 (Supp. 04-2). Historical note corrected to reflect the rulemaking action on file and effective with the 04-2 supplement (Supp. 05-2). Section repealed; new Section made by exempt rulemaking at 20 A.A.R. 1998, effective July 1, 2014 (Supp. 14-2). Section repealed; new Section made by final expedited rulemaking at 26 A.A.R. 835, with an immediate effective date of April 8, 2020 (Supp. 20-2).

**R9-16-317. Repealed****Historical Note**

New Section made by exempt rulemaking at 20 A.A.R. 1998, effective July 1, 2014 (Supp. 14-2). Section repealed by final expedited rulemaking at 26 A.A.R. 835, with an immediate effective date of April 8, 2020 (Supp. 20-2).

**ARTICLE 4. REGISTRATION OF ENVIRONMENTAL HEALTH SANITARIANS****R9-16-401. Definitions**

The following definitions apply in this Article, unless otherwise specified:

1. "Accredited" means that an educational institution is recognized by the U.S. Department of Education as providing standards necessary to meet acceptable levels of quality for its graduates to gain admission to other reputable institutions of higher learning or to achieve credentials for professional practice.
2. "Administrative completeness review time-frame" has the same meaning as in A.R.S. § 41-1072.
3. "Applicant" means an individual who submits an application packet or renewal application packet for registration as an environmental health sanitarian.
4. "Application packet" means the information, documents, and fees required by the Department to apply for approval to:
  - a. Take a sanitarian examination, and
  - b. Be registered as an environmental health sanitarian.
5. "Calendar day" means each day, not including the day of the act, event, or default from which a designated period of time begins to run and including the last day of the period unless it is a Saturday, Sunday, statewide furlough day, or legal holiday, in which case the period runs until the end of the next day that is not a Saturday, Sunday, statewide furlough day, or legal holiday.
6. "Continuing education" means a course that provides instruction and training that is designed to develop or improve a registered environmental health sanitarian's professional competence in disciplines directly related to the practice of a registered environmental health sanitarian.
7. "Continuing education hour" means 50 to 60 minutes of continuous course work.
8. "Course" means a workshop, seminar, lecture, conference, or other learning program activities as approved by the Department.
9. "Department" means the Arizona Department of Health Services established in A.R.S. § 36-104 and the Sanitarians Council established in A.R.S. § 36-136.01.
10. "Environmental health" means the science and practice of preventing human injury and illness and promoting well-being by identifying sources that produce potential hazardous physical, chemical, and biological agents in air, water, soil, food, and other conditions; and eliminating or minimizing exposure to the sources that adversely affect or may adversely affect human health.
11. "Environmental health sanitarian aide" means an individual who performs and assists with environmental health services as described and under the supervision of an individual in R9-16-403.
12. "Hazardous environmental agent" means a material, whether liquid, solid, gas, or sludge, that contains properties that make the material potentially harmful to public health or the environment.
13. "Immediate family member" means an individual related by birth, marriage, or adoption.
14. "License or licensed" means a permit, certificate, or similar form of approval issued by a state agency according to state law that an individual may practice in the profession indicated by the approval.
15. "Natural science" means a branch of science that deals with the physical world, including life, physical, and health sciences.
16. "Overall time-frame" has the same meaning as in A.R.S. § 41-1072.
17. "Practice of a registered environmental health sanitarian" means acting under the authority of R9-16-402.
18. "Registered environmental health sanitarian" means the same as a "registered sanitarian" in A.R.S. § 36-136.01.
19. "Renewal application packet" means the information, documents, and fees required by the Department to apply for a renewal registration as an environmental health sanitarian.
20. "Sanitarian examination" means a test that consists of questions related to environmental health including natural sciences, facility and system inspections, investigations, compliance, responding to emergencies, and promoting environmental public health awareness.
21. "Semester credit" means one earned academic unit of study or equivalent, with a grade of "C" or better, at an accredited college or university by:
  - a. Attending a 50 to 60 minute class session each calendar week for at least 16 weeks, or
  - b. Completing practical work for a class as determined by the accredited college or university.
22. "Substantive review time-frame" has the same meaning as in A.R.S. § 41-1072.
23. "Supervision" means being responsible for and providing direction to an individual who:
  - a. Performs and assists a registered environmental health sanitarian with environmental health services as described in R9-16-403, and
  - b. Is employed as an environmental health sanitarian aide in a position directly related to environmental health.

**Historical Note**

Adopted effective September 29, 1976 (Supp. 76-4). Section expired under A.R.S. § 41-1056(E) at 7 A.A.R. 5257, effective September 30, 2001 (Supp. 01-4). New Section made by final rulemaking at 8 A.A.R. 2444, effective May 16, 2002 (Supp. 02-2). Amended by final rulemaking at 10 A.A.R. 3004, effective September 11, 2004 (Supp. 04-3). Amended by final rulemaking at 23 A.A.R. 3038, effective October 5, 2017 (Supp. 17-4).

**R9-16-402. Eligibility and Responsibilities for a Registered Environmental Health Sanitarian**

- A.** An individual is eligible to be a registered environmental health sanitarian, if the individual meets at least one of the following:

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1. Has completed at least 30 semester credits at an accredited college or university in the natural sciences or the equivalent credits from a college or university from outside the United States or its territories verified by a Department-approved third party evaluation service;
  2. Has completed at least five years of employment as a sanitarian aide in a position directly related to environmental health;
  3. Has completed at least five years of active military service in the field of environmental health;
  4. Is currently licensed as a sanitarian in another jurisdiction, has passed a sanitarian examination that is equivalent to this state's examination with a score of 70% or more, and has completed at least one of the requirements identified in subsections (A)(1), (2), or (3); or
  5. Has received an official notice from a testing organization approved by the Department that contains the sanitarian examination test results with a score of 70% or more and has completed at least one of the requirements identified in subsections (A)(1), (2), or (3).
- B.** An individual who is eligible to be a registered environmental health sanitarian according to subsection (A)(1) through (3) shall pass a sanitarian examination administered by the Department or administered by a testing organization approved by the Department.
- C.** The practice of a registered environmental health sanitarian may include:
1. Investigate, sample, measure, and assess hazardous environmental agents;
  2. Recommend and apply protective interventions that control hazards to health;
  3. Develop, promote, and enforce guidelines, policies, rules, statutes, and regulations;
  4. Perform system analysis;
  5. Interpret research utilizing science and evidence to understand the relationship between health and environment; or
  6. Interpret data and prepare technical summaries and reports.
- D.** A registered environmental health sanitarian shall:
1. Comply with A.R.S. § 41-1009;
  2. Comply with A.A.C. Title 9, Chapter 8; and
  3. Review and, as applicable, sign reports prepared by a sanitarian aide.

**Historical Note**

Adopted effective September 29, 1976 (Supp. 76-4).  
 Amended effective April 12, 1985 (Supp. 85-2). Section repealed; new Section made by final rulemaking at 8 A.A.R. 2444, effective May 16, 2002 (Supp. 02-2).  
 Amended by final rulemaking at 10 A.A.R. 3004, effective September 11, 2004 (Supp. 04-3). Amended by final rulemaking at 23 A.A.R. 3038, effective October 5, 2017 (Supp. 17-4).

**R9-16-403. Requirements for an Environmental Health Sanitarian Aide**

- A.** An environmental health sanitarian aide may perform and assist in any of the following environmental health services:
1. Inspections related to food establishments, food processing, food distribution, sewage and refuse disposal, water supplies, hotels, motels, campground, swimming pools, and other related public facilities regulated under A.A.C. Title 9, Chapter 8;
  2. Investigations of complaints to ensure compliance with environmental regulations;
  3. Routine samplings of water, sewage, food, and other samples for analysis; or

4. Application of ordinances, codes, rules, and regulations governing public health.

**B.** An environmental health sanitarian aide shall:

1. Have reports reviewed by a registered environmental health sanitarian;
2. Not approve or disapprove the operation of an establishment under A.A.C. Title 9, Chapter 8; and
3. Not sign on behalf of a registered environmental health sanitarian.

**C.** A sanitarian aide, who has completed at least five years of employment as an environmental health sanitarian aide in a position directly related to environmental health, may apply for registration as an environmental health sanitarian according to R9-16-405.**D.** An individual who provides supervision to an environmental health sanitarian aide shall:

1. Ensure that the number of hours and type of supervision in providing environmental health services is consistent with:
  - a. The sanitarian aide's skills and experience,
  - b. The setting where the environmental health services are provided, and
  - c. The tasks assigned;
2. Establish a record for the environmental health sanitarian aide who receives supervision that includes:
  - a. The sanitarian aide's name, address, e-mail address, and telephone number;
  - b. A plan indicating the types of skills and the number of hours allocated to the development of each skill that the environmental health sanitarian aide is expected to complete;
  - c. Documentation of evaluations provided to the environmental health sanitarian aide during the time supervision was provided; and
  - d. Documentation of when supervision began and ended; and
3. Maintain a sanitarian aide's record throughout the period that the environmental health sanitarian aide received supervision.

**Historical Note**

New Section made by final rulemaking at 8 A.A.R. 2444, effective May 16, 2002 (Supp. 02-2). Former R9-16-403 renumbered to R9-16-404; new R9-16-403 made by final rulemaking at 10 A.A.R. 3004, effective September 11, 2004 (Supp. 04-3). Amended by final rulemaking at 23 A.A.R. 3038, effective October 5, 2017 (Supp. 17-4).

**R9-16-404. Continuing Education Requirements; Continuing Education Deferral; and Renewal Extension****A.** A registered environmental health sanitarian shall complete 12 continuing education hours during the 12 months prior to December 31 of each calendar year, unless the registered environmental health sanitarian:

1. Has been a registered environmental health sanitarian for less than 12 months as indicated on the renewal application;
2. Was prevented from completing continuing education according to subsection (A) due to a personal or immediate family member's illness during at least six continuous months of the preceding 12 months; or
3. Was called to active military service.

**B.** Except for a registered environmental health sanitarian in subsection (A)(1) and (3), by November 1 of each calendar year, a registered environmental health sanitarian may request to defer continuing education by submitting:

1. A request in a Department-provided format that contains:

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- a. The registered environmental health sanitarian's name, address, e-mail address, and telephone number;
  - b. The registered environmental health sanitarian's registration number;
  - c. A statement regarding the registered environmental health sanitarian's personal or immediate family member's illness;
  - d. Indicate the number of continuing education hours requesting to defer;
  - e. An attestation that the Department is authorized to verify all information provided in the continuing education deferral request; and
  - f. The registered environmental health sanitarian's signature, including date of signature;
2. Documentation that verifies the duration of the registered environmental health sanitarian's personal or immediate family member's illness from the physician treating or who treated the registered environmental health sanitarian's personal or immediate family member's illness; and
3. If a registered environmental health sanitarian has completed any continuing education hours, report the completed continuing education hours according to R9-16-406(D)(1)(h).
- C.** A registered environmental health sanitarian that deferred continuing education in subsection (B) shall obtain:
- 1. The deferred continuing education by the end of the subsequent renewal year, and
  - 2. The continuing education required in subsection (A) for the current renewal year.
- D.** A registered environmental health sanitarian called to active military service:
- 1. Shall submit:
    - a. Written notice for renewal extension to the Department that includes:
      - i. The registered environmental health sanitarian's name, address, e-mail address, and telephone number;
      - ii. The registered environmental health sanitarian's registration number;
      - iii. A statement stating the reason for the notice of renewal extension; and
      - iv. The registered environmental health sanitarian's signature, including date of signature; and
    - b. A copy of the registered environmental health sanitarian's deployment documentation;
  - 2. Retains registration as an environmental health sanitarian for the term of service or deployment plus 180 calendar days;
  - 3. Defers the requirement for completing the continuing education for the term of service or deployment plus 180 calendar days; and
  - 4. Shall submit a renewal application packet according to R9-16-406 after the term of service or deployment plus 180 calendar days.
- E.** The Department shall review the request to defer continuing education submitted in subsection (B) for approval according to R9-16-407 and Table 4.1.
- F.** If the Department denies a registered environmental health sanitarian's request to defer continuing education, the registered environmental health sanitarian shall submit the required continuing education hours in subsection (A) according to R9-16-406(D)(1)(h).

**Historical Note**

New Section made by final rulemaking at 8 A.A.R. 2444, effective May 16, 2002 (Supp. 02-2). Former R9-16-404

renumbered to R9-16-406; new R9-16-404 renumbered from R9-16-403 and amended by final rulemaking at 10 A.A.R. 3004, effective September 11, 2004 (Supp. 04-3). Amended by final rulemaking at 23 A.A.R. 3038, effective October 5, 2017 (Supp. 17-4).

**R9-16-405. Application for Sanitarian Examination and Registration**

- A.** An individual may apply to take the sanitarian examination for registration as a sanitarian if the individual meets one of the eligibility requirements in R9-16-402(A).
- B.** At least seven calendar days before a Sanitarians Council meeting, an applicant for environmental health sanitarian registration shall submit an application packet to the Department containing:
- 1. The following information in a Department-provided format:
    - a. The applicant's name, address, e-mail address, and telephone number;
    - b. If applicable, applicant's former names;
    - c. The applicant's social security number, required under A.R.S. §§ 25-320 and 25-502;
    - d. If applicable, the applicant's current employment information:
      - i. The employer's name, address, e-mail address, and telephone number;
      - ii. The applicant's position title; and
      - iii. The applicant's employment start date;
    - e. If an applicant meets the eligibility requirement in R9-16-402(A)(1), the following for each college or university where the applicant completed semester credits or the equivalent credits from a college or university:
      - i. The college or university's name, address, e-mail address, and telephone number;
      - ii. The number of natural science semester credits completed; and
      - iii. If applicable, the degree obtained;
    - f. If an applicant meets the eligibility requirement in R9-16-402(A)(2), the following for each employer during the five years the applicant was employed as a sanitarian aide:
      - i. The employer's name, address, e-mail address, and telephone number;
      - ii. The name, title, e-mail address, and telephone number of a contact individual for the employer;
      - iii. The applicant's position and description of responsibilities; and
      - iv. The months and years of employment;
    - g. If an applicant meets the eligibility requirement in R9-16-402(A)(3), the following for each active military service assignment during the five years the applicant held a military job position in the field of environmental health:
      - i. The military branch name, address, e-mail address, and telephone number;
      - ii. The name, title, e-mail address, and telephone number of a contact individual from the military branch;
      - iii. The applicant's military job position and description of responsibilities; and
      - iv. The months and years of active military service assignments;
    - h. If an applicant meets the eligibility requirement in R9-16-402(A)(4), the following for a sanitarian licensed in another state or jurisdiction:

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- i. The state, county, and city that issued the applicant's current license as a sanitarian;
  - ii. The testing organization that administered the sanitarian examination;
  - iii. The name of the sanitarian examination;
  - iv. The sanitarian examination administration date;
  - v. The number of sanitarian examination questions;
  - vi. The sanitarian examination score;
  - vii. The other eligibility requirement in R9-16-402(A)(1), (2), or (3) met by the applicant; and
  - viii. As applicable, the information required in subsection (B)(1)(e), (f), or (g);
  - i. If an applicant meets the eligibility requirement in R9-16-402(A)(5), the following for an official notice from a Department-approved testing organization that contains a sanitarian examination test results with a score of 70% or more:
    - i. The name of the testing organization;
    - ii. The date the sanitarian examination was completed;
    - iii. The sanitarian examination score; and
    - iv. As applicable, the information required in subsection (B)(1)(e), (f), or (g);
  - j. Whether the applicant is or has been licensed as a sanitarian in another state or jurisdiction;
  - k. Whether the applicant has had an application for licensure as a sanitarian denied in a state or jurisdiction;
  - l. If the applicant has had an application for licensure as a sanitarian denied, the:
    - i. Reason for denial;
    - ii. Date of the denial; and
    - iii. Name, address, and telephone number of the licensing agency that denied the applicant's application;
  - m. Whether the applicant has had a license as a sanitarian suspended or revoked by a state or jurisdiction or entered into a consent agreement with a state or jurisdiction;
  - n. If the applicant has had a license as a sanitarian suspended or revoked or entered into a consent agreement, the:
    - i. Reason for the suspension, revocation, or consent agreement;
    - ii. Date of the suspension, revocation, or consent agreement; and
    - iii. Name, address, and telephone number of the licensing agency that suspended, revoked, or entered into a consent agreement with the applicant;
  - o. Whether the applicant has been convicted of a felony or a misdemeanor related to the functions of the applicant's employment or occupation as a sanitarian in this state or another state;
  - p. If the applicant has been convicted of a felony or a misdemeanor in subsection (B)(1)(o):
    - i. The date of the conviction,
    - ii. The state or jurisdiction of the conviction,
    - iii. An explanation of the crime of which the applicant was convicted, and
    - iv. The disposition of the case;
  - q. Whether the applicant agrees to allow the Department to submit supplemental requests for additional information or documentation in R9-16-407;
  - r. An attestation that:
    - i. The applicant authorizes the Department to verify all information provided in the application packet, and
    - ii. The information submitted as part of the application packet is true and accurate; and
  - s. The applicant's signature and date of signature;
2. In addition to the application in subsection (B)(1), the following:
    - a. A copy of applicant's Social Security card;
    - b. Proof of U.S. citizenship or alien status according to A.R.S. § 41-1080;
    - c. If applicable, a copy of an applicant's sanitarian license issued by another state or jurisdiction;
    - d. If an official transcript is issued by a college or university from outside of the United States or its territories, documentation from a third party evaluation service verifying equivalent credits identified in subsection (B)(1)(d);
    - e. If applicable, a letter verifying an applicant's start and end dates of employment for each employer identified in subsection (B)(1)(f);
    - f. If applicable, a letter verifying an applicant's start and end dates of the military job position for each active military service assignment identified in subsection (B)(1)(g);
    - g. If applicable, documentation of the completed sanitarian examination, including the sanitarian examination test results, from the testing organization or jurisdiction that administered the sanitarian examination required by another state or jurisdiction in subsection (B)(1)(h); and
    - h. If applicable, a copy of the official notice from a Department-approved testing organization in subsection (B)(1)(i); and
  3. The nonrefundable \$25 application fee.
- C.** If an official transcript documents natural science semester credit hours identified in subsection (B)(1)(e), an applicant shall instruct the college or university to send the official transcript to the Department.
- D.** The Department shall review an application packet for an applicant to take a sanitarian examination according to R9-16-407 and Table 4.1.
- E.** The Department shall review a sanitarian examination for an applicant licensed by another state or jurisdiction for approval for the applicant to practice as a registered environmental health sanitarian according to R9-16-407 and Table 4.1.
- F.** The Department shall:
1. Administer the sanitarian examination at least four times each calendar year;
  2. By January 1 of each calendar year, provide the annual sanitarian examination schedule;
  3. If a scheduled sanitarian examination requires rescheduling, provide a notice at least 14 calendar days before a scheduled sanitarian examination date in subsection (F)(2) occurs that includes information about the revised sanitarian examination; and
  4. By January 1 of each calendar year, provide a list of Department-approved testing organizations.
- G.** An applicant approved to take a sanitarian examination shall:
1. Determine whether the applicant will take a sanitarian examination administered by the Department or administered by a testing organization approved by the Department;
    - a. If the applicant determines to take a sanitarian examination administered by the Department, the applicant shall:

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- i. Submit a nonrefundable \$140 sanitarian examination fee to the Department at least 30 calendar days before taking a scheduled sanitarian examination,
    - ii. Take a scheduled sanitarian examination administered by the Department, and
    - iii. Submit the completed sanitarian examination to the Department; or
  - b. If the applicant determines to take a sanitarian examination administered by a testing organization approved by the Department, the applicant shall:
    - i. Select a testing organization from the Department-approved list,
    - ii. Take a scheduled sanitarian examination administered by the testing organization, and
    - iii. Submit a copy of the official notice from the testing organization that contains the sanitarian examination test results to the Department.
  - 2. Take the sanitarian examination within 6 months after the date the applicant received the notice of approval to take the sanitarian examination.
  - 3. Pass the sanitarian examination with a score of 70% or more.
- H.** The Department shall review a sanitarian examination for approval for an applicant to practice as a registered environmental health sanitarian according to R9-16-407 and Table 4.1.
- I.** An applicant, who does not submit a sanitarian examination or a copy of an official notice from a testing organization in subsection (G) within 6 months after the date that the applicant received the notice of approval to take the sanitarian examination, shall submit a new application packet according to R9-16-405(B).
- J.** An applicant, who submits a sanitarian examination or a copy of an official notice from a testing organization in subsection (G) within 6 months after the date that the applicant received the notice of approval to take the sanitarian examination and does not score 70% or more, shall:
- 1. Have 12 months from the date of the approval letter the applicant received from the Department to resubmit a sanitarian examination or a copy of an official notice from a testing organization in subsection (G); and
  - 2. Comply with subsections (G)(1)(a) or (b) to retake the sanitarian examination.
- Historical Note**
- Adopted effective September 29, 1976 (Supp. 76-4). Amended effective April 12, 1985 (Supp. 85-2). Section expired under A.R.S. § 41-1056(E) at 7 A.A.R. 5257, effective September 30, 2001 (Supp. 01-4). New Section made by final rulemaking at 8 A.A.R. 2444, effective May 16, 2002 (Supp. 02-2). Former R9-16-405 renumbered to R9-16-407; new R9-16-405 made by final rulemaking at 10 A.A.R. 3004, effective September 11, 2004 (Supp. 04-3). Amended by final rulemaking at 23 A.A.R. 3038, effective October 5, 2017 (Supp. 17-4).
- R9-16-406. Application for Renewal Registration**
- A.** Except as provided in R9-16-404(D), a registered environmental health sanitarian shall submit an application packet for registration renewal on or before December 31 of each calendar year.
- B.** A registered environmental health sanitarian who does not submit a renewal application packet by December 31 has a grace period until February 15 to submit a renewal application packet.
- C.** A registered environmental health sanitarian, who does not submit a renewal application packet by February 15, shall not practice as a registered environmental health sanitarian.
- D.** By December 31 of each calendar year, an applicant shall submit to the Department a renewal application packet containing:
- 1. The following information in a Department-provided format:
    - a. The applicant's name, address, e-mail address, and telephone number;
    - b. The applicant's environmental health sanitarian registration number;
    - c. Whether the applicant, since the applicant last submitted an application packet or renewal application packet, has had a license as a sanitarian suspended or revoked by a state or jurisdiction or entered into a consent agreement with another jurisdiction;
    - d. If the applicant has had a license as a sanitarian suspended or revoked or entered into a consent agreement with another jurisdiction, the:
      - i. Reason for the suspension, revocation, or consent agreement;
      - ii. Date of the suspension, revocation, or consent agreement; and
      - iii. Name, address, and telephone number of the licensing agency that suspended, revoked, or entered into a consent agreement;
    - e. Whether the applicant, since the applicant last submitted a renewal application packet, has been convicted of a felony or a misdemeanor related to the applicant's employment or occupation as a sanitarian in this state or another jurisdiction;
    - f. If the applicant has been convicted of a felony or a misdemeanor as stated according to subsection (D)(1)(e):
      - i. The date of the conviction,
      - ii. The state or jurisdiction of the conviction,
      - iii. An explanation of the crime of which the applicant was convicted, and
      - iv. The disposition of the case;
    - g. Whether the applicant requested to defer continuing education due to a personal or immediate family member's illness according to R9-16-404(B);
    - h. Except for a registered environmental health sanitarian in R9-16-404(A), for each continuing education course completed during the previous 12 months, the following:
      - i. The course title,
      - ii. A course description,
      - iii. The name of the individual providing the continuing education course,
      - iv. The date the continuing education course was completed, and
      - v. The total number of continuing education hours attended;
    - i. Whether the applicant has been a registered environmental health sanitarian for less than 12 months according to R9-16-404(A)(1);
    - j. An attestation that:
      - i. The applicant affirms that the continuing education courses specified according to subsection (h) are applicable and consistent with the Department's approved continuing education courses or with the practice of a registered environmental sanitarian described in R9-16-402(C);



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- ii. The applicant authorizes the Department to verify all information provided in the renewal application packet; and
    - iii. The information submitted as part of the renewal application packet is true and accurate; and
    - k. The applicant's signature and date of signature;
  - 2. If applicable, a copy of the approved request to defer continuing education, and
  - 3. The \$10 renewal application fee.
  - E. If a registered environmental health sanitarian does not submit a renewal application packet in subsection (D) by February 15:
    - 1. The registered environmental health sanitarian's registration expires on February 16; and
    - 2. Before practicing as a registered environmental health sanitarian, a registered environmental health sanitarian whose environmental health sanitarian registration expired shall submit a new application packet according to R9-16-405.
  - F. The Department shall review the renewal application packet for approval of registration as an environmental health sanitarian according to R9-16-407 and Table 4.1.
- Historical Note**
- Adopted effective September 29, 1976 (Supp. 76-4). Section repealed; new Section made by final rulemaking at 8 A.A.R. 2444, effective May 16, 2002 (Supp. 02-2). Former R9-16-406 renumbered to R9-16-408; new R9-16-406 renumbered from R9-16-404 by final rulemaking at 10 A.A.R. 3004, effective September 11, 2004 (Supp. 04-3). Amended by final rulemaking at 23 A.A.R. 3038, effective October 5, 2017 (Supp. 17-4).
- R9-16-407. Time-frames**
- A. The overall time-frame begins, for:
    - 1. A sanitarian examination approval, on the date the Department receives an application packet in R9-16-405;
    - 2. An environmental health sanitarian registration approval, on the date the Department receives an official notice for an applicant's sanitarian examination test result administered by:
      - a. A testing organization described in R9-16-405(B)(1)(i) or (G), or
      - b. A testing organization or jurisdiction that administered the sanitarian examination required by another state or jurisdiction described in R9-16-405(B)(1)(h);
    - 3. A continuing education deferral approval, on the date the Department receives the continuing education deferral request in R9-16-404; and
    - 4. A renewal registration approval, on the date the Department receives a renewal application packet in R9-16-406.
  - B. The applicant and the Department may agree in writing to extend the substantive review time-frame and the overall time-frame. The substantive review time-frame and the overall time-frame may not be extended by more than 25% of the overall time-frame.
  - C. Within the administrative completeness review time-frame in Table 4.1, the Department shall:
    - 1. Provide a notice of administrative completeness to an applicant; or
    - 2. Provide a notice of deficiencies to an applicant, including a list of the missing information or documents.
  - D. If the Department provides a notice of deficiencies to an applicant:
    - 1. The administrative completeness review time-frame and the overall time-frame are suspended after the date of the notice of deficiencies until the date the Department receives the missing information or documents from the applicant;
  - 2. If the applicant submits the missing information or documents to the Department within the time-frame in Table 4.1, the substantive review time-frame resumes on the date the Department receives the missing information or documents; and
  - 3. If the applicant does not submit the missing information or documents to the Department within the time-frame in Table 4.1, the Department shall consider the application or the request withdrawn.
  - E. If the Department issues a registration or notice of approval during the administrative completeness review time-frame, the Department may not issue a separate written notice of administrative completeness.
  - F. Within the substantive review time-frame specified in Table 4.1, the Department:
    - 1. Shall approve an:
      - a. Applicant's request for registration as an environmental health sanitarian or
      - b. Applicant, who did not score 70% or more on the sanitarian examination, to resubmit a sanitarian examination according to R9-16-405(J);
    - 2. Shall deny an applicant's request for registration as an environmental health sanitarian;
    - 3. May make a written comprehensive request for additional information or documentation; and
    - 4. May make supplemental requests for additional information and documentation if agreed to by the applicant.
  - G. If the Department provides a written comprehensive request for additional information or documentation or a supplemental request to the applicant:
    - 1. The substantive review time-frame and overall time-frame are suspended from the date of the written comprehensive request or supplemental request until the date the Department receives the information and documents requested; and
    - 2. The applicant shall submit to the Department the information and documents listed in the written comprehensive request within 15 calendar days after the date of the written comprehensive request or supplemental request.
  - H. The Department shall issue:
    - 1. An approval to an applicant who submits:
      - a. An application packet to take a sanitarian examination that complies with the requirements in R9-16-405;
      - b. An application packet and a sanitarian examination with a score of 70% or more from a testing organization approved by the Department that complies with the requirements in R9-16-405;
      - c. An application packet and a sanitarian examination test results from the testing organization or jurisdiction that administered the sanitarian examination that complies with the requirements in R9-16-405;
      - d. A continuing education deferral request that complies with the requirements in R9-16-404; and
      - e. A renewal application packet that complies with the requirements R9-16-406; or
    - 2. A denial to an applicant, including the reason for the denial and the appeal process in A.R.S. Title 41, Chapter 6, Article 10, if:
      - a. The applicant does not submit all of the information and documentation listed in a written comprehensive request or supplemental request for additional information or documentation; or

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- b. The applicant does not comply with A.R.S. § 36-136.01 and this Article.

**Historical Note**

Adopted effective September 29, 1976 (Supp. 76-4). Section repealed; new Section made by final rulemaking at 8 A.A.R. 2444, effective May 16, 2002 (Supp. 02-2). Former R9-16-407 renumbered to R9-16-409; new R9-16-407 renumbered from R9-16-405 and amended by final rulemaking at 10 A.A.R. 3004, effective September 11, 2004 (Supp. 04-3). Amended by final rulemaking at 23 A.A.R. 3038, effective October 5, 2017 (Supp. 17-4).

**Historical Note**

Table 1. Time-frames made by final rulemaking under new Section R9-16-405 at 8 A.A.R. 2444, effective May 16, 2002 (Supp. 02-2). Table 1. Time-frames following Section R9-16-405 renumbered below Section R9-16-407 and amended by final rulemaking at 10 A.A.R. 3004, effective September 11, 2004 (Supp. 04-3). Table 1. Time-frames repealed by final rulemaking at 23 A.A.R. 3038, effective October 5, 2017 (Supp. 17-4).

**Table 1. Repealed****Table 4.1 Time-frames (in calendar days)**

Type of Approval	Statutory Authority	Overall Time-frame	Administrative Completeness Review Time-frame	Time to Respond to Deficiency Notice	Substantive Review Time-frame	Time to Respond to Written Comprehensive Request
Sanitarian Examination (R9-16-405)	A.R.S. § 36-136.01(B)	150	30	30	120	15
Registration (R9-16-405)	A.R.S. § 36-136.01(B)	35	5	15	30	15
Registration by Reciprocity (R9-16-405)	A.R.S. § 36-136.01(C)	150	30	30	120	15
Deferred Continuing Education (R9-16-404)	A.R.S. § 36-136.01(E)	45	30	15	15	15
Renewal Registration (R9-16-406)	A.R.S. § 36-136.01(D)	75	60	15	15	15

**Historical Note**

Table 4.1 Time-frames made by final rulemaking at 23 A.A.R. 3038, effective October 5, 2017 (Supp. 17-4).

**R9-16-408. Requesting a Change**

Within 30 calendar days after the effective date of a change, a registered environmental health sanitarian requesting a change to personal information shall submit in a Department-provided format:

1. A written notice stating the information to be changed and indicating the new information; and
2. If the change is to the registered environmental health sanitarian's legal name, a copy of one of the following with the registered environmental health sanitarian's new name:
  - a. Marriage certificate,
  - b. Divorce decree,
  - c. Professional license, or
  - d. Other legal document establishing the registered environmental health sanitarian's legal name.

**Historical Note**

Adopted effective September 29, 1976 (Supp. 76-4). Section repealed by final rulemaking at 8 A.A.R. 2444, effective May 16, 2002 (Supp. 02-2). Section R9-16-408 renumbered from R9-16-406 by final rulemaking at 10 A.A.R. 3004, effective September 11, 2004 (Supp. 04-3). Amended by final rulemaking at 23 A.A.R. 3038, effective October 5, 2017 (Supp. 17-4).

**R9-16-409. Denial, Suspension, or Revocation**

- A.** The Department may deny an application packet for approval for registration or renewal of registration if the Department determines that an applicant:
1. Intentionally provided false information or documents in an application packet or renewal application packet;

2. Had an application for a license related to the practice of a registered environmental health sanitarian denied by a state or jurisdiction;
3. Had a license related to the practice of a registered environmental health sanitarian suspended or revoked by a state or jurisdiction or entered into a consent agreement with a state or jurisdiction; or
4. Was convicted of or entered into a plea of no contest to a misdemeanor resulting from employment as a registered environmental health sanitarian or a felony.

- B.** The Department may suspend or revoke a registered environmental health sanitarian's registration if the Department determines that a registered environmental health sanitarian:
1. Assisted an individual who is not a registered environmental health sanitarian to circumvent the requirements in this Article;
  2. Allowed an individual who is not a registered environmental health sanitarian to use the registered environmental health sanitarian's registration;
  3. Falsified records to interfere with or obstruct an investigation or regulatory process of the Department or a political subdivision; or
  4. Failed to comply with any of the requirements in A.R.S. § 36-136.01 or this Article.
- C.** In determining whether to suspend or revoke a registered environmental health sanitarian's registration, the Department shall consider the threat to public health based on:
1. Whether there is repeated non-compliance with statutes or rules,
  2. Type of non-compliance,

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3. Severity of non-compliance, and
  4. Number of non-compliance actions.
- D.** The Department's notice of suspension or revocation to the applicant or registered environmental health sanitarian shall comply with A.R.S. Title 41, Chapter 6, Article 10.

**Historical Note**

Adopted effective September 29, 1976 (Supp. 76-4). Amended effective April 12, 1985 (Supp. 85-2). Section repealed by final rulemaking at 8 A.A.R. 2444, effective May 16, 2002 (Supp. 02-2). Section R9-16-409 renumbered from R9-16-407 and amended by final rulemaking at 10 A.A.R. 3004, effective September 11, 2004 (Supp. 04-3). Amended by final rulemaking at 23 A.A.R. 3038, effective October 5, 2017 (Supp. 17-4).

**R9-16-410. Repealed****Historical Note**

Adopted effective September 29, 1976 (Supp. 76-4). Former Section R9-16-410 repealed, new Section R9-16-410 adopted effective April 12, 1985 (Supp. 85-2). Section repealed by final rulemaking at 8 A.A.R. 2444, effective May 16, 2002 (Supp. 02-2).

**R9-16-411. Repealed****Historical Note**

Adopted effective September 29, 1976 (Supp. 76-4). Former Section R9-16-411 renumbered as Section R9-16-414, new Section R9-16-411 adopted effective April 12, 1985 (Supp. 85-2). Section repealed by final rulemaking at 8 A.A.R. 2444, effective May 16, 2002 (Supp. 02-2).

**R9-16-412. Repealed****Historical Note**

Adopted effective April 12, 1985 (Supp. 85-2). Section repealed by final rulemaking at 8 A.A.R. 2444, effective May 16, 2002 (Supp. 02-2).

**R9-16-413. Repealed****Historical Note**

Adopted effective April 12, 1985 (Supp. 85-2). Section repealed by final rulemaking at 8 A.A.R. 2444, effective May 16, 2002 (Supp. 02-2).

**R9-16-414. Expired****Historical Note**

Former Section R9-16-411 renumbered as Section R9-16-414 effective April 12, 1985 (Supp. 85-2). Section expired under A.R.S. § 41-1056(E) at 7 A.A.R. 5257, effective September 30, 2001 (Supp. 01-4).

**ARTICLE 5. LICENSING SPEECH-LANGUAGE PATHOLOGIST ASSISTANTS****R9-16-501. Definitions**

In addition to the definitions in A.R.S. § 36-1901, the following definitions apply in this Article unless otherwise specified:

1. "Accredited" means approved by the:
  - a. New England Commission of Higher Education,
  - b. Middle States Commission on Higher Education,
  - c. Higher Learning Commission,
  - d. Northwest Commission on Colleges and Universities,
  - e. Southern Association of Colleges and Schools Commission on Colleges, or
  - f. WASC Senior College and University Commission.

2. "Applicant" means an individual who submits a license application and required documentation for approval to practice as a speech-language pathologist assistant.
3. "Calendar day" means each day, not including the day of the act, event, or default from which a designated period of time begins to run, but including the last day of the period unless it is a Saturday, Sunday, statewide furlough day, or legal holiday, in which case the period runs until the end of the next day that is not a Saturday, Sunday, statewide furlough day, or legal holiday.
4. "Continuing education" means a course that provides instruction and training that is designed to develop or improve a licensee's professional competence in disciplines that directly relate to the licensee's scope of practice.
5. "Course" means a workshop, seminar, lecture, conference, or class.
6. "Documentation" means information in written, photographic, electronic, or other permanent form.
7. "General education" means instruction that includes:
  - a. Oral communication,
  - b. Written communication,
  - c. Mathematics,
  - d. Computer instruction,
  - e. Social sciences, and
  - f. Natural sciences.
8. "Observation" means to witness:
  - a. The provision of speech-language pathology services to a client, or
  - b. A demonstration of how to provide speech-language pathology services to a client.
9. "Semester credit hour" means one earned academic unit of study completed, at an accredited college or university, by:
  - a. Attending a 50 to 60 minute class session each calendar week for at least 16 weeks, or
  - b. Completing practical work for a course as determined by the accredited college or university.
10. "Speech-language pathologist" means an individual who is licensed under A.R.S. § 36-1940.01.
11. "Speech-language pathology technical course work" means a curriculum that provides knowledge to develop core skills and assume job responsibilities, including:
  - a. Language acquisition,
  - b. Speech development,
  - c. Communication disorders,
  - d. Articulation and phonology, and
  - e. Intervention techniques for speech and language disorders.
12. "Supervision" means instruction and monitoring provided by a licensed speech-language pathologist as required in A.R.S. § 36-1940.04(E) and (F) to an individual training to become a speech-language pathologist assistant.

**Historical Note**

New Section made by final rulemaking at 15 A.A.R. 2132, effective January 30, 2010 (Supp. 09-4). Amended by exempt rulemaking at 20 A.A.R. 1998, effective July 1, 2014 (Supp. 14-2). Amended by final expedited rulemaking at 26 A.A.R. 852, with an immediate effective date of April 8, 2020 (Supp. 20-2).

**R9-16-502. Initial Application**

- A.** An applicant for licensure shall submit to the Department:
1. An application in a Department-provided format that contains:

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- a. The applicant's name, home address, telephone number, and e-mail address;
  - b. The applicant's Social Security number, as required under A.R.S. §§ 25-320 and 25-502;
  - c. If applicable, the name of the applicant's employer and the employer's business address and telephone number;
  - d. Whether the applicant has ever been convicted of a felony or of a misdemeanor in this state or another state;
  - e. If the applicant has been convicted of a felony or a misdemeanor:
    - i. The date of the conviction,
    - ii. The state or jurisdiction of the conviction,
    - iii. An explanation of the crime of which the applicant was convicted, and
    - iv. The disposition of the case;
  - f. Whether the applicant has had a license revoked or suspended by any state;
  - g. Whether the applicant is currently ineligible for licensure in any state because of a prior license revocation or suspension;
  - h. Whether the applicant agrees to allow the Department to submit supplemental requests for information under R9-16-506;
  - i. An attestation that the information submitted is true and accurate; and
  - j. The applicant's signature and date of signature;
2. If applicable, a list of all states and countries in which the applicant is or has been licensed as a speech-language pathologist assistant;
  3. If a license for an applicant has been revoked or suspended by any state, documentation that includes:
    - a. The date of the revocation or suspension,
    - b. The state or jurisdiction of the revocation or suspension, and
    - c. An explanation of the revocation or suspension;
  4. If the applicant is currently ineligible for licensure in any state because of a prior license revocation or suspension, documentation that includes:
    - a. The date of the ineligibility for licensure,
    - b. The state or jurisdiction of the ineligibility for licensure, and
    - c. An explanation of the ineligibility for licensure;
  5. Documentation of the applicant's citizenship or alien status that complies with A.R.S. § 41-1080.
  6. A transcript or equivalent documentation issued to the applicant from an accredited college or university, showing completion of at least 60 semester credit hours of general education and speech-language pathology technical course work specified in A.R.S. § 36.1940.04(A) that requires:
    - a. No less than 20 semester credit hours of general education, and
    - b. No less than 20 semester credit hours of speech-language pathology technical course work;
  7. Documentation, signed by a licensed speech-language pathologist as required in A.R.S. §36-1940.04 who provided supervision to the applicant, confirming the applicant's completion of at least 100 hours of clinical interaction that did not include observation; and
  8. The application and licensing fees specified in R9-16-508.
- B.** In addition to complying with subsection (A)(1) through (5), an applicant that may be eligible for licensure under A.R.S. § 36-1922 shall submit documentation to the Department that includes:
1. The name of each state that issued the applicant a current speech-language pathologist assistant, including:
    - a. The license number of each current speech-language pathologist assistant license, and
    - b. The date each current speech-language pathologist assistant license was issued;
  2. Documentation of the professional license or certification issued to the applicant by each state in which the applicant holds a professional license or certification;
  3. For each state named in subsection (B)(1), a statement, signed and dated by the applicant, attesting that the applicant:
    - a. Has been licensed or certified in another state for at least one year, with a scope of practice consistent with the scope of practice for which licensure is being requested;
    - b. Has met minimum education requirements according to A.R.S. § 36-1940.04;
    - c. Has not voluntarily surrendered a license or certification in any other state or country while under investigation for unprofessional conduct; and
    - d. Does not have a complaint, allegation, or investigation pending before another regulatory entity in another state or country related to unprofessional conduct.
- C.** A regular license is valid for two years from the date of issue.
- D.** The Department shall review the application and required documentation for an initial license to practice as a speech-language pathologist assistant according to R9-16-506 and Table 5.1.
- E.** If the Department does not issue an initial license to an applicant, the Department shall refund the license fee to the applicant.

**Historical Note**

New Section made by final rulemaking at 15 A.A.R. 2132, effective January 30, 2010 (Supp. 09-4). Section R9-16-502 repealed; new Section R9-16-502 renumbered from R9-16-503 and amended by exempt rulemaking at 20 A.A.R. 1998, effective July 1, 2014 (Supp. 14-2). Amended by final expedited rulemaking at 26 A.A.R. 852, with an immediate effective date of April 8, 2020 (Supp. 20-2).

**R9-16-503. License Renewal**

- A.** Before the expiration date of a speech-language pathologist assistant license, a licensee shall submit to the Department:
1. An application in a Department-provided format for renewal of a speech-language pathologist assistant license that contains:
    - a. The licensee's name, home address, telephone number, and e-mail address;
    - b. The licensee's current employment, if applicable, including:
      - i. The employer's name,
      - ii. The licensee's position,
      - iii. Dates of employment,
      - iv. The address of the employer,
      - v. The supervisor's name,
      - vi. The supervisor's e-mail address, and
      - vii. The supervisor's telephone number;
    - c. If applicable, the name of the licensee's supervising speech-language pathologist;
    - d. The licensee's license number and date of expiration;

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- e. Since the previous license application, whether the licensee has been convicted of a felony or a misdemeanor involving moral turpitude in this or another state;
  - f. If the licensee has been convicted of a felony or a misdemeanor:
    - i. The date of the conviction,
    - ii. The state or jurisdiction of the conviction,
    - iii. An explanation of the crime of which the licensee was convicted, and
    - iv. The disposition of the case;
  - g. Whether the licensee has had a license revoked or suspended by any state within the previous two years;
  - h. Whether the licensee is currently ineligible for licensure in any state because of a prior license revocation or suspension;
  - i. Whether the licensee agrees to allow the Department to submit supplemental requests for information under R9-16-506;
  - j. An attestation that the licensee has completed continuing education required under A.R.S. 36-1904 and this Article and documentation of completion is available upon request;
  - k. An attestation that the information required as part of the renewal application is true and accurate; and
    - l. The licensee's signature and date of signature;
  2. If a license for a licensee has been revoked or suspended by any state within the previous two years, documentation that includes:
    - a. The date of the revocation or suspension,
    - b. The state or jurisdiction of the revocation or suspension, and
    - c. An explanation of the revocation or suspension;
  3. If the licensee is currently ineligible for licensure in any state because of a prior license revocation or suspension, documentation that includes:
    - a. The date of the ineligibility for licensure,
    - b. The state or jurisdiction of the ineligibility for licensure, and
    - c. An explanation of the ineligibility for licensure;
  4. A renewal fee specified in R9-16-508.
- B.** According to A.R.S. § 36-1904, the Department shall allow a speech-language pathologist assistant to renew a license within 30 calendar days after the expiration date of the license by submitting to the Department:
1. The renewal application, including documentation required in subsection (A), and
  2. Fees specified in R9-16-508.
- C.** An individual who does not submit a renewal application, documentation; and fees required in subsection (A) or (B), shall reapply for an initial license according to R9-16-502.

**Historical Note**

New Section made by final rulemaking at 15 A.A.R. 2132, effective January 30, 2010 (Supp. 09-4). Section R9-16-503 renumbered to R9-16-502; new Section R9-16-503 renumbered from R9-16-504 and amended by exempt rulemaking at 20 A.A.R. 1998, effective July 1, 2014 (Supp. 14-2). Amended by final expedited rulemaking at 26 A.A.R. 852, with an immediate effective date of April 8, 2020 (Supp. 20-2).

**R9-16-504. Continuing Education**

- A.** Twenty-four months prior to submitting a renewal application, a licensee shall complete continuing education.
- B.** Continuing education shall:

1. Directly relate to the practice of speech-language pathology;
  2. Have educational objectives that exceed an introductory level of knowledge of speech-language pathology; and
  3. Consist of courses that include advances within the last five years in:
    - a. Practice of speech-language pathology,
    - b. Auditory rehabilitation,
    - c. Ethics, or
    - d. Federal and state statutes or rules.
- C.** A continuing education course developed, endorsed, or sponsored by one of the following meets the requirements in subsection (B):
1. Hearing Healthcare Providers of Arizona,
  2. Arizona Speech-Language-Hearing Association,
  3. American Speech-Language-Hearing Association,
  4. International Hearing Society,
  5. International Institute for Hearing Instrument Studies,
  6. American Auditory Society,
  7. American Academy of Audiology,
  8. Academy of Doctors of Audiology,
  9. Arizona Medical Association,
  10. American Academy of Otolaryngology-Head and Neck Surgery, or
  11. An organization determined by the Department to be consistent with an organization in subsection (C)(1) through (10).
- D.** A speech-language pathologist assistant shall comply with the requirements in A.R.S. § 36-1904.

**Historical Note**

New Section made by final rulemaking at 15 A.A.R. 2132, effective January 30, 2010 (Supp. 09-4). Section R9-16-504 renumbered to R9-16-503; new Section R9-16-504 renumbered from R9-16-506 and amended by exempt rulemaking at 20 A.A.R. 1998, effective July 1, 2014 (Supp. 14-2). Amended by final expedited rulemaking at 26 A.A.R. 852, with an immediate effective date of April 8, 2020 (Supp. 20-2).

**R9-16-505. Enforcement**

- A.** The Department may, as applicable:
1. Deny, revoke, or suspend an speech-language pathologist assistant license under A.R.S. § 36-1934;
  2. Request an injunction under A.R.S. § 36-1937; or
  3. Assess a civil money penalty under A.R.S. § 36-1939.
- B.** In determining which disciplinary action specified in subsection (A) is appropriate, the Department shall consider:
1. The type of violation,
  2. The severity of the violation,
  3. The danger to public health and safety,
  4. The number of violations,
  5. The number of clients affected by the violations,
  6. The degree of harm to a client,
  7. A pattern of noncompliance, and
  8. Any mitigating or aggravating circumstances.

**Historical Note**

New Section made by final rulemaking at 15 A.A.R. 2132, effective January 30, 2010 (Supp. 09-4). Amended by exempt rulemaking at 20 A.A.R. 1998, effective July 1, 2014 (Supp. 14-2). Section repealed; new Section made by final expedited rulemaking at 26 A.A.R. 852, with an immediate effective date of April 8, 2020 (Supp. 20-2).

**Table 1. Renumbered**

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**Historical Note**

New Table 1 made by final rulemaking at 15 A.A.R. 2132, effective January 30, 2010 (Supp. 09-4). Table 1 renumbered to Table 5.1 by exempt rulemaking at 20 A.A.R. 1998, effective July 1, 2014 (Supp. 14-2).

**R9-16-506. Time-frames**

- A.** For each type of license issued by the Department under this Article, Table 5.1 specifies the overall time-frame described in A.R.S. § 41-1072(2).
1. An applicant or licensee and the Department may agree in writing to extend the substantive review time-frame and the overall time-frame.
  2. The extension of the substantive review time-frame and the overall time-frame may not exceed 25% of the overall time-frame.
- B.** For each type of license issued by the Department under this Article, Table 5.1 specifies the administrative completeness review time-frame described in A.R.S. § 41-1072(1).
1. The administrative completeness review time-frame begins on the date the Department receives an application and required documentation required in this Article.
  2. Except as provided in subsection (B)(3), the Department shall provide a written notice of administrative completeness or a notice of deficiencies to an applicant within the administrative completeness review time-frame.
    - a. If an application or required documentation is not complete, the notice of deficiencies shall list each deficiency and the information or documentation needed to complete the application.
    - b. A notice of deficiencies suspends the administrative completeness review time-frame and the overall time-frame from the date of the notice until the date the Department receives the missing documents or information.
    - c. If the applicant does not submit to the Department all or documentation listed in the notice of deficiencies within 30 calendar days after the date of the notice of deficiencies, the Department shall consider the application withdrawn.
  3. If the Department issues a license during the administrative completeness review time-frame, the Department

shall not issue a separate written notice of administrative completeness.

- C.** For each type of license issued by the Department under this Article, Table 5.1 specifies the substantive review time-frame described in A.R.S. § 41-1072(3), which begins on the date of the notice of administrative completeness.
1. Within the substantive review time-frame, the Department shall provide a written notice to the applicant that the Department issued or denied the license.
  2. During the substantive review time-frame:
    - a. The Department may make one comprehensive written request for additional information or documentation; and
    - b. If the Department and the applicant agree in writing, the Department may make supplemental requests for additional information or documentation.
  3. A comprehensive written request or a supplemental request for additional information or documentation suspends the substantive review time-frame and the overall time-frame from the date of the request until the date the Department receives all the documents and information requested.
  4. If the applicant does not submit to the Department all the information or documentation listed in a comprehensive written request or supplemental request for additional information or documentation within 30 calendar days after the date of the request, the Department shall deny the license.
- D.** An applicant who is denied a license may appeal the denial according to A.R.S. Title 41, Chapter 6, Article 10.

**Historical Note**

New Section made by final rulemaking at 15 A.A.R. 2132, effective January 30, 2010 (Supp. 09-4). Section R9-16-506 renumbered to R9-16-504; new Section R9-16-506 renumbered from R9-16-507 and amended by exempt rulemaking at 20 A.A.R. 1998, effective July 1, 2014 (Supp. 14-2). Section repealed; new Section made by final expedited rulemaking at 26 A.A.R. 852, with an immediate effective date of April 8, 2020 (Supp. 20-2).

**Table 5.1. Time-frames (in calendar days)**

Type of Approval	Statutory Authority	Overall Time-Frame	Administrative Completeness Review Time-Frame	Time to Respond to Notice of Deficiency	Substantive Review Time-Frame	Time to Respond to Comprehensive Written Request
Initial License (R9-16-502)	A.R.S. §§ 36-1904 and 36-1940.04	60	30	30	30	30
Renewal License (R9-16-503)	A.R.S. § 36-1904	60	30	30	30	30

**Historical Note**

Table 5.1 renumbered from Table 1 and amended by exempt rulemaking at 20 A.A.R. 1998, effective July 1, 2014 (Supp. 14-2). Table 5.1 repealed; new Table 5.1 made and recodified under Section R9-16-506 by final expedited rulemaking at 26 A.A.R. 852, with an immediate effective date of April 8, 2020 (Supp. 20-2).

**R9-16-507. Changes Affecting a License or a Licensee; Request for a Duplicate License**

- A.** A licensee shall submit a notice to the Department in writing within 30 calendar days after the effective date of a change in:
1. The licensee's home address or e-mail address, including the new home address or e-mail address;

2. The licensee's name, including one of the following with the licensee's new name:
  - a. Marriage certificate,
  - b. Divorce decree, or
  - c. Other legal document establishing the licensee's new name; or

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3. The place or places, including address or addresses, where the licensee engages in the practice of speech-language pathology.
- B. A licensee may obtain a duplicate license by submitting to the Department a written request for a duplicate license in a Department-provided format that contains:
  1. The licensee's name and address,
  2. The licensee's license number and expiration date,
  3. The licensee's signature and date of signature, and
  4. A duplicate license fee specified in R9-16-508.

**Historical Note**

New Section made by final rulemaking at 15 A.A.R. 2132, effective January 30, 2010 (Supp. 09-4). Section R9-16-507 renumbered to R9-16-506; new Section R9-16-507 renumbered from R9-16-508 and amended by exempt rulemaking at 20 A.A.R. 1998, effective July 1, 2014 (Supp. 14-2). Amended by final expedited rulemaking at 26 A.A.R. 852, with an immediate effective date of April 8, 2020 (Supp. 20-2).

**R9-16-508. Fees**

- A. An applicant shall submit to the Department the following fees:
  1. An initial nonrefundable application fee, \$100; and
  2. An initial license fee, \$200.
- B. An applicant shall submit to the Department a \$200 license fee for renewal.
- C. If an applicant submits a renewal license application specified in subsection (B) within 30 calendar days after the license expiration date, the applicant shall submit with the renewal license application a \$25 late fee.
- D. An applicant for initial licensure is not required to submit the applicable fee in subsection (A), if the applicant submits an attestation that the applicant meets the criteria for waiver of licensing fees in A.R.S. § 41-1080.01.
- E. The fee for a duplicate license is \$25.

**Historical Note**

New Section made by final rulemaking at 15 A.A.R. 2132, effective January 30, 2010 (Supp. 09-4). R9-16-508 renumbered to R9-16-507 by exempt rulemaking at 20 A.A.R. 1998, effective July 1, 2014 (Supp. 14-2). New Section made by final expedited rulemaking at 26 A.A.R. 852, with an immediate effective date of April 8, 2020 (Supp. 20-2).

**ARTICLE 6. RADIATION TECHNOLOGISTS****R9-16-601. Definitions**

In addition to the definitions in A.R.S. § 32-2801, the following definitions apply in this Article unless otherwise specified:

1. "Applicant" means:
  - a. An individual who submits an application packet, or
  - b. A person who submits a request for approval of a radiation technologist training program.
2. "Application packet" means the information, documents, and fees required by the Department for a certificate or permit.
3. "ARRT" means the American Registry of Radiologic Technologists.
4. "Authorized user" means the same as in A.A.C. R9-7-102.
5. "Calendar day" means each day, not including the day of the act, event, or default, from which a designated period of time begins to run, but including the last day of the period unless it is a Saturday, Sunday, statewide furlough day, or legal holiday, in which case the period runs until

the end of the next day that is not a Saturday, Sunday, statewide furlough day, or legal holiday.

6. "CBRPA" means the Certification Board for Radiology Practitioner Assistants.
7. "Certification" means the issuing of a certificate.
8. "Chest radiography" means radiography performed to visualize the heart and lungs only.
9. "Continuing education" means a course or learning activity that provides instruction and training designed to develop or improve the professional competence of a certificate holder related to the certificate holder's scope of practice.
10. "Contrast media" means material intentionally administered to a human body to define a part or parts of the human body that are not normally radiographically visible.
11. "Department-approved educational program" means a curriculum of courses and learning activities that is accredited by a nationally recognized accreditation body or granted approval through the Department.
12. "Department-approved examination" means a test administered through ARRT, NMTCB, ISCD, or CBRPA.
13. "Extremity" means the same as in A.A.C. R9-7-102.
14. "Fluoroscopy" means the use of radiography to directly visualize internal structures of the human body, the motion of internal structures, and fluids in real time, or near real-time, to aid in the treatment or diagnosis of disease or the performance of other medical procedures.
15. "ISCD" means the International Society for Clinical Densitometry.
16. "Nationally recognized accreditation body" means ARRT, NMTCB, ISCD, or CBRPA.
17. "NMTCB" means the Nuclear Medicine Technology Certification Board.
18. "Radiograph" means the record of an image, representing anatomical details of a part of a human body examined through the use of ionizing radiation, formed by the differential absorption of ionizing radiation within the part of the human body.
19. "Radiography" means the use of ionizing radiation in making radiographs.
20. "Radiopharmaceutical agent" means a radionuclide or radionuclide compound designed and prepared for administration to human beings.

**Historical Note**

New Section made by final expedited rulemaking at 25 A.A.R. 2409, effective August 27, 2019 (Supp. 19-3).

**R9-16-602. Training Programs**

- A. The Department shall maintain a list of Department-approved educational programs according to A.R.S. § 32-2804 on the Department's website at <https://www.azdhs.gov/licensing/special/index.php#mrt-provider-info>.
- B. An applicant may request Department approval of a curriculum of courses and learning activities as a training program by submitting an application packet that contains:
  1. An application, in a Department-provided format, that includes:
    - a. The name and address of the school providing the training program;
    - b. The name, title, telephone number, and e-mail address of the administrator or designee of the school; and
    - c. A list of each training program for which approval is being requested, including the number of hours of instruction provided for each;

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2. A copy of the curriculum that includes course titles and course descriptions; and
  3. A list of instructors providing the instruction and the credentials of each.
- C. The Department shall:
1. Review each application packet according to R9-16-621; and
  2. If approved, add the applicant's school to the list of Department-approved educational programs in subsection (A).
- D. If an applicant for certification or permit did not complete a Department-approved educational program, the applicant may submit to the Department a copy of the curriculum for the training program completed by the applicant with the applicant's application packet in R9-16-606(B), R9-16-607(A), or R9-16-609(A).

**Historical Note**

New Section made by final expedited rulemaking at 25 A.A.R. 2409, effective August 27, 2019 (Supp. 19-3).

**R9-16-603. Practical Technologist in Radiology - Eligibility and Scope of Practice**

- A. An individual is eligible for certification as a practical technologist in radiology if the individual:
1. Is at least 18 years of age; and
  2. Either:
    - a. Has completed a training program in radiologic technology through a Department-approved educational program and achieved a score of at least 67% on a Department-approved examination; or
    - b. Meets the criteria in A.R.S. § 32-4302(A).
- B. An individual certified as a practical technologist in radiology shall:
1. Follow the standards specified in the 2017 American Society of Radiologic Technologists Limited X-Ray Machine Operator Practice Standards available at [https://www.asrt.org/docs/default-source/practice-standards-published/ps\\_lxmo.pdf?sfvrsn=29e176d0\\_16](https://www.asrt.org/docs/default-source/practice-standards-published/ps_lxmo.pdf?sfvrsn=29e176d0_16), incorporated by reference, on file with the Department, and including no future editions or amendments;
  2. Perform only:
    - a. Chest radiography; and
    - b. Radiography of the extremities; and
  3. Not use fluoroscopy or contrast media.

**Historical Note**

New Section made by final expedited rulemaking at 25 A.A.R. 2409, effective August 27, 2019 (Supp. 19-3).

**R9-16-604. Practical Technologist in Podiatry - Eligibility and Scope of Practice**

- A. An individual is eligible for certification as a practical technologist in podiatry if the individual:
1. Is at least 18 years of age; and
  2. Either:
    - a. Has:
      - i. Completed a training program in podiatry radiology through a Department-approved educational program;
      - ii. Received a signed and dated attestation from a podiatrist licensed according to A.R.S. Title 32, Chapter 7, verifying that the applicant:
        - (1) Completed training under the direction of the licensed podiatrist; and
        - (2) Is proficient in independently taking radiographs; and

- iii. Achieved a score of at least 70% on a Department-approved examination; or
- b. Meets the criteria in A.R.S. § 32-4302(A).

- B. An individual certified as a practical technologist in podiatry shall:

1. Follow the standards specified in the 2017 American Society of Radiologic Technologists Limited X-Ray Machine Operator Practice Standards, available at [https://www.asrt.org/docs/default-source/practice-standards-published/ps\\_lxmo.pdf?sfvrsn=29e176d0\\_16](https://www.asrt.org/docs/default-source/practice-standards-published/ps_lxmo.pdf?sfvrsn=29e176d0_16), incorporated by reference, on file with the Department, and including no future editions or amendments; and
2. Only perform radiographic examinations of the lower leg, ankle, and foot, without the use of fluoroscopy or contrast media.

**Historical Note**

New Section made by final expedited rulemaking at 25 A.A.R. 2409, effective August 27, 2019 (Supp. 19-3).

**R9-16-605. Practical Technologist in Bone Densitometry - Eligibility and Scope of Practice**

- A. An individual is eligible for certification as a practical technologist in bone densitometry if the individual:
1. Is at least 18 years of age; and
  2. Either:
    - a. Has completed a training program in bone densitometry through a Department-approved educational program and achieved a score of at least 70% on a Department-approved examination; or
    - b. Meets the criteria in A.R.S. § 32-4302(A).
- B. An individual certified as a practical technologist in bone densitometry shall:
1. Follow the standards specified in the 2017 American Society of Radiologic Technologists Bone Densitometry Practice Standards, available at [https://www.asrt.org/docs/default-source/practice-standards-published/ps\\_bd.pdf?sfvrsn=11e176d0\\_22](https://www.asrt.org/docs/default-source/practice-standards-published/ps_bd.pdf?sfvrsn=11e176d0_22), incorporated by reference, on file with the Department, and including no future editions or amendments; and
  2. Apply ionizing radiation only to a person's hips, spine, and extremities through the use of a bone density machine without the use of fluoroscopy or contrast media.

**Historical Note**

New Section made by final expedited rulemaking at 25 A.A.R. 2409, effective August 27, 2019 (Supp. 19-3).

**R9-16-606. Application for Examination**

- A. An individual may apply for examination if the individual meets eligibility criteria for a:
1. Practical technologist in radiology listed in R9-16-603(A);
  2. Practical technologist in podiatry listed in R9-16-604(A); or
  3. Practical technologist in bone densitometry listed in R9-16-605(A).
- B. An applicant for examination shall submit an application packet to the Department that includes:
1. The information and documents required in R9-16-619;
  2. Except as provided in R9-16-602(D), documentation of completion of a Department-approved educational program; and
  3. For an applicant for examination as a practical technologist in podiatry, the attestation specified in R9-16-604(A)(2)(a)(ii).



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- C. The Department shall approve or deny an individual's application for examination according to R9-16-621.
  - D. If the Department determines that the application packet submitted under subsection (B) is complete and in compliance, the Department shall notify the applicant that the applicant is approved to test.
  - E. Upon notification by the Department according to subsection (D), and applicant:
    - 1. Shall arrange testing through AART, and
    - 2. Has six months to complete testing before the applicant is required to re-apply for examination.
- another state or country related to unprofessional conduct; and
- 4. The applicable fee in R9-16-623.
  - C. The Department shall approve or deny an individual's application for initial certification according to R9-16-621.

**Historical Note**

New Section made by final expedited rulemaking at 25 A.A.R. 2409, effective August 27, 2019 (Supp. 19-3).

**R9-16-607. Application for Initial Certification as a Practical Technologist in Radiology, Practical Technologist in Podiatry, or Practical Technologist in Bone Densitometry**

- A. Except as provided in subsection (B), an applicant for initial certification as a practical technologist in radiology, practical technologist in podiatry, or practical technologist in bone densitometry shall submit an application packet to the Department that includes:
  - 1. The information and documents required in R9-16-619;
  - 2. Except as provided in R9-16-602(D), documentation of completion of a Department-approved educational program;
  - 3. Documentation of achieving the applicable minimum score on a Department-approved examination;
  - 4. For an application for a practical technologist in podiatry, the signed attestation in R9-16-604(A)(2)(a)(ii) containing:
    - a. The name and date of birth of the applicant,
    - b. The name and license number of the licensed podiatrist,
    - c. A statement by the licensed podiatrist verifying completion of the applicant's clinical training and approval of radiographic images taken by the applicant, and
    - d. The licensed podiatrist's signature and date; and
  - 5. The applicable fee in R9-16-623.
- B. If an applicant for initial certification as a practical technologist in radiology, practical technologist in podiatry, or practical technologist in bone densitometry may be eligible for certification under A.R.S. § 32-4302(A), the applicant shall submit an application packet to the Department that includes:
  - 1. The information and documentation required in R9-16-619;
  - 2. Documentation of the professional license or certification issued to the applicant by each state in which the applicant holds a professional license or certification;
  - 3. A statement, signed and dated by the applicant, attesting that the applicant:
    - a. Has been licensed or certified in another state for at least one year, with a scope of practice consistent with the scope of practice for which certification is being requested;
    - b. Has met minimum education requirements and, if applicable, work experience and clinical supervision requirements, according to A.R.S. § 32-4302(A)(3);
    - c. Has not voluntarily surrendered a license or certification in any other state or country while under investigation for unprofessional conduct; and
    - d. Does not have a complaint, allegation, or investigation pending before another regulatory entity in

**R9-16-608. Radiologic Technologist, Nuclear Medicine Technologist, and Radiation Therapy Technologist - Eligibility and Scope of Practice**

- A. An individual is eligible to apply for initial certification as a radiologic technologist, nuclear medicine technologist, or radiation therapy technologist if the individual:
  - 1. Is at least 18 years of age; and
  - 2. Satisfies one of the following:
    - a. Holds current applicable ARRT or NMTCB certification,
    - b. Has completed a Department-approved educational program in radiation technology and has a passing score on a Department-approved examination, or
    - c. Meets the criteria in A.R.S. § 32-4302(A).
- B. An individual certified as a radiologic technologist shall follow the standards specified in the 2017 American Society of Radiologic Technologists Radiography Practice Standards, available at [https://www.asrt.org/docs/default-source/practice-standards-published/ps\\_rad.pdf?sfvrsn=13e176d0\\_18](https://www.asrt.org/docs/default-source/practice-standards-published/ps_rad.pdf?sfvrsn=13e176d0_18), incorporated by reference, on file with the Department, and including no future editions or amendments.
- C. An individual certified as a nuclear medicine technologist shall:
  - 1. Follow the standards specified in the 2017 American Society of Radiologic Technologists Nuclear Medicine Practice Standards, available at [https://www.asrt.org/docs/default-source/practice-standards-published/ps\\_nm.pdf?sfvrsn=1ee176d0\\_14](https://www.asrt.org/docs/default-source/practice-standards-published/ps_nm.pdf?sfvrsn=1ee176d0_14), incorporated by reference, on file with the Department, and including no future editions or amendments; and
  - 2. Use radiopharmaceutical agents on humans for diagnostic or therapeutic purposes only.
- D. An individual certified as a radiation therapy technologist shall follow the standards specified in the 2017 American Society of Radiologic Technologists Radiation Therapy Practice Standards, available at [https://www.asrt.org/docs/default-source/practice-standards-published/ps\\_rt.pdf?sfvrsn=18e076d0\\_16](https://www.asrt.org/docs/default-source/practice-standards-published/ps_rt.pdf?sfvrsn=18e076d0_16), incorporated by reference, on file with the Department, and including no future editions or amendments.

**Historical Note**

New Section made by final expedited rulemaking at 25 A.A.R. 2409, effective August 27, 2019 (Supp. 19-3).

**R9-16-609. Application for Initial Certification as a Radiation Technologist, Nuclear Medicine Technologist, or Radiation Therapy Technologist**

- A. Except as provided in subsection (B), an applicant for initial certification as a radiation technologist, nuclear medicine technologist, or radiation therapy technologist shall submit an application packet to the Department that includes:
  - 1. The information and documents required in R9-16-619;
  - 2. Either:
    - a. A copy of the applicant's current ARRT or NMTCB certification; or
    - b. Documentation of:

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- i. Completing a Department-approved educational program, except as provided in R9-16-602(D); and
  - ii. Having a passing score on a Department-approved examination; and
- 3. The applicable fee in R9-16-623.
- B.** If an applicant for initial certification as a radiation technologist, nuclear medicine technologist, or radiation therapy technologist may be eligible for certification under A.R.S. § 32-4302(A), the applicant shall submit an application packet to the Department that includes:
  - 1. The information and documentation required in R9-16-619;
  - 2. Documentation of the professional license or certification issued to the applicant by each state in which the applicant holds a professional license or certification;
  - 3. A statement, signed and dated by the applicant, attesting that the applicant:
    - a. Has been licensed or certified in another state for at least one year, with a scope of practice consistent with the scope of practice for which certification is being requested;
    - b. Has met minimum education requirements and, if applicable, work experience and clinical supervision requirements, according to A.R.S. § 32-4302(A)(3);
    - c. Has not voluntarily surrendered a license or certification in any other state or country while under investigation for unprofessional conduct; and
    - d. Does not have an complaint, allegation, or investigation pending before another regulatory entity in another state or country related to unprofessional conduct; and
  - 4. The applicable fee in R9-16-623.
- C.** The Department shall approve or deny an individual's application for initial certification according to R9-16-621.

**Historical Note**

New Section made by final expedited rulemaking at 25  
A.A.R. 2409, effective August 27, 2019 (Supp. 19-3).

**R9-16-610. Mammographic Technologist - Eligibility and Scope of Practice**

- A.** An individual is eligible to apply for initial certification as a mammographic technologist if the individual:
  - 1. Is at least 18 years of age;
  - 2. Possesses a current Department-issued certification in radiologic technology; and
  - 3. Satisfies one of the following:
    - a. Holds a current ARRT certification in mammography;
    - b. Meets the initial training and education requirements in 21 CFR 900.12 and has a passing score on a Department-approved examination in mammography, or
    - c. Meets the criteria in A.R.S. § 32-4302(A).
- B.** An individual certified as a mammographic technologist:
  - 1. Shall follow the standards specified in the 2017 American Society of Radiologic Technologists Mammography Practice Standards, available at [https://www.asrt.org/docs/default-source/practice-standards-published/ps\\_mamm.pdf?sfvrsn=10e076d0\\_16](https://www.asrt.org/docs/default-source/practice-standards-published/ps_mamm.pdf?sfvrsn=10e076d0_16), incorporated by reference, on file with the Department, and including no future editions or amendments; and
  - 2. May perform diagnostic mammography or screening mammography, as defined in A.R.S. § 30-651.

**Historical Note**

New Section made by final expedited rulemaking at 25  
A.A.R. 2409, effective August 27, 2019 (Supp. 19-3).

**R9-16-611. Student Mammography Permits**

- A.** Before beginning the initial training in 21 CFR 900.12 under R9-16-610(A)(3)(b), an individual shall obtain a student mammography permit from the Department.
- B.** An applicant for a student mammography permit shall submit an application packet to the Department that includes:
  - 1. The information and documents required under R9-16-619; and
  - 2. A Department-provided agreement form that includes the following:
    - a. The name and date of birth of the applicant;
    - b. The name, license number, e-mail address, and telephone number of a radiologist, licensed under A.R.S. Title 32, Chapter 13 or 17 and certified in radiology by the American Board of Radiology;
    - c. A statement that the licensed radiologist is accepting responsibility for the applicant's supervision and training; and
    - d. The licensed radiologist's signature and date of signing.
- C.** The Department shall approve or deny an individual's application for a student mammography permit according to R9-16-621.
- D.** A student mammography permit is valid for one year from the date issued and may not be renewed.

**Historical Note**

New Section made by final expedited rulemaking at 25  
A.A.R. 2409, effective August 27, 2019 (Supp. 19-3).

**R9-16-612. Application for Initial Certification as a Mammographic Technologist**

- A.** Except as provided in subsection (B), an applicant for initial certification as a mammographic technologist shall submit an application packet to the Department that includes:
  - 1. The information and documents required in R9-16-619;
  - 2. The applicant's current radiology technologist certificate number;
  - 3. The applicant's current student mammography permit number, if applicable;
  - 4. Either:
    - a. A copy of current ARRT certification in mammography; or
    - b. Documentation of:
      - i. Completing of initial education and training that meets the requirements specified in 21 CFR 900.12, and
      - ii. Having a passing score on a Department-approved examination in mammography; and
  - 5. The applicable fee in R9-16-623.
- B.** If an applicant for initial certification as a mammographic technologist may be eligible for certification under A.R.S. § 32-4302(A), the applicant shall submit an application packet to the Department that includes:
  - 1. The information and documentation required in R9-16-619;
  - 2. Documentation of the license or certification as a mammographic technologist issued to the applicant by each state in which the applicant holds the license or certification;
  - 3. A statement, signed and dated by the applicant, attesting that the applicant:
    - a. Has been licensed or certified as a mammographic technologist in another state for at least one year;

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- b. Has met minimum education requirements and, if applicable, work experience and clinical supervision requirements, according to A.R.S. § 32-4302(A)(3);
- c. Has not voluntarily surrendered a license or certification in any other state or country while under investigation for unprofessional conduct; and
- d. Does not have a complaint, allegation, or investigation pending before another regulatory entity in another state or country related to unprofessional conduct; and
- 4. The applicable fee in R9-16-623.
- C. The Department shall approve or deny an individual's application for initial certification as a mammographic technologist according to R9-16-621.

**Historical Note**

New Section made by final expedited rulemaking at 25 A.A.R. 2409, effective August 27, 2019 (Supp. 19-3).

**R9-16-613. Computed Tomography Technologist - Eligibility and Scope of Practice**

- A. An individual is eligible to apply for initial certification as a computed tomography technologist if the individual:
  - 1. Is at least 18 years of age;
  - 2. Possesses a current Department-issued certification as a radiologic technologist or nuclear medicine technologist; and
  - 3. Satisfies one of the following:
    - a. Holds a current ARRT or NMTCB certification in computed tomography,
    - b. Has completed two years of training in computed tomography and twelve hours of computed tomography-specific education, or
    - c. Meets the criteria in A.R.S. § 32-4302(A).
- B. An individual certified as a computed tomography technologist:
  - 1. Shall follow the standards specified in the 2017 American Society of Radiologic Technologists Computed Tomography Practice Standards, available at [https://www.asrt.org/docs/default-source/practice-standards-published/ps\\_ct.pdf?sfvrsn=9e076d0\\_16](https://www.asrt.org/docs/default-source/practice-standards-published/ps_ct.pdf?sfvrsn=9e076d0_16), incorporated by reference, on file with the Department, and including no future editions or amendments; and
  - 2. May apply ionizing radiation to a human using a computed tomography machine for diagnostic purposes.

**Historical Note**

New Section made by final expedited rulemaking at 25 A.A.R. 2409, effective August 27, 2019 (Supp. 19-3).

**R9-16-614. Application for Computed Tomography Technologist Preceptorship and Temporary Certification**

- A. Before beginning training under R9-16-613(A)(3)(b), an individual shall obtain a computed tomography preceptorship certificate from the Department.
- B. An applicant for a computed tomography preceptorship certificate shall submit an application packet to the Department that includes:
  - 1. The information and documents required under R9-16-619;
  - 2. A Department-provided agreement form from a radiologist, licensed under A.R.S. Title 32, Chapter 13 or 17 and certified in radiology by the American Board of Radiology, that includes the following:
    - a. The name and date of birth of the applicant;
    - b. The name, license number, e-mail address, and telephone number of the licensed radiologist;

- c. A statement that the licensed radiologist is accepting responsibility for the applicant's supervision and training; and
- d. The licensed radiologist's signature and date of signing; and
- 3. The applicable fee in R9-16-623.
- C. The Department shall approve or deny an individual's application for a computed tomography preceptorship certificate according to R9-16-621.
- D. A computed tomography preceptorship certificate is valid for one year from the date issued and may not be renewed.
- E. At least 30 days before the expiration of an individual's computed tomography preceptorship certificate, the individual may apply for a computed tomography temporary certificate by submitting an application packet to the Department that includes:
  - 1. The information and documents required under R9-16-619;
  - 2. A Department-provided agreement form from a radiologist, licensed under A.R.S. Title 32, Chapter 13 or 17 and certified in radiology by the American Board of Radiology, that includes the following:
    - a. The name and date of birth of the applicant;
    - b. The name, license number, e-mail address, and telephone number of the licensed radiologist;
    - c. A statement that the licensed radiologist is accepting responsibility for the applicant's supervision and training; and
    - d. The licensed radiologist's signature and date of signing; and
  - 3. The applicable fee in R9-16-623.
- F. The Department shall approve or deny an individual's application for a computed tomography temporary certificate according to R9-16-621.
- G. A computed tomography temporary certificate is valid for one year and may not be renewed.

**Historical Note**

New Section made by final expedited rulemaking at 25 A.A.R. 2409, effective August 27, 2019 (Supp. 19-3).  
Section heading corrected to heading made in the table of contents at 25 A.A.R. 2409; Section amended by final rulemaking at 26 A.A.R. 350, effective April 5, 2020 (Supp. 20-1).

**R9-16-615. Application for Initial Certification for a Computed Tomography Technologist**

- A. Except as provided in subsection (B), an applicant for initial certification as a computed tomography technologist shall submit an application packet to the Department that includes:
  - 1. The information and documents required in R9-16-619;
  - 2. The applicant's current radiation technologist or nuclear medicine technologist certificate number;
  - 3. The applicant's computed tomography preceptorship number or temporary certificate number, if applicable;
  - 4. Either:
    - a. A copy of the applicant's current ARRT or NMTCB certification in computed tomography; or
    - b. Documentation of completion of:
      - i. Two years of training in computed tomography, and
      - ii. Twelve hours of computed tomography-specific education; and
  - 5. The applicable fee in R9-16-623.
- B. If an applicant for initial certification as a computed tomography technologist may be eligible for certification under A.R.S.

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§ 32-4302(A), the applicant shall submit an application packet to the Department that includes:

1. The information and documentation required in R9-16-619;
2. Documentation of the license or certification as a computed tomography technologist issued to the applicant by each state in which the applicant holds the license or certification;
3. A statement, signed and dated by the applicant, attesting that the applicant:
  - a. Has been licensed or certified as a computed tomography technologist in another state for at least one year;
  - b. Has met minimum education requirements and, if applicable, work experience and clinical supervision requirements, according to A.R.S. § 32-4302(A)(3);
  - c. Has not voluntarily surrendered a license or certification in any other state or country while under investigation for unprofessional conduct; and
  - d. Does not have a complaint, allegation, or investigation pending before another regulatory entity in another state or country related to unprofessional conduct; and
4. The applicable fee in R9-16-623.

- C. The Department shall approve or deny an individual's application for initial certification as a computed tomography technologist according to R9-16-621.

**Historical Note**

New Section made by final expedited rulemaking at 25 A.A.R. 2409, effective August 27, 2019 (Supp. 19-3).

**R9-16-616. Radiologist Assistant - Eligibility and Scope of Practice**

- A. An individual is eligible to apply for initial certification as a radiologist assistant if the individual:
1. Is at least 18 years of age; and
  2. Satisfies one of the following:
    - a. Holds a current ARRT or CBRPA certification as a radiologist assistant;
    - b. Has:
      - i. Completed a baccalaureate degree or post-baccalaureate certificate from an accredited educational institution that encompasses a radiologist assistant curriculum that includes a radiologist-directed clinical preceptorship, and
      - ii. Achieved a passing score on an ARRT or a CBRPA examination for radiologist assistants; or
    - c. Meets the criteria in A.R.S. § 32-4302(A).
- B. An individual certified as a radiologist assistant:
1. Shall follow the standards specified the 2017 American Society of Radiologic Technologists Radiologist Assistant Practice Standards, available at [https://www.asrt.org/docs/default-source/practice-standards-published/ps\\_raa.pdf?sfvrsn=1ae076d0\\_16](https://www.asrt.org/docs/default-source/practice-standards-published/ps_raa.pdf?sfvrsn=1ae076d0_16), incorporated by reference on file with the Department, and including no future editions or amendments; and
  2. May perform the following procedures under the direction of a radiologist, licensed under A.R.S. Title 32, Chapter 13 or 17 and certified in radiology by the American Board of Radiology:
    - a. Fluoroscopy;
    - b. Assessment and evaluation of the physiological and psychological responsiveness of individuals undergoing radiologic procedures;

- c. Evaluation of image quality, making initial image observations and communicating observations to the supervising radiologist; and
- d. Administration of contrast media or other medications prescribed by the supervising radiologist.

- C. A radiologist assistant shall not interpret images, make diagnoses, or prescribe medications or therapies.

**Historical Note**

New Section made by final expedited rulemaking at 25 A.A.R. 2409, effective August 27, 2019 (Supp. 19-3).

**R9-16-617. Application for Initial Certification as a Radiologist Assistant**

- A. Except as provided in subsection (B), an applicant for initial certification as a radiologist assistant shall submit an application packet to the Department that includes:
1. The information and documents required in R9-16-619;
  2. Either:
    - a. The applicant's current ARRT or CBRPA certification as a radiologist assistant; or
    - b. Documentation of:
      - i. Completing a baccalaureate degree or post-baccalaureate certificate from an accredited educational institution that encompasses a radiologist assistant curriculum that includes a radiologist-directed clinical preceptorship, and
      - ii. Having a passing score on an ARRT or a CBRPA examination for radiologist assistants; and
  3. The applicable fee in R9-16-623.
- B. If an applicant for initial certification as a radiologist assistant may be eligible for certification under A.R.S. § 32-4302(A), the applicant shall submit an application packet to the Department that includes:
1. The information and documentation required in R9-16-619;
  2. Documentation of the license or certification as a radiologist assistant issued to the applicant by each state in which the applicant holds the license or certification;
  3. A statement, signed and dated by the applicant, attesting that the applicant:
    - a. Has been licensed or certified as a radiologist assistant in another state for at least one year;
    - b. Has met minimum education requirements and, if applicable, work experience and clinical supervision requirements, according to A.R.S. § 32-4302(A)(3);
    - c. Has not voluntarily surrendered a license or certification in any other state or country while under investigation for unprofessional conduct; and
    - d. Does not have a complaint, allegation, or investigation pending before another regulatory entity in another state or country related to unprofessional conduct; and
  4. The applicable fee in R9-16-623.
- C. The Department shall approve or deny an individual's application for initial certification as a radiologist assistant according to R9-16-621.

**Historical Note**

New Section made by final expedited rulemaking at 25 A.A.R. 2409, effective August 27, 2019 (Supp. 19-3).

**R9-16-618. Special Permits**

- A. An applicant for a special permit under A.R.S. § 32-2814(B) shall submit an application packet to the Department containing:
1. The information and documents required in R9-16-619;

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2. An attestation, in a Department-provided format, from the health care institution in which the applicant proposes to practice:
  - a. Stating that the requesting health care institution is located in an Arizona medically underserved area, as defined in A.A.C. R9-15-101(4), or a health professional shortage area, as defined in A.A.C. R9-15-101(25);
  - b. Verifying that the health care institution developed and is implementing a program of continuing education for the applicant to protect the health and safety of individuals undergoing radiologic procedures; and
  - c. Signed and dated by the health care institution's administrator or designee; and
3. A letter signed by the health care institution's administrator or designee that provides justification for the issuance of a special permit.
- B.** The Department shall approve or deny an application for a special permit according to R9-16-621.
- C.** A special permit is valid for no more than one year, but may be renewed as provided in subsection (A) if the circumstances justifying the issuance of a special permit have not changed.

**Historical Note**

New Section made by final expedited rulemaking at 25 A.A.R. 2409, effective August 27, 2019 (Supp. 19-3).

**R9-16-619. Application Information**

An applicant for certification shall submit to the Department:

1. The following information in a Department-provided format:
  - a. The applicant's name;
  - b. The applicant's residential address and, if different, mailing address;
  - c. The applicant's telephone number;
  - d. The applicant's e-mail address;
  - e. The applicant's Social Security number, as required under A.R.S. §§ 25-320 and 25-502;
  - f. The applicant's date of birth;
  - g. The applicant's current employment in the radiation technology field, if applicable, including:
    - i. The employer's name,
    - ii. The applicant's position,
    - iii. Dates of employment,
    - iv. The address of the employer,
    - v. The supervisor's name,
    - vi. The supervisor's email address, and
    - vii. The supervisor's telephone number;
  - h. The applicant's educational history related to radiation technology, including:
    - i. The name and address of each educational institution,
    - ii. The degree or certification received, and
    - iii. The applicant's date of graduation;
  - i. The type of certificate being applied for;
  - j. Whether the applicant has ever been convicted of a felony or a misdemeanor in this or another state;
  - k. If the applicant has been convicted of a felony or a misdemeanor:
    - i. The date of the conviction,
    - ii. The state or jurisdiction of the conviction,
    - iii. An explanation of the crime of which the applicant was convicted, and
    - iv. The disposition of the case;
  - l. Whether the applicant holds other professional licenses or certifications and, if so:
    - i. The professional license or certification, and
    - ii. The state in which the professional license or certification was issued;
  - m. Whether the applicant has had a professional license or certificate suspended, revoked, or had disciplinary action taken against the professional license or certificate;
  - n. Whether the applicant agrees to allow the Department to submit supplemental requests for information under R9-16-621;
  - o. An attestation that the information submitted as part of an application packet is true and accurate; and
  - p. The applicant's signature and date of signing;
2. If the applicant has had a professional license or certificate suspended, revoked, or had disciplinary action taken against the professional license or certificate within the previous five years, documentation that includes:
  - a. The date of the disciplinary action, revocation, or suspension;
  - b. The state or nationally accredited certifying body that issued the disciplinary action, revocation, or suspension; and
  - c. An explanation of the disciplinary action, revocation, or suspension;
3. If the applicant is currently ineligible for licensing or certification in any state because of a license revocation or suspension, documentation that includes:
  - a. The date of the ineligibility for licensing or certification,
  - b. The state or jurisdiction of the ineligibility for licensing or certification, and
  - c. An explanation of the ineligibility for licensing or certification; and
4. Documentation for the applicant that complies with A.R.S. § 41-1080.

**Historical Note**

New Section made by final expedited rulemaking at 25 A.A.R. 2409, effective August 27, 2019 (Supp. 19-3).

**R9-16-620. Renewal of Certification**

- A.** Certifications issued under R9-16-607, R9-16-609, R9-16-612, R9-16-615, and R9-16-617 are valid for two years after issuance, unless revoked.
- B.** A certificate holder may apply to renew a certification:
  1. Within 90 days before the expiration date of the certificate holder's current certification;
  2. Within the 30-day period after the expiration date of the certificate holder's certification, if the certificate holder pays the late renewal penalty fee in R9-16-623; or
  3. Within the extension time period granted under A.R.S. § 32-4301.
- C.** An applicant for renewal of a certification shall submit to the Department an application packet, including:
  1. The following in a Department-provided format:
    - a. The applicant's name, address, telephone number, email address, date of birth, and Social Security number;
    - b. The applicant's current certification number and type;
    - c. The applicant's current employment in the radiation technology field, if applicable, including:
      - i. The employer's name,
      - ii. The applicant's position,
      - iii. Dates of employment,
      - iv. The address of the employer,
      - v. The supervisor's name,

## CHAPTER 16. DEPARTMENT OF HEALTH SERVICES - OCCUPATIONAL LICENSING

- vi. The supervisor's email address, and
- vii. The supervisor's telephone number;
- d. Whether the applicant has, within the two years before the date of the application, had:
  - i. A certificate issued under this Article suspended or revoked; or
  - ii. A professional license or certificate revoked by another state, jurisdiction, or nationally recognized accreditation body;
- e. Whether the applicant agrees to allow the Department to submit supplemental requests for information under R9-16-621;
- f. Attestation that all the information submitted as part of the application packet is true and accurate; and
- g. The applicant's signature and date of signature;
- 2. Either:
  - a. An attestation that the applicant completed continuing education required under A.R.S. § 32-2815(D) and that documentation of completion is available upon request, signed and dated by the applicant; or
  - b. A copy of the applicant's current certification from a nationally recognized accreditation body; and
- 3. The applicable renewal fee and, if applicable, the late renewal penalty fee required in R9-16-623.
- D. The Department shall approve or deny an application for recertification according to R9-16-621.

**Historical Note**

New Section made by final expedited rulemaking at 25 A.A.R. 2409, effective August 27, 2019 (Supp. 19-3).

**R9-16-621. Review Time-frames**

- A. For each type of certificate or permit issued by the Department under this Article, Table 6.1 specifies the overall time-frame described in A.R.S. § 41-1072(2).
  - 1. An applicant and the Department may agree in writing to extend the substantive review time-frame and the overall time-frame.
  - 2. The extension of the substantive review time-frame and overall time-frame may not exceed 25% of the overall time-frame.
- B. For each type of certificate or permit issued by the Department under this Article, Table 6.1 specifies the administrative completeness review time-frame described in A.R.S. § 41-1072(1).
  - 1. The administrative completeness review time-frame begins on the date the Department receives an application packet required in this Article.
  - 2. Except as provided in subsection (B)(3), the Department shall provide written notice of administrative completeness or a notice of deficiencies to an applicant within the administrative completeness review time-frame.
- C. For each type of certificate or permit issued by the Department under this Article, Table 6.1 specifies the substantive review time-frame described in A.R.S. § 41-1072(3), which begins on the date the Department sends a written notice of administrative completeness.
  - 1. Within the substantive review time-frame, the Department shall provide written notice to the applicant that the Department approved or denied the application.
  - 2. During the substantive review time-frame:
    - a. The Department may make one comprehensive written request for additional information or documentation; and
    - b. If the Department and the applicant agree in writing, the Department may make supplemental requests for additional information or documentation.
  - 3. A comprehensive written request or a supplemental request for additional information or documentation suspends the substantive review time-frame and the overall time-frame from the date of the request until the date the Department receives all the information or documentation requested.
  - 4. If the applicant does not submit to the Department all the information or documentation listed in a comprehensive written request or supplemental request for additional information or documentation within 30 calendar days after the date of the request, the Department shall deny the certificate or permit.
- D. An applicant who is denied a certificate or permit may appeal the denial according to A.R.S. Title 41, Chapter 6, Article 10.

**Historical Note**

New Section made by final expedited rulemaking at 25 A.A.R. 2409, effective August 27, 2019 (Supp. 19-3).

**Table 6.1. Time-frames**

Type of Application	Administrative Completeness Review Time-frame (in Calendar Days)	Substantive Review Time-frame (in Calendar Days)	Overall Time-frame (in Calendar Days)
Application for Examination	30	30	60
Initial Certificate	30	30	60
Renewal Certificate	30	30	60
Student Mammography Permit	30	30	60
Computed Tomography Preceptorship Certificate or Computed Tomography Temporary Certificate	30	30	60
Special Permit	30	30	60
School Approval	60	60	120

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**Historical Note**

New Table 6.1 made by final expedited rulemaking at 25 A.A.R. 2409, effective August 27, 2019 (Supp. 19-3).

**R9-16-622. Changes Affecting a Certificate or Certificate Holder; Request for a Duplicate Certificate**

- A.** A certificate holder shall notify the Department in writing, within 30 calendar days after the effective date of a change in:
1. The certificate holder's residential address, mailing address, or e-mail address, including the new residential address, mailing address, or e-mail address;
  2. The certificate holder's name, including a copy of the legal document establishing the certificate holder's new name; or
  3. The certificate holder's employer, including the name and address of the new employer.
- B.** A certificate holder may obtain a duplicate certificate by submitting to the Department:
1. A written request for a duplicate certificate, in a Department-provided format, that includes:
    - a. The certificate holder's name and address,
    - b. The certificate holder's certificate number and expiration date, and
    - c. The certificate holder's signature and date of signature; and
  2. The duplicate certificate fee in R9-16-623.
- C.** A certificate holder may submit to the Department, either as a separate written document or as part of the renewal application, a signed and dated request to transfer to inactive status or retirement status under A.R.S. § 32-2816(F).

**Historical Note**

New Section made by final expedited rulemaking at 25 A.A.R. 2409, effective August 27, 2019 (Supp. 19-3).

**R9-16-623. Fees**

- A.** Except as provided in subsection (C) or (D), an applicant shall submit to the Department the following nonrefundable fees for:
1. An initial application or renewal application for certification as a practical technologist in radiology, practical technologist in podiatry, or practical technologist in bone densitometry, \$100;
  2. An initial application or renewal application for certification as a radiation technologist, nuclear medicine technologist, or radiation therapy technologist, \$100;
  3. An initial application or renewal application for certification as a mammographic technologist, \$20;
  4. A computed tomography preceptorship certificate or computed tomography temporary certificate, \$10;
  5. An initial application or renewal application for certification as a computed tomography technologist, \$20;

6. An initial application or renewal application for certification as a radiologist assistant, \$100; and
7. A late renewal penalty fee according to A.R.S. § 32-2816(C), \$50.

- B.** The fee for a duplicate certificate is \$10.
- C.** An applicant for initial certification is not required to submit the applicable fee in subsection (A) if the applicant, as part of the applicable application packet in R9-16-607, R9-16-609, R9-16-612, R9-16-615, or R9-16-617, submits an attestation that the applicant meets the criteria for waiver of licensing fees in A.R.S. § 41-1080.01.
- D.** As allowed under A.R.S. § 32-2816(F), a certificate holder is not required to submit a fee for renewal of certification if the certificate holder submits to the Department an affidavit stating that the certificate holder:
1. Is retired from the practice of radiologic technology, or
  2. Requests to be placed on inactive status.

**Historical Note**

New Section made by final expedited rulemaking at 25 A.A.R. 2409, effective August 27, 2019 (Supp. 19-3).  
Section amended by final rulemaking at 26 A.A.R. 350, effective April 5, 2020 (Supp. 20-1).

**R9-16-624. Enforcement**

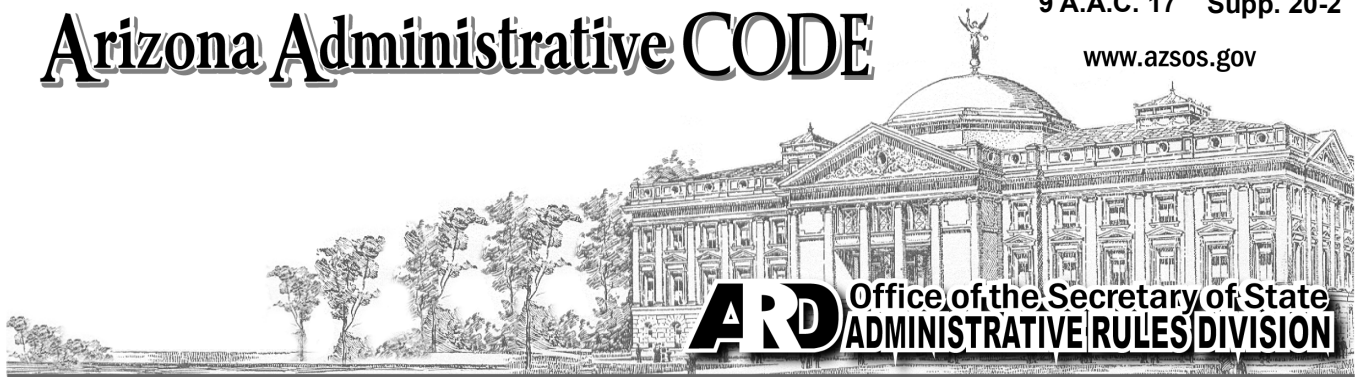
- A.** The Department may, as applicable:
1. Deny, revoke, or suspend a certificate or permit under A.R.S. § 36-2821;
  2. Request an injunction under A.R.S. § 36-2825; or
  3. Assess a civil money penalty under A.R.S. § 36-2821.
- B.** In determining which disciplinary action specified in subsection (A) is appropriate, the Department shall consider:
1. The type of violation,
  2. The severity of the violation,
  3. The danger to public health and safety,
  4. The number of violations,
  5. The number of individuals affected by the violations,
  6. The degree of harm to an individual,
  7. A pattern of noncompliance, and
  8. Any mitigating or aggravating circumstances.
- C.** A certificate holder or permittee may appeal a disciplinary action taken by the Department according to A.R.S. Title 41, Chapter 6, Article 10.

**Historical Note**

New Section made by final expedited rulemaking at 25 A.A.R. 2409, effective August 27, 2019 (Supp. 19-3).

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## TITLE 9. HEALTH SERVICES

### CHAPTER 17. DEPARTMENT OF HEALTH SERVICES - MEDICAL MARIJUANA PROGRAM

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#### The release of this Chapter in Supp. 20-2 replaces Supp. 19-3, 1-31 pages

Please note that the Chapter you are about to replace may have rules still in effect after the publication date of this supplement. Therefore, all superseded material should be retained in a separate binder and archived for future reference.



## Administrative Rules Division

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## TITLE 9. HEALTH SERVICES

## CHAPTER 17. DEPARTMENT OF HEALTH SERVICES - MEDICAL MARIJUANA PROGRAM

Authority: A.R.S. § 36-2803

*Editor's Note: This Chapter was adopted under a one-year exemption from the Arizona Administrative Procedure Act (A.R.S. Title 41, Chapter 6) pursuant to Proposition 203 passed by the voters in November 2010. Although exempt from certain provisions of the rulemaking process, Section 6 of the Proposition required the Department to provide the public with an opportunity to comment on these rules before publishing the exempted rules. The Department posted proposed rules for comment on its web site, conducted statewide public meetings and also posted public comments received on its web site. (Supp. 11-2).*

*Editor's Note: 9 A.A.C. 17, formerly contained the rules of the Department of Health Services - Pure Food Control. This Chapter expired under A.R.S. § 41-1056(E) at 13 A.A.R. 3531, effective August 31, 2007 (Supp. 07-3).*

## ARTICLE 1. GENERAL

*Article 1, consisting of Sections R9-17-101 through R9-17-109, made by exempt rulemaking at 17 A.A.R. 734, effective April 14, 2011 (Supp. 11-2).*

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## CHAPTER 17. DEPARTMENT OF HEALTH SERVICES - MEDICAL MARIJUANA PROGRAM

## ARTICLE 1. GENERAL

**R9-17-101. Definitions**

In addition to the definitions in A.R.S. § 36-2801, the following definitions apply in this Chapter unless otherwise stated:

1. "Accreditation" means being deemed as technically competent under ISO 17025 by the:
  - a. American Association of Laboratory Accreditation,
  - b. Perry Johnson Laboratory Accreditation,
  - c. ANSI National Accreditation Board, or
  - d. International Accreditation Services.
2. "Accuracy testing" means a mechanism in which a laboratory performs testing on samples with known characteristics, prepared by the laboratory, to determine a laboratory agent's ability to analyze samples within specific acceptance criteria.
3. "Acquire" means to obtain through any type of transaction and from any source.
4. "Activities of daily living" means ambulating, bathing, dressing, grooming, eating, toileting, and getting in and out of bed.
5. "Amend" means adding or deleting information on an individual's registry identification card that affects the individual's ability to perform or delegate a specific act or function.
6. "Analyte" means a specific substance for which testing is performed by a laboratory.
7. "Applicant" means:
  - a. An individual submitting an application for a registry identification card or to amend, change, or replace a registry identification card for a qualifying patient, designated caregiver, dispensary agent, or laboratory agent; or
  - b. An individual or entity submitting an application for a dispensary registration certificate, approval to operate a dispensary, laboratory registration certificate, approval to test, or approval to change parameters.
8. "Batch" means:
  - a. When referring to cultivated medical marijuana, a specific lot of medical marijuana grown from one or more seeds or cuttings that are planted and harvested at the same time;
  - b. When referring to marijuana products, a specific amount of a marijuana product infused, manufactured, or prepared for sale from the same set of ingredients at the same time; and
  - c. When referring to testing of medical marijuana or a marijuana product, a specific set of samples prepared and tested during the same run using the same equipment.
9. "Batch number" means a unique numeric or alphanumeric identifier assigned to a batch by a dispensary when:
  - a. The batch of medical marijuana is planted, or
  - b. The batch of a marijuana product is infused, manufactured, or prepared for sale.
10. "Calendar day" means each day, not including the day of the act, event, or default from which a designated period of time begins to run, but including the last day of the period unless it is a Saturday, Sunday, statewide furlough day, or legal holiday, in which case the period runs until the end of the next day that is not a Saturday, Sunday, statewide furlough day, or legal holiday.
11. "CHAA" means a Community Health Analysis Area, a geographic area based on population, established by the Department for use by public health programs.
12. "Change" means:
  - a. When used in relation to a registry identification card, adding or deleting information on an individual's registry identification card that does not substantively affect the individual's ability to perform or delegate a specific act or function;
  - b. When used in relation to a place, moving to a different location;
  - c. When used in relation to an individual, selecting a different individual to perform specific actions;
  - d. When used in relation to parameters, revising a laboratory's standard operating procedures or quality assurance plan, required in R9-17-404.06, due to:
    - i. Adding or removing a parameter,
    - ii. Altering a testing method, or
    - iii. Using a different instrument for performing a test; and
  - e. When used in relation to testing results, altering the testing results in any way and for any reason.
13. "Commercial device" means the same as in A.R.S. § 41-2051.
14. "Contaminant" means matter, pollutant, hazardous substance, or other substance that is not intended to be part of dispensed medical marijuana or a marijuana product.
15. "Cultivation site" means the one additional location where marijuana may be cultivated, infused, or prepared for sale by and for a dispensary.
16. "Current photograph" means an image of an individual, taken no more than 60 calendar days before the submission of the individual's application, in a Department-approved electronic format capable of producing an image that:
  - a. Has a resolution of at least 600 x 600 pixels but not more than 1200 x 1200 pixels;
  - b. Is 2 inches by 2 inches in size;
  - c. Is in natural color;
  - d. Is a front view of the individual's full face, without a hat or headgear that obscures the hair or hairline;
  - e. Has a plain white or off-white background; and
  - f. Has between 1 and 1 3/8 inches from the bottom of the chin to the top of the head.
17. "Denial" means the Department's final decision not to issue a registry identification card, a dispensary registration certificate, a laboratory registration certificate, or an approval of a change of dispensary or a dispensary's cultivation site location, to an applicant because the applicant or the application does not comply with the applicable requirements in A.R.S. Title 36, Chapter 28.1 or this Chapter.
18. "Dispensary" means the same as "nonprofit medical marijuana dispensary" as defined in A.R.S. § 36-2801.
19. "Dispensary agent" means the same as "nonprofit medical marijuana dispensary agent" as defined in A.R.S. § 36-2801.
20. "Edible food product" means a substance, beverage, or ingredient used or intended for use or for sale in whole or in part for human oral consumption.
21. "Enclosed area" when used in conjunction with "enclosed, locked facility" means outdoor space surrounded by solid, 10-foot walls, constructed of metal, concrete, or stone that prevent any viewing of the marijuana plants, and a 1-inch thick metal gate.
22. "Entity" means a "person" as defined in A.R.S. § 1-215.
23. "Generally accepted accounting principles" means the set of financial reporting standards established by the Financial Accounting Standards Board, the Governmental

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- Accounting Standards Board, or another specialized body dealing with accounting and auditing matters.
24. "In-state financial institution" means the same as in A.R.S. § 6-101.
25. "Inhalable" means intended for use through intake into the lungs of an individual.
26. "Laboratory" means the same as "independent third-party laboratory" as defined in A.R.S. § 36-2801.
27. "Laboratory agent" means the same as "independent third-party laboratory agent" as defined in A.R.S. § 36-2801.
28. "Legal guardian" means an adult who is responsible for a minor:
- Through acceptance of guardianship of the minor through a testamentary appointment or an appointment by a court pursuant to A.R.S. Title 14, Chapter 5, Article 2; or
  - As a "custodian" as defined in A.R.S. § 8-201.
29. "Medical record" means the same as:
- "Adequate records" as defined in A.R.S. § 32-1401,
  - "Adequate medical records" as defined in A.R.S. § 32-1501,
  - "Adequate records" as defined in A.R.S. § 32-1800, or
  - "Adequate records" as defined in A.R.S. § 32-2901.
30. "Out-of-state financial institution" means the same as in A.R.S. § 6-101.
31. "Parameter" means the combination of a particular type of sample with a specific instrument or equipment by which the sample will be tested for a specific analyte or characteristic.
32. "Proficiency testing" means a mechanism in which samples with known characteristics are submitted to a laboratory for analysis to determine a laboratory agent's ability to analyze samples within specific acceptance criteria.
33. "Proficiency testing service" means an independent company or other person acceptable to the Department, based on ISO/IEC 17043:2010 certification, that:
- Is the source for samples with known characteristics for proficiency testing, and
  - Assesses the acceptability of a laboratory agent's results from the samples with known characteristics during proficiency testing.
34. "Private school" means the same as in A.R.S. § 15-101.
35. "Public place" means:
- Any location, facility, or venue that is not intended for the regular exclusive use of an individual or a specific group of individuals;
  - Includes, but not is limited to:
    - Airports;
    - Banks;
    - Bars;
    - Child care facilities;
    - Child care group homes during hours of operation;
    - Common areas of apartment buildings, condominiums, or other multifamily housing facilities;
    - Educational facilities;
    - Entertainment facilities or venues;
    - Health care institutions, except as provided in subsection (24)(c);
    - Hotel and motel common areas;
    - Laundromats;
    - Libraries;
    - Office buildings;
    - Parking lots;
    - Parks;
    - Public transportation facilities;
    - Reception areas;
    - Restaurants;
    - Retail food production or marketing establishments;
    - Retail service establishments;
    - Retail stores;
    - Shopping malls;
    - Sidewalks;
    - Sports facilities;
    - Theaters; and
    - Waiting rooms; and
- c. Does not include:
- Nursing care institutions as defined in A.R.S. § 36-401,
  - Hospices as defined in A.R.S. § 36-401,
  - Assisted living centers as defined in A.R.S. § 36-401,
  - Assisted living homes as defined in A.R.S. § 36-401,
  - Adult day health care facilities as defined in A.R.S. § 36-401,
  - Adult foster care homes as defined in A.R.S. § 36-401, or
  - Private residences.
36. "Public school" means the same as "school" as defined in A.R.S. § 15-101.
37. "Registry identification number" means the random 20-digit alphanumeric identifier generated by the Department, containing at least four numbers and four letters, issued by the Department to a qualifying patient, designated caregiver, dispensary, dispensary agent, laboratory, or laboratory agent.
38. "Revocation" means the Department's final decision that an individual's registry identification card, a dispensary registration certificate, or a laboratory registration certificate is rescinded because the individual, the dispensary, or the laboratory does not comply with the applicable requirements in A.R.S. Title 36, Chapter 28.1 or this Chapter.
39. "Sample" means:
- A representative portion of a larger quantity of medical marijuana or a marijuana product,
  - A specific quantity of a substance or set of substances to be used for testing purposes, or
  - To collect the representative portion in subsection (39)(a).
40. "Working day" means a Monday, Tuesday, Wednesday, Thursday, or Friday that is not a state holiday or a statewide furlough day.

**Historical Note**

New Section made by exempt rulemaking at 17 A.A.R. 734, effective April 14, 2011 (Supp. 11-2). Amended by final rulemaking at 18 A.A.R. 3354, with an immediate effective date of December 5, 2012 (Supp. 12-4).

Amended by exempt rulemaking at 25 A.A.R. 2421, effective August 27, 2019 (Supp. 19-3). Amended by exempt rulemaking at 26 A.A.R. 734, with an immediate effective date of April 2, 2020 (Supp. 20-2).

**R9-17-103. Application Submission**

- A. An applicant submitting an application for a registry identification card or to amend, change, or replace a registry identification card for a qualifying patient, designated caregiver,

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dispensary agent, or laboratory agent, shall submit the application electronically in a Department-provided format.

- B. A residence address or mailing address submitted for a qualifying patient or designated caregiver as part of an application for a registry identification card is located in Arizona.
- C. A mailing address submitted for a principal officer or board member as part of a dispensary certificate registration application or as part of an application for a dispensary agent registration identification card is located in Arizona.
- D. A mailing address submitted for an owner as a part of a laboratory registration certificate application or as part of an application for a laboratory agent registration identification card is located in Arizona.

**Historical Note**

New Section made by exempt rulemaking at 17 A.A.R. 734, effective April 14, 2011 (Supp. 11-2). Amended by final rulemaking at 18 A.A.R. 3354, with an immediate effective date of December 5, 2012 (Supp. 12-4). Amended by exempt rulemaking at 25 A.A.R. 2421, effective August 27, 2019 (Supp. 19-3).

**R9-17-104. Changing Information on a Registry Identification Card**

Except as provided in R9-17-203(B) and (C), to make a change to a cardholder's name or address on the cardholder's registry identification card, the cardholder shall submit to the Department, within 10 working days after the change, a request for the change that includes:

- 1. The cardholder's name and the registry identification number on the cardholder's current registry identification card;
- 2. The cardholder's new name or address, as applicable;
- 3. For a change in the cardholder's name, one of the following with the cardholder's new name:
  - a. An Arizona driver's license,
  - b. An Arizona identification card, or
  - c. The photograph page in the cardholder's U.S. passport;
- 4. For a change in address, the county where the new address is located;
- 5. The effective date of the cardholder's new name or address; and
- 6. The applicable fee in R9-17-102 for changing a registry identification card.

**Historical Note**

New Section made by exempt rulemaking at 17 A.A.R. 734, effective April 14, 2011 (Supp. 11-2).

**R9-17-105. Requesting a Replacement Registry Identification Card**

To request a replacement card for a cardholder's registry identification card that has been lost, stolen, or destroyed, the cardholder shall submit to the Department, within 10 working days after the cardholder's registry identification card was lost, stolen, or destroyed, a request for a replacement card that includes:

- 1. The cardholder's name and date of birth;
- 2. If known, the registry identification number on the cardholder's lost, stolen, or destroyed registry identification card;
- 3. If the cardholder cannot provide the registry identification number on the cardholder's lost, stolen, or destroyed registry identification card, a copy of one of the following documents that the cardholder submitted when the cardholder obtained the registry identification card:
  - a. Arizona driver's license,
  - b. Arizona identification card,

- c. Arizona registry identification card, or
- d. Photograph page in the cardholder's U.S. passport; and

- 4. The applicable fee in R9-17-102 for requesting a replacement registry identification card.

**Historical Note**

New Section made by exempt rulemaking at 17 A.A.R. 734, effective April 14, 2011 (Supp. 11-2).

**R9-17-106. Adding a Debilitating Medical Condition**

- A. An entity may request the addition of a medical condition to the list of debilitating medical conditions in R9-17-201 by submitting to the Department, at the times specified in subsection (C), the following in writing:
  - 1. The entity's name;
  - 2. The entity's mailing address, name of contact individual, telephone number, and, if applicable, e-mail address;
  - 3. The name of the medical condition the entity is requesting be added;
  - 4. A description of the symptoms and other physiological effects experienced by an individual suffering from the medical condition or a treatment of the medical condition that may impair the ability of the individual to accomplish activities of daily living;
  - 5. The availability of conventional medical treatments to provide therapeutic or palliative benefit for the medical condition or a treatment of the medical condition;
  - 6. A summary of the evidence that the use of marijuana will provide therapeutic or palliative benefit for the medical condition or a treatment of the medical condition; and
  - 7. Articles, published in peer-reviewed scientific journals, reporting the results of research on the effects of marijuana on the medical condition or a treatment of the medical condition supporting why the medical condition should be added.
- B. The Department shall:
  - 1. Acknowledge in writing the Department's receipt of a request for the addition of a medical condition to the list of debilitating medical conditions listed in R9-17-201 within 30 calendar days after receiving the request;
  - 2. Review the request to determine if the requester has provided evidence that:
    - a. The specified medical condition or treatment of the medical condition impairs the ability of the individual to accomplish activities of daily living, and
    - b. Marijuana usage provides a therapeutic or palliative benefit to an individual suffering from the medical condition or treatment of the medical condition;
  - 3. Within 90 calendar days after receiving the request, notify the requester that the Department has determined that the information provided by the requester:
    - a. Meets the requirements in subsection (B)(2) and the date the Department will conduct a public hearing to discuss the request; or
    - b. Does not meet the requirements in subsection (B)(2), the specific reason for the determination, and the process for requesting judicial review of the Department's determination pursuant to A.R.S. Title 12, Chapter 7, Article 6;
  - 4. If applicable:
    - a. Schedule a public hearing to discuss the request;
    - b. Provide public notice of the public hearing by submitting a Notice of Public Information to the Office of the Secretary of State, for publication in the *Arizona Administrative Register* at least 30 calendar days before the date of the public hearing;

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- c. Post a copy of the request on the Department's web site for public comment at least 30 calendar days before the date of the public hearing; and
    - d. Hold the public hearing no more than 150 calendar days after receiving the request; and
  - 5. Within 180 calendar days after receiving the request:
    - a. Add the medical condition to the list of debilitating medical conditions, or
    - b. Provide written notice to the requester of the Department's decision to deny the request that includes:
      - i. The specific reasons for the Department's decision; and
      - ii. The process for requesting judicial review of the Department's decision pursuant to A.R.S. Title 12, Chapter 7, Article 6.
  - C. The Department shall accept requests for the addition of a medical condition to the list of debilitating medical conditions in R9-17-201 in January and July of each calendar year starting in January 2012.
- Historical Note**
- New Section made by exempt rulemaking at 17 A.A.R. 734, effective April 14, 2011 (Supp. 11-2).
- R9-17-107. Time-frames**
- A. Within the administrative completeness review time-frame for each type of approval in Table 1.1, the Department shall:
    - 1. Issue a registry identification card, a dispensary registration certificate, an approval to operate a dispensary, a laboratory registration certificate, an approval for testing, or an approval to add a parameter;
    - 2. Provide a notice of administrative completeness to an applicant; or
    - 3. Provide a notice of deficiencies to an applicant, including a list of the information or documents needed to complete the application.
  - B. An application for approval to operate a dispensary is not complete until the date the applicant states on a written notice provided to the Department according to R9-17-305 that the dispensary is ready for an inspection by the Department.
  - C. A laboratory's application for approval for testing is not complete until the date the applicant states on a written notice provided to the Department according to R9-17-402.01 that the laboratory is ready for an inspection by the Department.
  - D. If the Department provides a notice of deficiencies to an applicant:
    - 1. The administrative completeness review time-frame and the overall time-frame are suspended from the date of the notice of deficiencies until the date the Department receives the missing information or documents from the applicant;
    - 2. The Department shall consider the application withdrawn if the applicant does not submit the missing information or documents to the Department within the time-frame in Table 1.1; and
    - 3. If the applicant submits the missing information or documents to the Department within the time-frame in Table 1.1, the substantive review time-frame begins on the date the Department receives the missing information or documents.
  - E. Within the substantive review time-frame for each type of approval in Table 1.1, the Department:
    - 1. According to subsection (H), shall issue or deny:
      - a. A registry identification card, dispensary registration certificate, or laboratory registration certificate; or
      - b. Approval to operate a dispensary, approval for testing, or approval to add a parameter;
    - 2. May complete an inspection that may require more than one visit to a dispensary and, if applicable, the dispensary's cultivation site;
    - 3. May complete an inspection that may require more than one visit to a laboratory; and
    - 4. May make one written comprehensive request for more information, unless the Department and the applicant agree in writing to allow the Department to submit supplemental requests for information.
  - F. If the Department issues a written comprehensive request or a supplemental request for information:
    - 1. The substantive review time-frame and the overall time-frame are suspended from the date of the written comprehensive request or the supplemental request for information until the date the Department receives all of the information requested, and
    - 2. The applicant shall submit to the Department all of the information and documents listed in the written comprehensive request or supplemental request for information within 10 working days after the date of the comprehensive written request or supplemental request for information.
  - G. If an applicant for an initial dispensary registration certificate is allocated a dispensary registration certificate as provided in R9-17-303, the Department shall provide a written notice to the applicant of the allocation of the dispensary registration certificate that contains the dispensary's registry identification number.
    - 1. After the applicant receives the written notice of the allocation, the applicant shall submit to the Department for each principal officer or board member for whom fingerprints were submitted according to R9-17-304(C)(3)(b):
      - a. An application for a dispensary agent registry identification card that includes:
        - i. The principal officer's or board member's first name; middle initial, if applicable; last name; and suffix, if applicable;
        - ii. The principal officer's or board member's residence address and mailing address;
        - iii. The county where the principal officer or board member resides;
        - iv. The principal officer's or board member's date of birth;
        - v. The identifying number on the applicable card or document in subsection (G)(1)(b)(i) through (v);
        - vi. The name and registry identification number of the dispensary;
        - vii. One of the following:
          - (1) A statement that the principal officer or board member does not currently hold a valid registry identification card, or
          - (2) The assigned registry identification number for each valid registry identification card currently held by the principal officer or board member;
        - viii. A statement signed by the principal officer or board member pledging not to divert marijuana to any individual who or entity that is not allowed to possess marijuana pursuant to A.R.S. Title 36, Chapter 28.1;
        - ix. An attestation that the information provided in and with the application is true and correct; and

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- x. The signature of the principal officer or board member and the date the principal officer or board member signed;
  - b. A copy the principal officer's or board member's:
    - i. Arizona driver's license issued on or after October 1, 1996;
    - ii. Arizona identification card issued on or after October 1, 1996;
    - iii. Arizona registry identification card;
    - iv. Photograph page in the principal officer's or board member's U.S. passport; or
    - v. Arizona driver's license or identification card issued before October 1, 1996 and one of the following for the principal officer or board member:
      - (1) Birth certificate verifying U.S. citizenship,
      - (2) U.S. Certificate of Naturalization, or
      - (3) U.S. Certificate of Citizenship;
  - c. A current photograph of the principal officer or board member; and
  - d. The applicable fee in R9-17-102 for applying for a dispensary agent registry identification card.
2. After receipt of the information and documents in subsection (G)(1), the Department shall review the information and documents.
  - a. If the information and documents for at least one of the principal officers or board members complies with the A.R.S. Title 36, Chapter 28.1 and this Chapter, the Department shall issue:
    - i. A dispensary agent registry identification card to any principal officer or board member whose dispensary agent registry identification card application complies with A.R.S. Title 36, Chapter 28.1 and this Chapter; and
    - ii. The dispensary registration certificate.
  - b. If the information and documents for a dispensary agent registry identification card application for any principal officer or board member does not comply with A.R.S. Title 36, Chapter 28.1 and this Chapter, the Department shall deny the dispensary agent registry identification card application and provide notice to the principal officer or board member and to the dispensary that includes:
    - i. The specific reasons for the denial; and
    - ii. The process for requesting a judicial review of the Department's decision pursuant to A.R.S. Title 12, Chapter 7, Article 6.

**H. The Department shall issue:**

1. A registry identification card, renewal of a dispensary registration certificate, an approval to operate a dispensary, a laboratory registration certificate, an approval for testing, or an approval to add a parameter, as applicable, if the Department determines that the applicant complies with A.R.S. Title 36, Chapter 28.1 and this Chapter;

2. For an applicant for a registry identification card, a denial that includes the reason for the denial and the process for requesting judicial review if:
  - a. The Department determines that the applicant does not comply with A.R.S. Title 36, Chapter 28.1 and this Chapter; or
  - b. The applicant does not submit all of the information and documents listed in the written comprehensive request or supplemental request for information within 10 working days after the date of the comprehensive written request or supplemental request for information;
3. For an applicant for an initial dispensary registration certificate, if the Department determines that the dispensary registration certificate application complies with A.R.S. Title 36, Chapter 28.1 and this Chapter:
  - a. A dispensary registration certificate, if not all available dispensary registration certificates have been allocated according to the criteria and processes in R9-17-303; or
  - b. Written notice that:
    - i. The dispensary registration certificate application complies with A.R.S. Title 36, Chapter 28.1 and this Chapter;
    - ii. The applicant was not allocated a dispensary registration certificate according to the criteria and processes in R9-17-303 because all available dispensary registration certificates have been allocated according to the criteria and processes in R9-17-303; and
    - iii. The written notice is not a denial and is not considered a final decision of the Department subject to administrative review; or
4. For an applicant for a dispensary registration certificate, an approval to operate, a laboratory registration certificate, an approval for testing, or an approval to add a parameter, a denial that includes the reason for the denial and the process for administrative review if:
  - a. The Department determines that the applicant does not comply with A.R.S. Title 36, Chapter 28.1 or this Chapter; or
  - b. The applicant does not submit all of the information and documents listed in the written comprehensive request or supplemental request for information within 10 working days after the date of the comprehensive written request or supplemental request for information.

**Historical Note**

New Section made by exempt rulemaking at 17 A.A.R. 734, effective April 14, 2011 (Supp. 11-2). Amended by final rulemaking at 18 A.A.R. 3354, with an immediate effective date of December 5, 2012 (Supp. 12-4). Amended by exempt rulemaking at 25 A.A.R. 2421, effective August 27, 2019 (Supp. 19-3). Amended by exempt rulemaking at 26 A.A.R. 968, effective April 20, 2020 (Supp. 20-2).

**Table 1.1 Time-frames**

Type of approval	Authority (A.R.S. § or A.A.C.)	Overall Time-frame (in working days)	Time-frame for applicant to complete application (in working days)	Administrative Completeness Time-frame (in working days)	Substantive Review Time-frame (in working days)
Changing a registry identification card	§ 36-2808	10	10	5	5



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Type of approval	Authority (A.R.S. § or A.A.C.)	Overall Time-frame (in working days)	Time-frame for applicant to complete application (in working days)	Administrative Completeness Time-frame (in working days)	Substantive Review Time-frame (in working days)
Requesting a replacement registry identification card	§ 36-2804.06	5	5	2	3
Applying for a registry identification card for a qualifying patient or a designated caregiver	§ 36-2804.02(A)	15	30	5	10
Amending a registry identification card for a qualifying patient or a designated caregiver	§ 36-2808	10	10	5	5
Renewing a qualifying patient's or designated caregiver's registry identification card	§§ 36-2804.02(A) and 36-2804.06	15	15	5	10
Applying for a dispensary registration certificate	§ 36-2804	30	10	5	25
Applying for approval to operate a dispensary	R9-17-305	45	-	15	30
Changing a dispensary location or adding or changing a dispensary's cultivation site location	§ 36-2804 and R9-17-307	90	90	30	60
Renewing a dispensary registration certificate	§ 36-2804.06	15	15	5	10
Applying for a dispensary agent registry identification card	§§ 36-2804.01 and 36-2804.03	15	30	5	10
Renewing a dispensary agent's registry identification card	§ 36-2804.06	15	15	5	10
Applying for a laboratory registration certificate	§ 36-2804.07	90	90	30	60
Applying for approval for testing	R9-17-402.01	90	90	30	60
Renewing a laboratory registration certificate	§ 36-2804.06	15	15	5	10
Applying to add a parameter	R9-17-404.07	90	90	30	60
Applying for a laboratory agent registry identification card	§ 36-2804.01	15	30	5	10
Renewing a laboratory agent's registry identification card	§ 36-2804.06	15	15	5	10

**Historical Note**

New Table 1.1 made by exempt rulemaking at 17 A.A.R. 734, effective April 14, 2011 (Supp. 11-2). Table 1.1 amended by emergency rulemaking at 18 A.A.R. 1010, effective April 11, 2012 for 180 days (Supp. 12-2). Emergency expired; Table 1.1 amended by final rulemaking at 18 A.A.R. 3354, with an immediate effective date of December 5, 2012 (Supp. 12-4). Section symbols added to A.R.S. citations (Supp. 17-2). Amended by exempt rulemaking at 25 A.A.R. 2421, effective August 27, 2019 (Supp. 19-3). Amended by exempt rulemaking at 26 A.A.R. 968, effective April 20, 2020 (Supp. 20-2).

**R9-17-108. Expiration of a Registry Identification Card, Dispensary Registration Certificate, or Laboratory Registration Certificate**

- A.** Except as provided in subsection (B), a registry identification card issued to a qualifying patient, designated caregiver, dispensary agent, or laboratory agent is valid for two years after the date of issuance.
- B.** If the Department issues a registry identification card to a qualifying patient, designated caregiver, dispensary agent, or laboratory agent based on a request for a replacement registry identification card or an application to change or amend a registry identification card, the replacement, changed, or

amended registry identification card shall have the same expiration date as the registry identification card being replaced, changed, or amended.

- C.** Except as provided in subsection (D), a dispensary registration certificate is valid for two years after the date of issuance.
- D.** If the Department issues an amended dispensary registration certificate based on a change of location or an addition of a cultivation site, the dispensary registration certificate shall have the same expiration date as the dispensary registration certificate previously held by the dispensary.

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- E. An approval to operate a dispensary shall have the same expiration date as the dispensary registration certificate associated with the approval to operate the dispensary.
- F. A laboratory registration certificate is valid for two years after the original date of issuance.

**Historical Note**

New Section made by exempt rulemaking at 17 A.A.R. 734, effective April 14, 2011 (Supp. 11-2). Amended by exempt rulemaking at 25 A.A.R. 2421, effective August 27, 2019 (Supp. 19-3).

**R9-17-109. Notifications and Void Registry Identification Cards**

- A. The Department shall provide written notice that a cardholder's registry identification card is void and no longer valid under A.R.S. Title 36, Chapter 28.1 and this Chapter to a:
  - 1. Qualifying patient when the Department receives notification from:
    - a. The qualifying patient that the qualifying patient no longer has a debilitating medical condition, or
    - b. The physician who provided the qualifying patient's written certification that the:
      - i. Qualifying patient no longer has a debilitating medical condition,
      - ii. Physician no longer believes that the qualifying patient would receive therapeutic or palliative benefit from the medical use of marijuana, or
      - iii. Physician believes that the qualifying patient is not using the medical marijuana as recommended;
  - 2. Designated caregiver when:
    - a. The Department receives notification from the designated caregiver's qualifying patient that the designated caregiver no longer assists the qualifying patient with the medical use of marijuana, or
    - b. The registry identification card for the qualifying patient that is listed on the designated caregiver's registry identification card is no longer valid;
  - 3. Dispensary agent when:
    - a. The Department receives the written notification, required in R9-17-310(A)(9), that the dispensary agent:
      - i. No longer serves as a principal officer, board member, or medical director for the dispensary;
      - ii. Is no longer employed by the dispensary; or
      - iii. No longer provides volunteer service at or on behalf of the dispensary; or
    - b. The registration certificate for the dispensary that is listed on the dispensary agent's registry identification card is no longer valid; or
  - 4. Laboratory agent when:
    - a. The Department receives the written notification, required in R9-17-404(10), that the laboratory agent no longer:
      - i. Serves as an owner for the laboratory,
      - ii. Is employed by the laboratory, or
      - iii. Provides volunteer service at or on behalf of the laboratory; or
    - b. The registration certificate for the laboratory that is listed on the laboratory agent's registration identification card is no longer valid.
- B. The Department shall void a qualifying patient's registry identification card:
  - 1. When the Department receives notification that the qualifying patient is deceased; or

- 2. For a qualifying patient under 18 years of age, when the qualifying patient's designated caregiver's registry identification card is revoked.

- C. The written notice required in subsection (A) that a registry identification card is void is not a revocation and is not considered a final decision of the Department subject to judicial review.

**Historical Note**

New Section made by exempt rulemaking at 17 A.A.R. 734, effective April 14, 2011 (Supp. 11-2). Amended by final rulemaking at 18 A.A.R. 3354, with an immediate effective date of December 5, 2012 (Supp. 12-4). Amended by exempt rulemaking at 25 A.A.R. 2421, effective August 27, 2019 (Supp. 19-3).

**ARTICLE 2. QUALIFYING PATIENTS AND DESIGNATED CAREGIVERS****R9-17-201. Debilitating Medical Conditions**

An individual applying for a qualifying patient registry identification card shall have a diagnosis from a physician of at least one of the following debilitating medical conditions:

1. Cancer;
2. Glaucoma;
3. Human immunodeficiency virus;
4. Acquired immune deficiency syndrome;
5. Hepatitis C;
6. Amyotrophic lateral sclerosis;
7. Crohn's disease;
8. Agitation of Alzheimer's disease;
9. A chronic or debilitating disease or medical condition or the treatment for a chronic or debilitating disease or medical condition that produces cachexia or wasting syndrome;
10. A chronic or debilitating disease or medical condition or the treatment for a chronic or debilitating disease or medical condition that produces severe and chronic pain;
11. A chronic or debilitating disease or medical condition or the treatment for a chronic or debilitating disease or medical condition that produces severe nausea;
12. A chronic or debilitating disease or medical condition or the treatment for a chronic or debilitating disease or medical condition that produces seizures, including those characteristic of epilepsy;
13. A chronic or debilitating disease or medical condition or the treatment for a chronic or debilitating disease or medical condition that produces severe or persistent muscle spasms, including those characteristic of multiple sclerosis; or
14. A debilitating medical condition approved by the Department under A.R.S. § 36-2801.01 and R9-17-106.

**Historical Note**

New Section made by exempt rulemaking at 17 A.A.R. 734, effective April 14, 2011 (Supp. 11-2).

**R9-17-202. Applying for a Registry Identification Card for a Qualifying Patient or a Designated Caregiver**

- A. Except for a qualifying patient who is under 18 years of age, a qualifying patient is not required to have a designated caregiver.
- B. A qualifying patient may have only one designated caregiver at any given time.
- C. Except for a qualifying patient who is under 18 years of age, if the information submitted for a qualifying patient complies with A.R.S. Title 36, Chapter 28.1 and this Chapter but the information for the qualifying patient's designated caregiver does not comply with A.R.S. Title 36, Chapter 28.1 and this

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Chapter, the Department shall issue the registry identification card for the qualifying patient separate from issuing a registry identification card for the qualifying patient's designated caregiver.

- D. If the Department issues a registry identification card to a qualifying patient under subsection (C), the Department shall continue the process for issuing or denying the qualifying patient's designated caregiver's registry identification card.
- E. The Department shall not issue a designated caregiver's registry identification card before the Department issues the designated caregiver's qualifying patient's registry identification card.
- F. Except as provided in subsection (G), to apply for a registry identification card, a qualifying patient shall submit to the Department the following:
  1. An application in a Department-provided format that includes:
    - a. The qualifying patient's:
      - i. First name; middle initial, if applicable; last name; and suffix, if applicable;
      - ii. Date of birth; and
      - iii. Gender;
    - b. Except as provided in subsection (F)(1)(i), the qualifying patient's residence address and mailing address;
    - c. The county where the qualifying patient resides;
    - d. The qualifying patient's e-mail address;
    - e. The identifying number on the applicable card or document in subsection (F)(2)(a) through (e);
    - f. The name, address, and telephone number of the physician providing the written certification for medical marijuana for the qualifying patient;
    - g. Whether the qualifying patient is requesting authorization for cultivating marijuana plants for the qualifying patient's medical use because the qualifying patient believes that the qualifying patient resides at least 25 miles from the nearest operating dispensary;
    - h. If the qualifying patient is requesting authorization for cultivating marijuana plants, whether the qualifying patient is designating the qualifying patient's designated caregiver to cultivate marijuana plants for the qualifying patient's medical use;
    - i. If the qualifying patient is homeless, an address where the qualifying patient can receive mail;
    - j. Whether the qualifying patient would like notification of any clinical studies needing human subjects for research on the medical use of marijuana;
    - k. An attestation that the information provided in the application is true and correct; and
    - l. The signature of the qualifying patient and date the qualifying patient signed;
  2. A copy of the qualifying patient's:
    - a. Arizona driver's license issued on or after October 1, 1996;
    - b. Arizona identification card issued on or after October 1, 1996;
    - c. Arizona registry identification card;
    - d. Photograph page in the qualifying patient's U.S. passport; or
    - e. Arizona driver's license or identification card issued before October 1, 1996 and one of the following for the qualifying patient:
      - i. Birth certificate verifying U.S. citizenship,
      - ii. U.S. Certificate of Naturalization, or
      - iii. U.S. Certificate of Citizenship;
  3. A current photograph of the qualifying patient;
  4. A statement in a Department-provided format signed by the qualifying patient pledging not to divert marijuana to any individual who or entity that is not allowed to possess marijuana pursuant to A.R.S. Title 36, Chapter 28.1;
  5. A physician's written certification in a Department-provided format dated within 90 calendar days before the submission of the qualifying patient's application that includes:
    - a. The physician's:
      - i. Name,
      - ii. License number including an identification of the physician license type,
      - iii. Office address on file with the physician's licensing board,
      - iv. Telephone number on file with the physician's licensing board, and
      - v. E-mail address;
    - b. The qualifying patient's name and date of birth;
    - c. A statement that the physician has made or confirmed a diagnosis of a debilitating medical condition as defined in A.R.S. § 36-2801 for the qualifying patient;
    - d. An identification, initialed by the physician, of one or more of the debilitating medical conditions in R9-17-201 as the qualifying patient's specific debilitating medical condition;
    - e. If the debilitating medical condition identified in subsection (F)(5)(d) is a condition in:
      - i. R9-17-201(9) through (13), the underlying chronic or debilitating disease or medical condition; or
      - ii. R9-17-201(14), the debilitating medical condition;
    - f. A statement, initialed by the physician, that the physician:
      - i. Has established a medical record for the qualifying patient, and
      - ii. Is maintaining the qualifying patient's medical record as required in A.R.S. § 12-2297;
    - g. A statement, initialed by the physician, that the physician has conducted an in-person physical examination of the qualifying patient within the previous 90 calendar days appropriate to the qualifying patient's presenting symptoms and the qualifying patient's debilitating medical condition diagnosed or confirmed by the physician;
    - h. The date the physician conducted the in-person physical examination of the qualifying patient;
    - i. A statement, initialed by the physician, that the physician reviewed the qualifying patient's:
      - i. Medical records including medical records from other treating physicians from the previous 12 months,
      - ii. Response to conventional medications and medical therapies, and
      - iii. Profile on the Arizona Board of Pharmacy Controlled Substances Prescription Monitoring Program database;
    - j. A statement, initialed by the physician, that the physician has explained the potential risks and benefits of the medical use of marijuana to the qualifying patient;
    - k. A statement, initialed by the physician, that in the physician's professional opinion, the qualifying patient is likely to receive therapeutic or palliative benefit from the qualifying patient's medical use of

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- marijuana to treat or alleviate the qualifying patient's debilitating medical condition;
- l. A statement, initialed by the physician, that if the physician has referred the qualifying patient to a dispensary, the physician has disclosed to the qualifying patient any personal or professional relationship the physician has with the dispensary;
  - m. A statement, initialed by the physician, that the physician has provided information to the qualifying patient, if the qualifying patient is female, that warns about:
    - i. The potential dangers to a fetus caused by smoking or ingesting marijuana while pregnant or to an infant while breastfeeding, and
    - ii. The risk of being reported to the Department of Child Safety during pregnancy or at the birth of the child by persons who are required to report;
  - n. An attestation that the information provided in the written certification is true and correct; and
  - o. The physician's signature and the date the physician signed;
6. If the qualifying patient is designating a caregiver, the following in a Department-provided format:
    - a. The designated caregiver's first name; middle initial, if applicable; last name; and suffix, if applicable;
    - b. The designated caregiver's date of birth;
    - c. The designated caregiver's residence address and mailing address;
    - d. The county where the designated caregiver resides;
    - e. The identifying number on the applicable card or document in subsection (F)(6)(i)(i) through (v);
    - f. One of the following:
      - i. A statement that the designated caregiver does not currently hold a valid registry identification card, or
      - ii. The assigned registry identification number for the designated caregiver for each valid registry identification card currently held by the designated caregiver;
    - g. An attestation signed and dated by the designated caregiver that the designated caregiver has not been convicted of an excluded felony offense as defined in A.R.S. § 36-2801;
    - h. A statement signed by the designated caregiver:
      - i. Agreeing to assist the qualifying patient with the medical use of marijuana; and
      - ii. Pledging not to divert marijuana to any individual who or entity that is not allowed to possess marijuana pursuant to A.R.S. Title 36, Chapter 28.1;
    - i. A copy of the designated caregiver's:
      - i. Arizona driver's license issued on or after October 1, 1996;
      - ii. Arizona identification card issued on or after October 1, 1996;
      - iii. Arizona registry identification card;
      - iv. Photograph page in the designated caregiver's U.S. passport; or
      - v. Arizona driver's license or identification card issued before October 1, 1996 and one of the following for the designated caregiver:
        - (1) Birth certificate verifying U.S. citizenship,
        - (2) U.S. Certificate of Naturalization, or
        - (3) U.S. Certificate of Citizenship;
    - j. A current photograph of the designated caregiver; and
  - k. For the Department's criminal records check authorized in A.R.S. § 36-2804.05:
    - i. The designated caregiver's fingerprints on a fingerprint card that includes:
      - (1) The designated caregiver's first name; middle initial, if applicable; and last name;
      - (2) The designated caregiver's signature;
      - (3) If different from the designated caregiver, the signature of the individual physically rolling the designated caregiver's fingerprints;
      - (4) The designated caregiver's address;
      - (5) If applicable, the designated caregiver's surname before marriage and any names previously used by the designated caregiver;
      - (6) The designated caregiver's date of birth;
      - (7) The designated caregiver's Social Security number;
      - (8) The designated caregiver's citizenship status;
      - (9) The designated caregiver's gender;
      - (10) The designated caregiver's race;
      - (11) The designated caregiver's height;
      - (12) The designated caregiver's weight;
      - (13) The designated caregiver's hair color;
      - (14) The designated caregiver's eye color; and
      - (15) The designated caregiver's place of birth; or
    - ii. If the designated caregiver's fingerprints and information required in subsection (F)(6)(k)(i) were submitted to the Department as part of an application for a designated caregiver or a dispensary agent registry identification card within the previous six months, the registry identification number on the registry identification card issued to the designated caregiver as a result of the application; and
  7. The applicable fees in R9-17-102 for applying for:
    - a. A qualifying patient registry identification card; and
    - b. If applicable, a designated caregiver registry identification card.
- G.** To apply for a registry identification card for a qualifying patient who is under 18 years of age, the qualifying patient's custodial parent or legal guardian responsible for health care decisions for the qualifying patient shall submit to the Department the following:
1. An application in a Department-provided format that includes:
    - a. The qualifying patient's:
      - i. First name; middle initial, if applicable; last name; and suffix, if applicable;
      - ii. Date of birth; and
      - iii. Gender;
    - b. The qualifying patient's residence address and mailing address;
    - c. The county where the qualifying patient resides;
    - d. The qualifying patient's custodial parent's or legal guardian's first name; middle initial, if applicable; last name; and suffix, if applicable;
    - e. The identifying number on the applicable card or document in subsection (G)(5)(a) through (e);
    - f. The qualifying patient's custodial parent's or legal guardian's residence address and mailing address;
    - g. The county where the qualifying patient's custodial parent or legal guardian resides;

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- h. The qualifying patient's custodial parent's or legal guardian's e-mail address;
  - i. The name, address, and telephone number of a physician who has a physician-patient relationship with the qualifying patient and is providing the written certification for medical marijuana for the qualifying patient;
  - j. The name, address, and telephone number of a second physician who has conducted a comprehensive review of the patient's medical record maintained by other treating physicians, and is providing a written certification for medical marijuana for the qualifying patient;
  - k. The qualifying patient's custodial parent's or legal guardian's date of birth;
  - l. Whether the qualifying patient's custodial parent or legal guardian is requesting authorization for cultivating medical marijuana plants for the qualifying patient's medical use because the qualifying patient's custodial parent or legal guardian believes that the qualifying patient resides at least 25 miles from the nearest operating dispensary;
  - m. Whether the qualifying patient's custodial parent or legal guardian would like notification of any clinical studies needing human subjects for research on the medical use of marijuana;
  - n. Whether the individual submitting the application on behalf of the qualifying patient under 18 years of age is the qualifying patient's custodial parent or legal guardian;
  - o. One of the following:
    - i. A statement that the qualifying patient's custodial parent or legal guardian does not currently hold a valid registry identification card, or
    - ii. The assigned registry identification number for the qualifying patient's custodial parent or legal guardian for each valid registry identification card currently held by the qualifying patient's custodial parent or legal guardian;
  - p. An attestation that the information provided in the application is true and correct; and
  - q. The signature of the qualifying patient's custodial parent or legal guardian and the date the qualifying patient's custodial parent or legal guardian signed;
2. A current photograph of the:
    - a. Qualifying patient, and
    - b. Qualifying patient's custodial parent or legal guardian serving as the qualifying patient's designated caregiver;
  3. An attestation in a Department-provided format signed and dated by the qualifying patient's custodial parent or legal guardian that the qualifying patient's custodial parent or legal guardian has not been convicted of an excluded felony offense as defined in A.R.S. § 36-2801;
  4. A statement in a Department-provided format signed by the qualifying patient's custodial parent or legal guardian who is serving as the qualifying patient's designated caregiver:
    - a. Allowing the qualifying patient's medical use of marijuana;
    - b. Agreeing to assist the qualifying patient with the medical use of marijuana; and
    - c. Pledging not to divert marijuana to any individual who or entity that is not allowed to possess marijuana pursuant to A.R.S. Title 36, Chapter 28.1;
  5. A copy of one of the following for the qualifying patient's custodial parent or legal guardian:
    - a. Arizona driver's license issued on or after October 1, 1996;
    - b. Arizona identification card issued on or after October 1, 1996;
    - c. Arizona registry identification card;
    - d. Photograph page in the qualifying patient's custodial parent or legal guardian U.S. passport; or
    - e. Arizona driver's license or identification card issued before October 1, 1996 and one of the following for the qualifying patient's custodial parent or legal guardian:
      - i. Birth certificate verifying U.S. citizenship,
      - ii. U. S. Certificate of Naturalization, or
      - iii. U. S. Certificate of Citizenship;
  6. If the individual submitting the application on behalf of a qualifying patient is the qualifying patient's legal guardian, a copy of documentation establishing the individual as the qualifying patient's legal guardian;
  7. For the Department's criminal records check authorized in A.R.S. § 36-2804.05:
    - a. The qualifying patient's custodial parent or legal guardian's fingerprints on a fingerprint card that includes:
      - i. The qualifying patient's custodial parent or legal guardian's first name; middle initial, if applicable; and last name;
      - ii. The qualifying patient's custodial parent or legal guardian's signature;
      - iii. If different from the qualifying patient's custodial parent or legal guardian, the signature of the individual physically rolling the qualifying patient's custodial parent's or legal guardian's fingerprints;
      - iv. The qualifying patient's custodial parent's or legal guardian's address;
      - v. If applicable, the qualifying patient's custodial parent's or legal guardian's surname before marriage and any names previously used by the qualifying patient's custodial parent or legal guardian;
      - vi. The qualifying patient's custodial parent's or legal guardian's date of birth;
      - vii. The qualifying patient's custodial parent's or legal guardian's Social Security number;
      - viii. The qualifying patient's custodial parent's or legal guardian's citizenship status;
      - ix. The qualifying patient's custodial parent's or legal guardian's gender;
      - x. The qualifying patient's custodial parent's or legal guardian's race;
      - xi. The qualifying patient's custodial parent's or legal guardian's height;
      - xii. The qualifying patient's custodial parent's or legal guardian's weight;
      - xiii. The qualifying patient's custodial parent's or legal guardian's hair color;
      - xiv. The qualifying patient's custodial parent's or legal guardian's eye color; and
      - xv. The qualifying patient's custodial parent's or legal guardian's place of birth; or
    - b. If the qualifying patient's custodial parent's or legal guardian's fingerprints and information required in subsection (G)(7)(a) were submitted to the Department as part of an application for a designated care-

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- giver or a dispensary agent registry identification card within the previous six months, the registry identification number on the registry identification card issued to the qualifying patient's custodial parent or legal guardian as a result of the application;
8. A written certification from the physician in subsection (G)(1)(i) and a separate written certification from the physician in (G)(1)(j) in a Department-provided format dated within 90 calendar days before the submission of the qualifying patient's application that includes:
    - a. The physician's:
      - i. Name,
      - ii. License number including an identification of the physician license type,
      - iii. Office address on file with the physician's licensing board,
      - iv. Telephone number on file with the physician's licensing board, and
      - v. E-mail address;
    - b. The qualifying patient's name and date of birth;
    - c. An identification of one or more of the debilitating medical conditions in R9-17-201 as the qualifying patient's specific debilitating medical condition;
    - d. If the debilitating medical condition identified in subsection (G)(9)(c) is a condition in:
      - i. R9-17-201(9) through (13), the underlying chronic or debilitating disease or medical condition; or
      - ii. R9-17-201(14), the debilitating medical condition;
    - e. For the physician listed in subsection (G)(1)(i):
      - i. A statement that the physician has made or confirmed a diagnosis of a debilitating medical condition as defined in A.R.S. § 36-2801 for the qualifying patient;
      - ii. A statement, initialed by the physician, that the physician:
        - (1) Has established a medical record for the qualifying patient, and
        - (2) Is maintaining the qualifying patient's medical record as required in A.R.S. § 12-2297;
      - iii. A statement, initialed by the physician, that the physician has conducted an in-person physical examination of the qualifying patient within the previous 90 calendar days appropriate to the qualifying patient's presenting symptoms and the qualifying patient's debilitating medical condition diagnosed or confirmed by the physician;
      - iv. The date the physician conducted the in-person physical examination of the qualifying patient;
      - v. A statement, initialed by the physician, that the physician reviewed the qualifying patient's:
        - (1) Medical records, including medical records from other treating physicians from the previous 12 months,
        - (2) Response to conventional medications and medical therapies, and
        - (3) Profile on the Arizona Board of Pharmacy Controlled Substances Prescription Monitoring Program database;
      - vi. A statement, initialed by the physician, that the physician has explained the potential risks and benefits of the use of medical marijuana to the qualifying patient's custodial parent or legal guardian responsible for health care decisions for the qualifying patient; and
      - vii. A statement, initialed by the physician, that the physician has provided information to the qualifying patient's custodial parent or legal guardian responsible for health care decisions for the qualifying patient, if the qualifying patient is female, that warns about:
        - (1) The potential dangers to a fetus caused by smoking or ingesting marijuana while pregnant or to an infant while breastfeeding, and
        - (2) The risk of being reported to the Department of Child Safety during pregnancy or at the birth of the child by persons who are required to report;
    - f. For the physician listed in subsection (G)(1)(j), a statement, initialed by the physician, that the physician conducted a comprehensive review of the qualifying patient's medical records from other treating physicians;
    - g. A statement, initialed by the physician, that, in the physician's professional opinion, the qualifying patient is likely to receive therapeutic or palliative benefit from the qualifying patient's medical use of marijuana to treat or alleviate the qualifying patient's debilitating medical condition;
    - h. A statement, initialed by the physician, that if the physician has referred the qualifying patient's custodial parent or legal guardian to a dispensary, the physician has disclosed to the qualifying patient any personal or professional relationship the physician has with the dispensary;
    - i. An attestation that the information provided in the written certification is true and correct; and
    - j. The physician's signature and the date the physician signed; and
  9. The applicable fees in R9-17-102 for applying for a:
    - a. Qualifying patient registry identification card, and
    - b. Designated caregiver registry identification card.
  - H.** For purposes of this Article, "25 miles" includes the area contained within a circle that extends for 25 miles in all directions from a specific location.
  - I.** For purposes of this Article, "residence address" when used in conjunction with a qualifying patient means:
    1. The street address including town or city and zip code assigned by a local jurisdiction; or
    2. For property that does not have a street address assigned by a local jurisdiction, the legal description of the property on the title documents recorded by the assessor of the county in which the property is located.

**Historical Note**

New Section made by exempt rulemaking at 17 A.A.R. 734, effective April 14, 2011 (Supp. 11-2). Amended by final rulemaking at 18 A.A.R. 3354, with an immediate effective date of December 5, 2012 (Supp. 12-4). Amended by final rulemaking 23 A.A.R. 970, effective June 6, 2017 (Supp. 17-2).

**R9-17-203. Amending a Qualifying Patient's or Designated Caregiver's Registry Identification Card**

- A.** To add a designated caregiver or to request a change of a qualifying patient's designated caregiver, the qualifying patient shall submit to the Department, within 10 working days after the addition or the change, the following:

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1. An application in a Department-provided format that includes:
    - a. The qualifying patient's name and the registry identification number on the qualifying patient's current registry identification card;
    - b. If applicable, the name of the qualifying patient's current designated caregiver and the date the designated caregiver last provided or will last provide assistance to the qualifying patient;
    - c. The name of the individual that the qualifying patient is designating as caregiver; and
    - d. The signature of the qualifying patient and date the qualifying patient signed;
  2. For the caregiver the qualifying patient is designating:
    - a. The designated caregiver's first name; middle initial, if applicable; last name; and suffix, if applicable;
    - b. The designated caregiver's date of birth;
    - c. The designated caregiver's residence address and mailing address;
    - d. The county where the designated caregiver resides;
    - e. The identifying number on the applicable card or document in subsection (A)(2)(i)(i) through (v);
    - f. One of the following:
      - i. A statement that the designated caregiver does not currently hold a valid registry identification card, or
      - ii. The assigned registry identification number for the designated caregiver for each valid registry identification card currently held by the designated caregiver;
    - g. An attestation in a Department-provided format signed and dated by the designated caregiver that the designated caregiver has not been convicted of an excluded felony offense as defined in A.R.S. § 36-2801;
    - h. A statement in a Department-provided format signed by the designated caregiver:
      - i. Agreeing to assist the qualifying patient with the medical use of marijuana; and
      - ii. Pledging not to divert marijuana to any individual who or entity that is not allowed to possess marijuana pursuant to A.R.S. Title 36, Chapter 28.1;
    - i. A copy the designated caregiver's:
      - i. Arizona driver's license issued on or after October 1, 1996;
      - ii. Arizona identification card issued on or after October 1, 1996;
      - iii. Arizona registry identification card;
      - iv. Photograph page in the designated caregiver's U.S. passport; or
      - v. Arizona driver's license or identification card issued before October 1, 1996 and one of the following for the designated caregiver:
        - (1) Birth certificate verifying U.S. citizenship,
        - (2) U. S. Certificate of Naturalization, or
        - (3) U. S. Certificate of Citizenship;
    - j. A current photograph of the designated caregiver; and
    - k. For the Department's criminal records check authorized in A.R.S. § 36-2804.05:
      - i. The designated caregiver's fingerprints on a fingerprint card that includes:
        - (1) The designated caregiver's first name; middle initial, if applicable; and last name;
        - (2) The designated caregiver's signature;
        - (3) If different from the designated caregiver, the signature of the individual physically rolling the designated caregiver's fingerprints;
        - (4) The designated caregiver's address;
        - (5) If applicable, the designated caregiver's surname before marriage and any names previously used by the designated caregiver;
        - (6) The designated caregiver's date of birth;
        - (7) The designated caregiver's Social Security number;
        - (8) The designated caregiver's citizenship status;
        - (9) The designated caregiver's gender;
        - (10) The designated caregiver's race;
        - (11) The designated caregiver's height;
        - (12) The designated caregiver's weight;
        - (13) The designated caregiver's hair color;
        - (14) The designated caregiver's eye color; and
        - (15) The designated caregiver's place of birth; or
      - ii. If the designated caregiver's fingerprints and information required in subsection (A)(2)(k)(i) were submitted to the Department as part of an application for a designated caregiver or a dispensary agent within the previous six months, the registry identification number on the registry identification card issued to the designated caregiver as a result of the application; and
  3. The applicable fee in R9-17-102 for applying for a designated caregiver registry identification card.
- B.** To amend a qualifying patient's address on the qualifying patient's registry identification card when the qualifying patient or the qualifying patient's designated caregiver is authorized to cultivate marijuana, the qualifying patient shall submit to the Department, within 10 working days after the change in address, the following:
1. The qualifying patient's name and the registry identification number on the qualifying patient's current registry identification card;
  2. The qualifying patient's new address;
  3. The county where the new address is located;
  4. The name of the qualifying patient's designated caregiver, if applicable;
  5. Whether the qualifying patient is requesting authorization for cultivating marijuana plants for the qualifying patient's medical use because the qualifying patient believes that the qualifying patient resides at least 25 miles from the nearest operating dispensary;
  6. If the qualifying patient is requesting authorization for cultivating marijuana plants, whether the qualifying patient is designating the qualifying patient's designated caregiver to cultivate marijuana plants for the qualifying patient's medical use;
  7. The effective date of the qualifying patient's new address; and
  8. The applicable fee in R9-17-102 for applying to:
    - a. Amend a qualifying patient's registry identification card; and
    - b. If the qualifying patient is designating a designated caregiver for cultivation authorization, amend a designated caregiver's registry identification card.
- C.** To request authorization to cultivate marijuana based on a qualifying patient's current address or a new address, the qualifying patient shall submit to the Department, if applicable

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within 10 working days after the change in address, the following:

1. The qualifying patient's name and the registry identification number on the qualifying patient's current registry identification card;
2. If the qualifying patient's address is a new address, the qualifying patient's:
  - a. Current address,
  - b. New address,
  - c. The county where the new address is located, and
  - d. The effective date of the qualifying patient's new address;
3. The name of the qualifying patient's designated caregiver, if applicable;
4. Whether the qualifying patient is requesting authorization for cultivating marijuana plants for the qualifying patient's medical use because the qualifying patient believes that the qualifying patient resides at least 25 miles from the nearest operating dispensary;
5. If the qualifying patient is requesting authorization for cultivating marijuana plants, whether the qualifying patient is designating the qualifying patient's designated caregiver to cultivate marijuana plants for the qualifying patient's medical use; and
6. The applicable fee in R9-17-102 for applying to:
  - a. Amend a qualifying patient's registry identification card; and
  - b. If the qualifying patient is designating a designated caregiver for cultivation authorization, amend a designated caregiver's registry identification card.

#### Historical Note

New Section made by exempt rulemaking at 17 A.A.R. 734, effective April 14, 2011 (Supp. 11-2). Amended by final rulemaking at 18 A.A.R. 3354, with an immediate effective date of December 5, 2012 (Supp. 12-4). The Department made a clerical error to R19-17-203(A)(1)(c) when promulgating rules in Supp. 12-4 Remediate or clarity "that" has been moved after "individual" at the request of the Department at file number R19-242 (Supp. 19-3).

#### R9-17-204. Renewing a Qualifying Patient's or Designated Caregiver's Registry Identification Card

A. Except for a qualifying patient who is under 18 years of age, to renew a qualifying patient's registry identification card, the qualifying patient shall submit the following to the Department at least 30 calendar days before the expiration date of the qualifying patient's registry identification card:

1. An application in a Department-provided format that includes:
  - a. The qualifying patient's first name; middle initial, if applicable; last name; and suffix, if applicable;
  - b. The qualifying patient's date of birth;
  - c. Except as provided in subsection (A)(1)(j), the qualifying patient's residence address and mailing address;
  - d. The county where the qualifying patient resides;
  - e. The qualifying patient's e-mail address;
  - f. The registry identification number on the qualifying patient's current registry identification card;
  - g. The name, address, and telephone number of the physician providing the written certification for medical marijuana for the qualifying patient;
  - h. Whether the qualifying patient is requesting authorization for cultivating marijuana plants for the qualifying patient's medical use because the qualifying

patient believes that the qualifying patient resides at least 25 miles from the nearest operating dispensary;

- i. If the qualifying patient is requesting authorization for cultivating marijuana plants, whether the qualifying patient is designating the qualifying patient's designated caregiver to cultivate marijuana plants for the qualifying patient's medical use;
  - j. If the qualifying patient is homeless, an address where the qualifying patient can receive mail;
  - k. Whether the qualifying patient would like notification of any clinical studies needing human subjects for research on the medical use of marijuana;
  - l. An attestation that the information provided in the application is true and correct; and
  - m. The signature of the qualifying patient and the date the qualifying patient signed;
2. If the qualifying patient's name in subsection (A)(1)(a) is not the same name as on the qualifying patient's current registry identification card, one of the following with the qualifying patient's new name:
    - a. An Arizona driver's license,
    - b. An Arizona identification card, or
    - c. The photograph page in the qualifying patient's U.S. passport;
  3. A current photograph of the qualifying patient;
  4. A statement in a Department-provided format signed by the qualifying patient pledging not to divert marijuana to any individual who or entity that is not allowed to possess marijuana pursuant to A.R.S. Title 36, Chapter 28.1;
  5. A physician's written certification in a Department-provided format dated within 90 calendar days before the submission of the qualifying patient's renewal application that includes:
    - a. The physician's:
      - i. Name,
      - ii. License number including an identification of the physician license type,
      - iii. Office address on file with the physician's licensing board,
      - iv. Telephone number on file with the physician's licensing board, and
      - v. E-mail address;
    - b. The qualifying patient's name and date of birth;
    - c. A statement that the physician has made or confirmed a diagnosis of a debilitating medical condition as defined in A.R.S. § 36-2801 for the qualifying patient;
    - d. An identification of one or more of the debilitating medical conditions in R9-17-201 as the qualifying patient's specific debilitating medical condition;
    - e. If the debilitating medical condition identified in subsection (A)(5)(d) is a condition in:
      - i. R9-17-201(9) through (13), the underlying chronic or debilitating disease or medical condition; or
      - ii. R9-17-201(14), the debilitating medical condition;
    - f. A statement, initialed by the physician, that the physician:
      - i. Has established a medical record for the qualifying patient, and
      - ii. Is maintaining the qualifying patient's medical record as required in A.R.S. § 12-2297;
    - g. A statement, initialed by the physician, that the physician has conducted an in-person physical examination of the qualifying patient within the previous 90



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- calendar days appropriate to the qualifying patient's presenting symptoms and the qualifying patient's debilitating medical condition diagnosed or confirmed by the physician;
- h. The date the physician conducted the in-person physical examination of the qualifying patient;
  - i. A statement, initialed by the physician, that the physician reviewed the qualifying patient's:
    - i. Medical records including medical records from other treating physicians from the previous 12 months,
    - ii. Response to conventional medications and medical therapies, and
    - iii. Profile on the Arizona Board of Pharmacy Controlled Substances Prescription Monitoring Program database;
  - j. A statement, initialed by the physician, that the physician has explained the potential risks and benefits of the medical use of marijuana to the qualifying patient;
  - k. A statement, initialed by the physician, that in the physician's professional opinion, the qualifying patient is likely to receive therapeutic or palliative benefit from the qualifying patient's medical use of marijuana to treat or alleviate the qualifying patient's debilitating medical condition;
  - l. A statement, initialed by the physician, that if the physician has referred the qualifying patient to a dispensary, the physician has disclosed to the qualifying patient any personal or professional relationship the physician has with the dispensary;
  - m. A statement, initialed by the physician, that the physician has provided information to the qualifying patient, if the qualifying patient is female, that warns about:
    - i. The potential dangers to a fetus caused by smoking or ingesting marijuana while pregnant or to an infant while breastfeeding, and
    - ii. The risk of being reported to the Department of Child Safety during pregnancy or at the birth of the child by persons who are required to report;
  - n. An attestation that the information provided in the written certification is true and correct; and
  - o. The physician's signature and the date the physician signed;
6. If the qualifying patient is designating a caregiver or if the qualifying patient's designated caregiver's registry identification card has the same expiration date as the qualifying patient's registry identification card, the following in a Department-provided format:
    - a. The designated caregiver's first name; middle initial, if applicable; last name; and suffix, if applicable;
    - b. The designated caregiver's date of birth;
    - c. The designated caregiver's residence address and mailing address;
    - d. The county where the designated caregiver resides;
    - e. If the qualifying patient is renewing the designated caregiver's registry identification card, the registry identification number on the designated caregiver's registry identification card associated with the qualifying patient;
    - f. If the qualifying patient is designating an individual not previously designated as the qualifying patient's designated caregiver, the identification number on and a copy of the designated caregiver's:
      - i. Arizona driver's license issued on or after October 1, 1996;
      - ii. Arizona identification card issued on or after October 1, 1996;
      - iii. Arizona registry identification card;
      - iv. Photograph page in the designated caregiver's U. S. passport; or
      - v. Arizona driver's license or identification card issued before October 1, 1996 and one of the following for the designated caregiver:
        - (1) Birth certificate verifying U.S. citizenship,
        - (2) U. S. Certificate of Naturalization, or
        - (3) U. S. Certificate of Citizenship;
    - g. If the qualifying patient is designating an individual not previously designated as the qualifying patient's designated caregiver, one of the following:
      - i. A statement that the designated caregiver does not currently hold a valid registry identification card, or
      - ii. The assigned registry identification number for the designated caregiver for each valid registry identification card currently held by the designated caregiver;
    - h. A current photograph of the designated caregiver;
    - i. An attestation signed and dated by the designated caregiver that the designated caregiver has not been convicted of an excluded felony offense as defined in A.R.S. § 36-2801;
    - j. A statement in a Department-provided format signed by the designated caregiver:
      - i. Agreeing to assist the qualifying patient with the medical use of marijuana; and
      - ii. Pledging not to divert marijuana to any individual who or entity that is not allowed to possess marijuana pursuant to A.R.S. Title 36, Chapter 28.1; and
    - k. For the Department's criminal records check authorized in A.R.S. § 36-2804.05:
      - i. The designated caregiver's fingerprints on a fingerprint card that includes:
        - (1) The designated caregiver's first name; middle initial, if applicable; and last name;
        - (2) The designated caregiver's signature;
        - (3) If different from the designated caregiver, the signature of the individual physically rolling the designated caregiver's fingerprints;
        - (4) The designated caregiver's address;
        - (5) If applicable, the designated caregiver's surname before marriage and any names previously used by the designated caregiver;
        - (6) The designated caregiver's date of birth;
        - (7) The designated caregiver's Social Security number;
        - (8) The designated caregiver's citizenship status;
        - (9) The designated caregiver's gender;
        - (10) The designated caregiver's race;
        - (11) The designated caregiver's height;
        - (12) The designated caregiver's weight;
        - (13) The designated caregiver's hair color;
        - (14) The designated caregiver's eye color; and
        - (15) The designated caregiver's place of birth;

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- ii. If the designated caregiver's fingerprints and information required in subsection (A)(6)(k)(i) were submitted to the Department as part of an application for a designated caregiver or a dispensary agent registry identification card within the previous six months, the registry identification number on the registry identification card issued to the designated caregiver as a result of the application;
- 7. If the qualifying patient's designated caregiver's registry identification card has the same expiration date as the qualifying patient's registry identification card and the designated caregiver's name in subsection (A)(6)(a) is not the same name as on the designated caregiver's current registry identification card, one of the following with the designated caregiver's new name:
  - a. An Arizona driver's license,
  - b. An Arizona identification card, or
  - c. The photograph page in the designated caregiver's U.S. passport; and
- 8. The applicable fees in R9-17-102 for applying to:
  - a. Renew a qualifying patient's registry identification card; and
  - b. If applicable, issue or renew a designated caregiver's registry identification card.
- B.** To renew a registry identification card for a qualifying patient who is under 18 years of age, the qualifying patient's custodial parent or legal guardian responsible for health care decisions for the qualifying patient shall submit to the Department the following:
  - 1. An application in a Department-provided format that includes:
    - a. The qualifying patient's:
      - i. First name; middle initial, if applicable; last name; and suffix, if applicable; and
      - ii. Date of birth;
    - b. The qualifying patient's residence address and mailing address;
    - c. The county where the qualifying patient resides;
    - d. The registry identification number on the qualifying patient's current registry identification card;
    - e. The qualifying patient's custodial parent's or legal guardian's first name; middle initial, if applicable; last name; and suffix, if applicable;
    - f. The qualifying patient's custodial parent's or legal guardian's residence address and mailing address;
    - g. The county where the qualifying patient's custodial parent or legal guardian resides;
    - h. The qualifying patient's custodial parent's or legal guardian's e-mail address;
    - i. The registry identification number on the qualifying patient's custodial parent's or legal guardian's current registry identification card;
    - j. The name, address, and telephone number of a physician who has a physician-patient relationship with the qualifying patient and is providing the written certification for medical marijuana for the qualifying patient;
    - k. The name, address, and telephone number of a second physician who has conducted a comprehensive review of the qualifying patient's medical record maintained by other treating physicians, and is providing a written certification for medical marijuana for the qualifying patient;
    - l. Whether the qualifying patient's custodial parent or legal guardian is requesting approval for cultivating marijuana plants for the qualifying patient's medical use because the qualifying patient's custodial parent or legal guardian believes that the qualifying patient resides at least 25 miles from the nearest operating dispensary;
  - 2. If the qualifying patient's custodial parent's or legal guardian's name in subsection (B)(1)(e) is not the same name as on the qualifying patient's custodial parent's or legal guardian's current registry identification card, one of the following with the custodial parent's or legal guardian's new name:
    - a. An Arizona driver's license,
    - b. An Arizona identification card, or
    - c. The photograph page in the qualifying patient's custodial parent's or legal guardian's U.S. passport;
  - 3. A current photograph of the qualifying patient;
  - 4. A written certification from the physician in subsection (B)(1)(j) and a separate written certification from the physician in subsection (B)(1)(k) in a Department-provided format dated within 90 calendar days before the submission of the qualifying patient's renewal application that includes:
    - a. The physician's:
      - i. Name,
      - ii. License number including an identification of the physician license type,
      - iii. Office address on file with the physician's licensing board,
      - iv. Telephone number on file with the physician's licensing board, and
      - v. E-mail address;
    - b. The qualifying patient's name and date of birth;
    - c. An identification of one or more of the debilitating medical conditions in R9-17-201 as the qualifying patient's specific debilitating medical condition;
    - d. If the debilitating medical condition identified in subsection (B)(4)(c) is a condition in:
      - i. R9-17-201(9) through (13), the underlying chronic or debilitating disease or medical condition; or
      - ii. R9-17-201(14), the debilitating medical condition;
    - e. For the physician listed in subsection (B)(1)(j):
      - i. A statement that the physician has made or confirmed a diagnosis of a debilitating medical

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- condition as defined in A.R.S. § 36-2801 for the qualifying patient;
- ii. A statement, initialed by the physician, that the physician:
    - (1) Has established a medical record for the qualifying patient, and
    - (2) Is maintaining the qualifying patient's medical record as required in A.R.S. § 12-2297;
  - iii. A statement, initialed by the physician, that the physician has conducted an in-person physical examination of the qualifying patient within the previous 90 calendar days appropriate to the qualifying patient's presenting symptoms and the qualifying patient's debilitating medical condition diagnosed or confirmed by the physician;
  - iv. The date the physician conducted the in-person physical examination of the qualifying patient;
  - v. A statement, initialed by the physician, that the physician reviewed the qualifying patient's:
    - (1) Medical records including medical records from other treating physicians from the previous 12 months,
    - (2) Response to conventional medications and medical therapies, and
    - (3) Profile on the Arizona Board of Pharmacy Controlled Substances Prescription Monitoring Program database;
  - vi. A statement, initialed by the physician, that the physician has explained the potential risks and benefits of the use of medical marijuana to the qualifying patient's custodial parent or legal guardian responsible for health care decisions for the qualifying patient; and
  - vii. A statement, initialed by the physician, that the physician has provided information to the qualifying patient's custodial parent or legal guardian responsible for health care decisions for the qualifying patient, if the qualifying patient is female, that warns about:
    - (1) The potential dangers to a fetus caused by smoking or ingesting marijuana while pregnant or to an infant while breastfeeding, and
    - (2) The risk of being reported to the Department of Child Safety during pregnancy or at the birth of the child by persons who are required to report;
  - f. For the physician listed in subsection (B)(1)(k), a statement, initialed by the physician, that the physician conducted a comprehensive review of the qualifying patient's medical records from other treating physicians;
  - g. A statement, initialed by the physician, that in the physician's professional opinion the qualifying patient is likely to receive therapeutic or palliative benefit from the qualifying patient's medical use of marijuana to treat or alleviate the qualifying patient's debilitating medical condition;
  - h. A statement, initialed by the physician, that if the physician has referred the qualifying patient's custodial parent or legal guardian to a dispensary, the physician has disclosed to the qualifying patient's custodial parent or legal guardian any personal or professional relationship the physician has with the dispensary;
  - i. An attestation that the information provided in the written certification is true and correct; and
  - j. The physician's signature and the date the physician signed; and
5. A current photograph of the qualifying patient's custodial parent or legal guardian;
  6. For the Department's criminal records check authorized in A.R.S. § 36-2804.05:
    - a. The qualifying patient's custodial parent's or legal guardian's fingerprints on a fingerprint card that includes:
      - i. The qualifying patient's custodial parent's or legal guardian's first name; middle initial, if applicable; and last name;
      - ii. The qualifying patient's custodial parent's or legal guardian's signature;
      - iii. If different from the qualifying patient's custodial parent or legal guardian, the signature of the individual physically rolling the qualifying patient's custodial parent's or legal guardian's fingerprints;
      - iv. The qualifying patient's custodial parent's or legal guardian's address;
      - v. If applicable, the qualifying patient's custodial parent's or legal guardian's surname before marriage and any names previously used by the qualifying patient's custodial parent or legal guardian;
      - vi. The qualifying patient's custodial parent's or legal guardian's date of birth;
      - vii. The qualifying patient's custodial parent's or legal guardian's Social Security number;
      - viii. The qualifying patient's custodial parent's or legal guardian's citizenship status;
      - ix. The qualifying patient's custodial parent's or legal guardian's gender;
      - x. The qualifying patient's custodial parent's or legal guardian's race;
      - xi. The qualifying patient's custodial parent's or legal guardian's height;
      - xii. The qualifying patient's custodial parent's or legal guardian's weight;
      - xiii. The qualifying patient's custodial parent's or legal guardian's hair color;
      - xiv. The qualifying patient's custodial parent's or legal guardian's eye color; and
      - xv. The qualifying patient's custodial parent's or legal guardian's place of birth; or
    - b. If the qualifying patient's custodial parent's or legal guardian's fingerprints and information required in subsection (B)(6)(a) were submitted as part of an application for a designated caregiver or a dispensary agent registry identification card to the Department within the previous six months, the registry identification number on the registry identification card issued to the patient's custodial parent or legal guardian serving as the qualifying patient's designated caregiver as a result of the application; and
  7. The applicable fees in R9-17-102 for applying to renew a:
    - a. Qualifying patient's registry identification card, and
    - b. Designated caregiver's registry identification card.
- C. Except as provided in subsection (A)(6), to renew a qualifying patient's designated caregiver's registry identification card, the qualifying patient shall submit to the Department, at least 30

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calendar days before the expiration date of the designated caregiver's registry identification card, the following:

1. An application in a Department-provided format that includes:
  - a. The qualifying patient's first name; middle initial, if applicable; last name; and suffix, if applicable;
  - b. The registry identification number on the qualifying patient's current registry identification card;
  - c. The designated caregiver's first name; middle initial, if applicable; last name; and suffix, if applicable;
  - d. The designated caregiver's date of birth;
  - e. The designated caregiver's residence address and mailing address;
  - f. The county where the designated caregiver resides;
  - g. The registry identification number on the designated caregiver's current registry identification card;
2. If the designated caregiver's name in subsection (C)(1)(a) is not the same name as on the designated caregiver's current registry identification card, one of the following with the designated caregiver's new name:
  - a. An Arizona driver's license;
  - b. An Arizona identification card, or
  - c. The photograph page in the designated caregiver's U.S. passport;
3. A current photograph of the designated caregiver;
4. A statement in a Department-provided format signed by the designated caregiver:
  - a. Agreeing to assist the qualifying patient with the medical use of marijuana; and
  - b. Pledging not to divert marijuana to any individual or person who is not allowed to possess marijuana pursuant to A.R.S. Title 36, Chapter 28.1; and
5. For the Department's criminal records check authorized in A.R.S. § 36-2804.05:
  - a. The designated caregiver's fingerprints on a fingerprint card that includes:
    - i. The designated caregiver's first name; middle initial, if applicable; and last name;
    - ii. The designated caregiver's signature;
    - iii. If different from the designated caregiver, the signature of the individual physically rolling the designated caregiver's fingerprints;
    - iv. The designated caregiver's address;
    - v. If applicable, the designated caregiver's surname before marriage and any names previously used by the designated caregiver;
    - vi. The designated caregiver's date of birth;
    - vii. The designated caregiver's Social Security number;
    - viii. The designated caregiver's citizenship status;
    - ix. The designated caregiver's race;
    - x. The designated caregiver's gender;
    - xi. The designated caregiver's height;
    - xii. The designated caregiver's weight;
    - xiii. The designated caregiver's hair color;
    - xiv. The designated caregiver's eye color; and
    - xv. The designated caregiver's place of birth; or
  - b. If the designated caregiver's fingerprints and information required in subsection (C)(1)(j)(i) were submitted as part of an application for a designated caregiver or a dispensary agent registry identification card to the Department within the previous six months, the registry identification number on the registry identification card issued to the designated caregiver as a result of the application; and

6. The applicable fee in R9-17-102 for renewing a designated caregiver's registry identification card.

**Historical Note**

New Section made by exempt rulemaking at 17 A.A.R. 734, effective April 14, 2011 (Supp. 11-2). Amended by final rulemaking at 23 A.A.R. 970, effective June 6, 2017 (Supp. 17-2).

**R9-17-205. Denial or Revocation of a Qualifying Patient's or Designated Caregiver's Registry Identification Card**

- A. The Department shall deny a qualifying patient's application for or renewal of the qualifying patient's registry identification card if the qualifying patient does not have a debilitating medical condition.
- B. The Department shall deny a designated caregiver's application for or renewal of the designated caregiver's registry identification card if the designated caregiver does not meet the definition of "designated caregiver" in A.R.S. § 36-2801.
- C. The Department may deny a qualifying patient's or designated caregiver's application for or renewal of the qualifying patient's or designated caregiver's registry identification card if the qualifying patient or designated caregiver:
  1. Previously had a registry identification card revoked for not complying with A.R.S. Title 36, Chapter 28.1 or this Chapter; or
  2. Provides false or misleading information to the Department.
- D. The Department shall revoke a qualifying patient's or designated caregiver's registry identification card if the qualifying patient or designated caregiver diverts medical marijuana to an individual who or entity that is not allowed to possess marijuana pursuant to A.R.S. Title 36, Chapter 28.1.
- E. The Department shall revoke a designated caregiver's registry identification card if the designated caregiver has been convicted of an excluded felony offense.
- F. The Department may revoke a qualifying patient's or designated caregiver's registry identification card if the qualifying patient or designated caregiver knowingly violates A.R.S. Title 36, Chapter 28.1 or this Chapter.
- G. If the Department denies or revokes a qualifying patient's registry identification card, the Department shall provide written notice to the qualifying patient that includes:
  1. The specific reason or reasons for the denial or revocation; and
  2. The process for requesting a judicial review of the Department's decision pursuant to A.R.S. Title 12, Chapter 7, Article 6.
- H. If the Department denies or revokes a qualifying patient's designated caregiver's registry identification card, the Department shall provide written notice to the qualifying patient and the designated caregiver that includes:
  1. The specific reason or reasons for the denial or revocation; and
  2. The process for requesting a judicial review of the Department's decision pursuant to A.R.S. Title 12, Chapter 7, Article 6.

**Historical Note**

New Section made by exempt rulemaking at 17 A.A.R. 734, effective April 14, 2011 (Supp. 11-2). Amended by exempt rulemaking at 25 A.A.R. 2421, effective August 27, 2019 (Supp. 19-3).

**ARTICLE 3. DISPENSARIES AND DISPENSARY AGENTS****R9-17-301. Principal Officers and Board Members**

- A. For the purposes of this Chapter, in addition to the individual or individuals identified in the dispensary's by-laws as princi-

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pal officers of the dispensary, the following individuals are considered principal officers:

1. If an individual is applying for a dispensary registration certificate, the individual;
  2. If a corporation is applying for a dispensary registration certificate, two individuals who are officers of the corporation;
  3. If a partnership is applying for a dispensary registration certificate, two of the individuals who are partners;
  4. If a limited liability company is applying for a dispensary registration certificate, a manager or, if the limited liability company does not have a manager, an individual who is a member of the limited liability company;
  5. If an association or cooperative is applying for a dispensary registration certificate, two individuals who are members of the governing board of the association or cooperative;
  6. If a joint venture is applying for a dispensary registration certificate, two of the individuals who signed the joint venture agreement; and
  7. If a business organization type other than those described in subsections (A)(2) through (6) is applying for a dispensary registration certificate, two individuals who are members of the business organization.
- B.** For purposes of this Chapter, in addition to the individual or individuals identified in the dispensary's by-laws as board members of the dispensary, the following individuals are considered board members:
1. If a corporation is applying for a dispensary registration certificate, the officers of the corporation;
  2. If a partnership is applying for a dispensary registration certificate, the partners;
  3. If a limited liability company is applying for a dispensary registration certificate, the members of the limited liability company;
  4. If an association or cooperative is applying for a dispensary registration certificate, the members of the association or cooperative;
  5. If a joint venture is applying for a dispensary registration certificate, the individuals who signed the joint venture agreement; and
  6. If a business organization type other than the types of business organizations in subsections (B)(1) through (5), the members of the business organization.
- C.** When a dispensary is required by this Chapter to provide information, sign documents, or ensure actions are taken, the individual or individuals in subsection (A) shall comply with the requirement on behalf of the dispensary.

**Historical Note**

New Section made by exempt rulemaking at 17 A.A.R. 734, effective April 14, 2011 (Supp. 11-2).

**R9-17-302. Repealed****Historical Note**

New Section made by exempt rulemaking at 17 A.A.R. 734, effective April 14, 2011 (Supp. 11-2). Amended by emergency rulemaking at 18 A.A.R. 1010, effective April 11, 2012 for 180 days (Supp. 12-2). Repealed by final rulemaking at 18 A.A.R. 3354, with an immediate effective date of December 5, 2012 (Supp. 12-4).

**R9-17-303. Dispensary Registration Certificate Allocation Process**

- A.** Each calendar year beginning in 2013, the Department shall review current valid dispensary registration certificates to

determine if the Department may issue additional dispensary registration certificates pursuant to A.R.S. § 36-2804(C).

1. If the Department determines that the Department may issue additional dispensary registration certificates, the Department shall post, on the Department's web site, the information that the Department is accepting dispensary registration certificate applications, including the deadline for accepting dispensary registration certificate applications.
    - a. The Department shall post the information in subsection (A)(1) at least 30 calendar days before the date the Department begins accepting applications.
    - b. The deadline for submission of dispensary registration certificate applications is 10 working days after the date the Department begins accepting applications.
    - c. Sixty working days after the date the Department begins accepting applications, the Department shall determine if the Department received more dispensary registration certificate applications that are complete and in compliance with A.R.S. Title 36, Chapter 28.1 and this Chapter to participate in the allocation process than the Department is allowed to issue.
      - i. If the Department received more dispensary registration certificate applications than the Department is allowed to issue, the Department shall allocate any available dispensary registration certificates according to the priorities established in subsection (B).
      - ii. If the Department is allowed to issue a dispensary registration certificate for each dispensary registration certificate application the Department received, the Department shall allocate the dispensary registration certificates to those applicants.
  2. If the Department determines that the Department is not allowed to issue additional dispensary registration certificates, the Department shall, on the Department's web site:
    - a. Post the information that the Department is not accepting dispensary registration certificate applications, and
    - b. Maintain the information until the next review.
- B.** Beginning in 2013, if the Department receives, by 60 working days after the date the Department begins accepting applications, more dispensary registration certificate applications that are complete and are in compliance with A.R.S. Title 36, Chapter 28.1 and this Chapter to participate in the allocation process than the Department is allowed to issue, the Department shall allocate the dispensary registration certificates according to the following criteria:
1. If dispensary registration certificate applications are received for a county that does not contain a dispensary:
    - a. If only one dispensary registration certificate application for a dispensary located in the county is received, the Department shall allocate the dispensary registration certificate to that applicant; or
    - b. If more than one dispensary registration certificate application for a dispensary located in the county is received, the Department shall prioritize and allocate a dispensary registration certificate to an applicant whose proposed dispensary location will provide dispensary services to the most qualifying patients based on:

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- i. The number of registry identification cards issued to qualifying patients who reside within 10 miles of the applicant's proposed dispensary location, and
  - ii. The number of dispensaries operating within 10 miles of the applicant's proposed dispensary location;
2. If there are additional dispensary registration certificates available after dispensary registration certificates are allocated according to subsection (B)(1), the Department shall allocate the dispensary registration certificates as follows:
    - a. The Department shall prioritize and assign a dispensary registration certificate allocation to a CHAA based on which CHAA has the most registry identification cards issued to qualifying patients who reside within the CHAA;
    - b. If the Department receives only one dispensary registration certificate application for a dispensary located in a CHAA assigned a dispensary registration certificate allocation under this subsection, the Department shall allocate the dispensary registration certificate to that applicant;
    - c. If the Department receives more than one dispensary registration certificate application for a dispensary located in a CHAA assigned a dispensary registration certificate allocation under this subsection, the Department shall prioritize and allocate dispensary registration certificates to an applicant whose proposed dispensary location will provide dispensary services to the most qualifying patients based on:
      - i. The number of registry identification cards issued to qualifying patients who reside within 10 miles of the applicant's proposed dispensary location, and
      - ii. The number of dispensaries operating within 10 miles of the applicant's proposed dispensary location;
  3. If there are additional dispensary registration certificates available after dispensary registration certificates are allocated according to subsections (B)(1) and (2), for all dispensary registration certificate applications not allocated a dispensary registration certificate pursuant to subsections (B)(1) and (2) and any other dispensary registration certificate applications received, the Department shall prioritize and allocate a dispensary registration certificate to an applicant whose proposed dispensary location will provide dispensary services to the most qualifying patients based on:
    - a. The number of registry identification cards issued to qualifying patients who reside within 10 miles of the applicant's proposed dispensary location, and
    - b. The number of dispensaries operating within 10 miles of the applicant's proposed dispensary location; and
  4. If there is a tie or a margin of 0.1% or less in the scores generated by applying the criteria in subsection (B), the Department shall randomly select one dispensary registration certificate application and allocate a dispensary registration certificate to that applicant.
- C. For purposes of subsection (B), "10 miles" includes the area contained within a circle that extends for 10 miles in all directions from a specific location.
- D. If the Department does not allocate a dispensary registration certificate to an applicant that had submitted a dispensary registration certificate application that the Department determined was complete and in compliance with A.R.S. Title 36, Chapter 28.1 and this Chapter to participate in the allocation process, the Department shall:
1. Provide a written notice to the applicant that states that, although the applicant's dispensary registration certificate application was complete and complied with A.R.S. Title 36, Chapter 28.1 and this Chapter, the Department did not allocate the applicant a dispensary registration certificate under the processes in this Section; and
  2. Return \$1,000 of the application fee to the applicant.
- E. If the Department receives a dispensary registration certificate application at a time other than the time stated in subsection (B), the Department shall return the dispensary registration certificate application, including the application fee, to the entity that submitted the dispensary registration certificate application.

**Historical Note**

New Section made by exempt rulemaking at 17 A.A.R. 734, effective April 14, 2011 (Supp. 11-2). Amended by emergency rulemaking at 18 A.A.R. 1010, effective April 11, 2012 for 180 days (Supp. 12-2). Emergency expired (Supp. 12-4). Amended by final rulemaking at 18 A.A.R. 3354, with an immediate effective date of December 5, 2012 (Supp. 12-4).

**R9-17-304. Applying for a Dispensary Registration Certificate**

- A. An individual shall not be an applicant, principal officer, or board member on:
1. More than one dispensary registration certificate application for a location in a single CHAA, or
  2. More than five dispensary registration certificate applications for locations in different CHAAs.
- B. If the Department determines that an individual is an applicant, principal officer, or board member on more than one dispensary registration certificate application for a CHAA or more than five dispensary registration certificate applications, the Department shall review the applications and provide the applicant on each of the dispensary registration certificate applications with a written comprehensive request for more information that includes the specific requirements in A.R.S. Title 36, Chapter 28.1 and this Chapter that the dispensary registration certificate application does not comply with.
1. If an applicant withdraws an application to comply with this Chapter and submits information demonstrating compliance with A.R.S. Title 36, Chapter 28.1 and this Chapter, the Department shall process the applicant's remaining dispensary registration certificate applications according to this Chapter.
  2. If an applicant does not withdraw an application or submit information demonstrating compliance with A.R.S. Title 36, Chapter 28.1 and this Chapter, the Department shall issue a denial to the applicant according to R9-17-322.
  3. An application fee submitted with a dispensary registration certificate application in subsection (B) that is withdrawn is not refunded.
- C. To apply for a dispensary registration certificate, an entity shall submit to the Department the following:
1. An application in a Department-provided format that includes:
    - a. The legal name of the dispensary;
    - b. The physical address of the proposed dispensary;

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- c. The following information for the entity applying:
    - i. Name,
    - ii. Type of business organization,
    - iii. Mailing address,
    - iv. Telephone number, and
    - v. E-mail address;
  - d. The name of the individual designated to submit dispensary agent registry identification card applications on behalf of the dispensary;
  - e. The name and license number of the dispensary's medical director;
  - f. The name, residence address, and date of birth of each:
    - i. Principal officer, and
    - ii. Board member;
  - g. For each principal officer or board member, whether the principal officer or board member:
    - i. Has served as a principal officer or board member for a dispensary that had the dispensary registration certificate revoked;
    - ii. Is a physician currently providing written certifications for qualifying patients;
    - iii. Is a law enforcement officer; or
    - iv. Is employed by or a contractor of the Department;
  - h. Whether the entity agrees to allow the Department to submit supplemental requests for information;
  - i. A statement that, if the dispensary is issued a dispensary registration certificate, the dispensary will not operate until the dispensary is inspected and obtains an approval to operate from the Department;
  - j. An attestation that the information provided to the Department to apply for a dispensary registration certificate is true and correct; and
  - k. The signatures of the principal officers of the dispensary according to R9-17-301(A) and the date the principal officers signed;
2. If the entity applying is one of the business organizations in R9-17-301(A)(2) through (7), a copy of the business organization's articles of incorporation, articles of organization, or partnership or joint venture documents that include:
- a. The name of the business organization,
  - b. The type of business organization, and
  - c. The names and titles of the individuals in R9-17-301(A) and (B);
3. For each principal officer and board member:
- a. An attestation signed and dated by the principal officer or board member that the principal officer or board member has not been convicted of an excluded felony offense as defined in A.R.S. § 36-2801; and
  - b. For the Department's criminal records check authorized in A.R.S. § 36-2804.05:
    - i. The principal officer's or board member's fingerprints on a fingerprint card that includes:
      - (1) The principal officer's or board member's first name; middle initial, if applicable; and last name;
      - (2) The principal officer's or board member's signature;
      - (3) If different from the principal officer or board member, the signature of the individual physically rolling the principal officer's or board member's fingerprints;
      - (4) The principal officer's or board member's residence address;
    - ii. If the fingerprints and information required in subsection (C)(3)(b)(i) were submitted to the Department as part of an application for a designated caregiver or a dispensary agent registry identification card within the previous six months, the registry identification number on the registry identification card issued to the principal officer or board member as a result of the application;
4. Policies and procedures that comply with the requirements in this Chapter for:
- a. Inventory control,
  - b. Qualifying patient recordkeeping,
  - c. Security, and
  - d. Patient education and support;
5. As required in A.R.S. § 36-2804(B)(1)(d), a sworn statement signed and dated by the individual or individuals in R9-17-301(A) certifying that the dispensary is in compliance with any local zoning restrictions;
6. Documentation from the local jurisdiction where the dispensary's proposed physical address is located that:
- a. There are no local zoning restrictions for the dispensary's location, or
  - b. The dispensary's location is in compliance with any local zoning restrictions;
7. Documentation of:
- a. Ownership of the physical address of the proposed dispensary, or
  - b. Permission from the owner of the physical address of the proposed dispensary for the entity applying for a dispensary registration certificate to operate a dispensary at the physical address;
8. The dispensary's by-laws including:
- a. The names and titles of individuals designated as principal officers and board members of the dispensary;
  - b. Whether the dispensary plans to:
    - i. Cultivate marijuana;
    - ii. Acquire marijuana from qualifying patients, designated caregivers, or other dispensaries;
    - iii. Sell or provide marijuana to other dispensaries;

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- iv. Transport marijuana;
  - v. Prepare, sell, or dispense marijuana-infused edible food products;
  - vi. Prepare, sell, or dispense marijuana-infused non-edible products;
  - vii. Sell or provide marijuana paraphernalia or other supplies related to the administration of marijuana to qualifying patients and designated caregivers;
  - viii. Deliver medical marijuana to qualifying patients; or
  - ix. Provide patient support and related services to qualifying patients;
  - c. Provisions for the disposition of revenues and receipts to ensure that the dispensary operates on a not-for-profit basis; and
  - d. Provisions for amending the dispensary's by-laws;
  - 9. A business plan demonstrating the on-going viability of the dispensary on a not-for-profit basis that includes:
    - a. A description and total dollar amount of expenditures already incurred to establish the dispensary or to secure a dispensary registration certificate by the individual or business organization applying for the dispensary registration certificate,
    - b. A description and total dollar amount of monies or tangible assets received for operating the dispensary from entities other than the individual applying for the dispensary registration certificate or a principal officer or board member associated with the dispensary including the entity's name and the interest in the dispensary or the benefit the entity obtained,
    - c. Projected expenditures expected before the dispensary is operational,
    - d. Projected expenditures after the dispensary is operational, and
    - e. Projected revenue; and
  - 10. The applicable fee in R9-17-102 for applying for a dispensary registration certificate.
  - D.** Before an entity with a dispensary registration certificate begins operating a dispensary, the entity shall apply for and obtain an approval to operate a dispensary from the Department.
- Historical Note**
- New Section made by exempt rulemaking at 17 A.A.R. 734, effective April 14, 2011 (Supp. 11-2). Amended by emergency rulemaking at 18 A.A.R. 1010, effective April 11, 2012 for 180 days (Supp. 12-2). Emergency expired (Supp. 12-4). Amended by final rulemaking at 18 A.A.R. 3354, with an immediate effective date of December 5, 2012 (Supp. 12-4).
- R9-17-305. Applying for Approval to Operate a Dispensary**
- A.** To apply for approval to operate a dispensary, a person holding a dispensary registration certificate shall submit to the Department, at least 60 calendar days before the expiration of the dispensary registration certificate, the following:
- 1. An application in a Department-provided format that includes:
    - a. The name and registry identification number of the dispensary;
    - b. The physical address of the dispensary;
    - c. The name, address, and date of birth of each dispensary agent;
    - d. The name and license number of the dispensary's medical director;
    - e. If applicable, the physical address of the dispensary's cultivation site;
    - f. The dispensary's Transaction Privilege Tax Number issued by the Arizona Department of Revenue;
    - g. The dispensary's proposed hours of operation during which the dispensary plans to be available to dispense medical marijuana to qualifying patients and designated caregivers;
    - h. Whether the dispensary agrees to allow the Department to submit supplemental requests for information;
    - i. Whether the dispensary and, if applicable, the dispensary's cultivation site are ready for an inspection by the Department;
    - j. If the dispensary and, if applicable, the dispensary's cultivation site are not ready for an inspection by the Department, the date the dispensary and, if applicable, the dispensary's cultivation site will be ready for an inspection by the Department;
    - k. An attestation that the information provided to the Department to apply for approval to operate a dispensary is true and correct; and
    - l. The signatures of the principal officers of the dispensary according to R9-17-301(A) and the date the principal officers signed;
  - 2. A copy of documentation issued by the local jurisdiction to the dispensary authorizing occupancy of the building as a dispensary and, if applicable, as the dispensary's cultivation site, such as a certificate of occupancy, a special use permit, or a conditional use permit;
  - 3. A sworn statement signed and dated by the individual or individuals in R9-17-301(A) certifying that the dispensary is in compliance with local zoning restrictions;
  - 4. The distance to the closest private school or public school from:
    - a. The dispensary; and
    - b. If applicable, the dispensary's cultivation site;
  - 5. A site plan drawn to scale of the dispensary location showing streets, property lines, buildings, parking areas, outdoor areas if applicable, fences, security features, fire hydrants if applicable, and access to water mains;
  - 6. A floor plan drawn to scale of the building where the dispensary is located showing the:
    - a. Layout and dimensions of each room,
    - b. Name and function of each room,
    - c. Location of each hand washing sink,
    - d. Location of each toilet room,
    - e. Means of egress,
    - f. Location of each video camera,
    - g. Location of each panic button, and
    - h. Location of natural and artificial lighting sources;
  - 7. If applicable, a site plan drawn to scale of the dispensary's cultivation site showing streets, property lines, buildings, parking areas, outdoor areas if applicable, fences, security features, fire hydrants if applicable, and access to water mains; and
  - 8. If applicable, a floor plan drawn to scale of each building at the dispensary's cultivation site showing the:
    - a. Layout and dimensions of each room,
    - b. Name and function of each room,
    - c. Location of each hand washing sink,
    - d. Location of each toilet room,
    - e. Means of egress,
    - f. Location of each video camera,
    - g. Location of each panic button, and
    - h. Location of natural and artificial lighting sources.



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- B. A dispensary's cultivation site may be located anywhere in the state where a cultivation site is allowed by the local jurisdiction.

**Historical Note**

New Section made by exempt rulemaking at 17 A.A.R. 734, effective April 14, 2011 (Supp. 11-2).

**R9-17-306. Changes to a Dispensary Registration Certificate**

- A. A dispensary may not transfer or assign the dispensary registration certificate.
- B. A dispensary may change the location of the:
1. Dispensary:
    - a. Within the first three years after the Department issues the dispensary's registration certificate, to another location in the CHAA where the dispensary is located; or
    - b. After the first three years after the Department issues a dispensary registration certificate to the dispensary, to another location in the state; or
  2. Dispensary's cultivation site to another location in the state.
- C. A dispensary or the dispensary's cultivation site shall not cultivate, manufacture, distribute, dispense, or sell medical marijuana at a new location until the dispensary submits an application for a change in a dispensary location or a change or addition of a cultivation site in R9-17-307 and the Department issues an amended dispensary registration certificate or an approval for the dispensary's cultivation site's new location to the dispensary.

**Historical Note**

New Section made by exempt rulemaking at 17 A.A.R. 734, effective April 14, 2011 (Supp. 11-2).

**R9-17-307. Applying to Change a Dispensary's Location or Change or Add a Dispensary's Cultivation Site**

- A. To change the location of a dispensary or the dispensary's cultivation site or to add a cultivation site, the dispensary shall submit an application to the Department that includes:
1. The following information in a Department-provided format:
    - a. The legal name of the dispensary;
    - b. The registry identification number for the dispensary;
    - c. Whether the request is for:
      - i. A change of location for the dispensary,
      - ii. A change of location for the dispensary's cultivation site, or
      - iii. An addition of a cultivation site;
    - d. The current physical address of the dispensary or the dispensary's cultivation site;
    - e. The physical address of the proposed location for the dispensary or the dispensary's cultivation site;
    - f. The distance to the closest public or private school from:
      - i. The proposed location for the dispensary, or
      - ii. The proposed location for the dispensary's cultivation site;
    - g. The name of the entity applying;
    - h. If applicable, the anticipated date of the change of location;
    - i. Whether the proposed dispensary or the dispensary's proposed cultivation site is ready for an inspection by the Department;
    - j. If the proposed dispensary or the dispensary's proposed cultivation site is not ready for an inspection by the Department, the date the dispensary or the

dispensary's cultivation site will be ready for an inspection by the Department;

- k. An attestation that the information provided to the Department to apply for a change in location is true and correct; and
  1. The signature of the individual or individuals in R9-17-301(A) and the date the individual or individuals signed;
2. A copy of documentation issued by the local jurisdiction to the dispensary authorizing occupancy of the proposed building as a dispensary or the dispensary's cultivation site such as a certificate of occupancy, a special use permit, or a conditional use permit;
  3. A sworn statement signed by the individual or individuals in R9-17-301(A) certifying that the building where the proposed dispensary or the dispensary's proposed cultivation site will be located is in compliance with local zoning restrictions;
  4. If the change in location is for the dispensary:
    - a. A site plan drawn to scale of the proposed dispensary location showing streets, property lines, buildings, parking areas, outdoor areas if applicable, fences, security features, fire hydrants if applicable, and access to water mains; and
    - b. A floor plan drawn to scale of the building where the proposed dispensary is located showing the:
      - i. Layout and dimensions of each room,
      - ii. Name and function of each room,
      - iii. Location of each hand washing sink,
      - iv. Location of each toilet room,
      - v. Means of egress,
      - vi. Location of each video camera,
      - vii. Location of each panic button, and
      - viii. Location of natural and artificial lighting sources;
  5. If the change in location is for the dispensary's cultivation site or if adding a cultivation site:
    - a. A site plan drawn to scale of the dispensary's proposed cultivation site showing streets, property lines, buildings, parking areas, outdoor areas if applicable, fences, security features, fire hydrants if applicable, and access to water mains; and
    - b. If applicable, a floor plan drawn to scale of each building used by the dispensary's proposed cultivation site showing the:
      - i. Layout and dimensions of each room,
      - ii. Name and function of each room,
      - iii. Location of each hand washing sink,
      - iv. Location of each toilet room,
      - v. Means of egress,
      - vi. Location of each video camera,
      - vii. Location of each panic button, and
      - viii. Location of natural and artificial lighting sources; and
  6. The applicable fee in R9-17-102 for applying for a change in location or adding a cultivation site.
- B. If the information and documents submitted by the dispensary comply with A.R.S. Title 36, Chapter 28.1 and this Chapter, the Department shall issue an amended dispensary registration certificate that includes the new address of the new location and retains the expiration date of the previously issued dispensary registration certificate.
- C. An application for a change in location of a dispensary or a dispensary's cultivation site or the addition of a cultivation site may not be combined with an application for renewing a dispensary registration certificate. The Department shall process

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each application separately according to the applicable time-frame established in R9-17-107.

- D. A dispensary shall submit written notification to the Department when the dispensary no longer uses a previously approved cultivation site.

**Historical Note**

New Section made by exempt rulemaking at 17 A.A.R. 734, effective April 14, 2011 (Supp. 11-2).

**R9-17-308. Renewing a Dispensary Registration Certificate**

- A. An entity with a dispensary registration certificate that has not submitted an application for approval to operate a dispensary to the Department at least 60 calendar days before the expiration date of the dispensary registration certificate or has not obtained an approval to operate a dispensary issued by the Department is prohibited from renewing the dispensary registration certificate.
- B. To renew a dispensary registration certificate, a dispensary that has an approval to operate a dispensary issued by the Department, shall submit to the Department, at least 30 calendar days before the expiration date of the dispensary's current dispensary registration certificate, the following:
1. An application in a Department-provided format that includes:
    - a. The legal name of the dispensary;
    - b. The registry identification number for the dispensary;
    - c. The physical address of the dispensary;
    - d. The name of the entity applying;
    - e. The name of the individual designated to submit dispensary agent registry identification card applications on behalf of the dispensary;
    - f. The name and license number of the dispensary's medical director;
    - g. The dispensary's hours of operation during which the dispensary is available to dispense medical marijuana to qualifying patients and designated caregivers;
    - h. The name, address, date of birth, and registry identification number of each:
      - i. Principal officer,
      - ii. Board member, and
      - iii. Dispensary agent;
    - i. For each principal officer or board member, whether the principal officer or board member:
      - i. Has served as a principal officer or board member for a dispensary that had the dispensary registration certificate revoked,
      - ii. Is a physician currently providing written certifications for qualifying patients,
      - iii. Is a law enforcement officer, or
      - iv. Is employed by or a contractor of the Department;
    - j. The dispensary's Transaction Privilege Tax Number issued by the Arizona Department of Revenue;
    - k. Whether the dispensary agrees to allow the Department to submit supplemental requests for information;
    - l. An attestation that the information provided to the Department to renew the dispensary registration certificate is true and correct; and
    - m. The signature of the individual or individuals in R9-17-301(A) and the date the individual or individuals signed;
  2. If the application is for renewing a dispensary registration certificate that was initially issued within the previous 12

months, a copy of the dispensary's approval to operate a dispensary issued by the Department;

3. A copy of an annual financial statement for the previous two years, or for the portion of the previous two years the dispensary was operational, prepared according to generally accepted accounting principles;
4. A report of an audit by an independent certified public accountant of the annual financial statement required in subsection (B)(3); and
5. The applicable fee in R9-17-102 for applying to renew a dispensary registration certificate.

**Historical Note**

New Section made by exempt rulemaking at 17 A.A.R. 734, effective April 14, 2011 (Supp. 11-2). Amended by emergency rulemaking at 18 A.A.R. 1010, effective April 11, 2012 for 180 days (Supp. 12-2). Emergency expired (Supp. 12-4). Amended by final rulemaking at 18 A.A.R. 3354, with an immediate effective date of December 5, 2012 (Supp. 12-4). Amended by exempt rulemaking at 25 A.A.R. 2421, effective August 27, 2019 (Supp. 19-3).

**R9-17-309. Inspections**

- A. Submission of an application for a dispensary registration certificate constitutes permission for entry to and inspection of the dispensary and, if applicable, the dispensary's cultivation site.
- B. Except as provided in subsection (D), an onsite inspection of a dispensary or the dispensary's cultivation site shall occur at a date and time agreed to by the dispensary and the Department that is no later than five working days after the date the Department submits a written request to the dispensary to schedule the certification or compliance inspection, unless the Department agrees to a later date and time.
- C. The Department shall not accept allegations of a dispensary's noncompliance with A.R.S. Title 36, Chapter 28.1 or this Chapter from an anonymous source.
- D. If the Department receives an allegation of a dispensary's or a dispensary's cultivation site's noncompliance with A.R.S. Title 36, Chapter 28.1 or this Chapter, the Department may conduct an unannounced inspection of the dispensary or the dispensary's cultivation site.
- E. If the Department identifies a violation of A.R.S. Title 36, Chapter 28.1 or this Chapter during an inspection of a dispensary or the dispensary's cultivation site:
  1. The Department shall provide the dispensary with a written notice that includes the specific rule or statute that was violated; and
  2. The dispensary shall notify the Department in writing, with a postmark date within 20 working days after the date of the notice of violations, identifying the corrective actions taken and the date of the correction.

**Historical Note**

New Section made by exempt rulemaking at 17 A.A.R. 734, effective April 14, 2011 (Supp. 11-2). Amended by final rulemaking at 18 A.A.R. 3354, with an immediate effective date of December 5, 2012 (Supp. 12-4).

**R9-17-310. Administration**

- A. A dispensary shall:
  1. Ensure that the dispensary is operating and available to dispense medical marijuana to qualifying patients and designated caregivers:
    - a. At least 30 hours weekly between the hours of 7:00 a.m. and 10:00 p.m.; and
    - b. For a dispensary with a dispensary registration certificate issued on or after April 1, 2020, within 18

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- months after receiving the dispensary registration certificate;
2. Develop, document, and implement policies and procedures regarding:
    - a. Job descriptions and employment contracts, including:
      - i. Personnel duties, authority, responsibilities, and qualifications;
      - ii. Personnel supervision;
      - iii. Training in and adherence to confidentiality requirements;
      - iv. Periodic performance evaluations; and
      - v. Disciplinary actions;
    - b. Business records, such as manual or computerized records of assets and liabilities, monetary transactions, journals, ledgers, and supporting documents, including agreements, checks, invoices, and vouchers;
    - c. Inventory control, including:
      - i. Tracking;
      - ii. Packaging;
      - iii. Accepting marijuana from qualifying patients and designated caregivers;
      - iv. Acquiring marijuana or marijuana products from other dispensaries;
      - v. Providing marijuana or marijuana products to another dispensary; and
      - vi. Either:
        - (1) Providing samples of marijuana or marijuana products to a laboratory for testing, or
        - (2) Allowing a laboratory agent access to medical marijuana or marijuana product to collect samples;
    - d. Laboratory testing, including:
      - i. The analytes, including possible contaminants, to be tested for;
      - ii. The process for separating a batch of marijuana or of a marijuana product until laboratory testing has been completed and testing results received by the dispensary;
      - iii. The process for collecting samples of medical marijuana or a marijuana product for laboratory testing, including:
        - (1) The amount to be collected from each batch,
        - (2) The method for ensuring that a sample collected is representative of the batch,
        - (3) The packaging of the sample,
        - (4) The method for documenting chain of custody for the sample, and
        - (5) Methods to deter tampering with the sample and to determine whether tampering has occurred;
      - iv. The process for submitting a sample of medical marijuana or a marijuana product to a laboratory agent or laboratory for testing;
      - v. The process for requesting retesting of the remaining portion of a sample of medical marijuana or a marijuana product; and
      - vi. Actions to be taken on the basis of laboratory testing results;
    - e. Remediation, including:
      - i. Criteria for when a batch of medical marijuana or marijuana product can be remediated;
      - ii. The process by which each type of medical marijuana or marijuana product is remediated, including the methods for remediation and subsequent retesting; and
      - iii. Documentation of the remediation process;
    - f. Disposal of medical marijuana or a marijuana product, including:
      - i. Destroying a batch of marijuana or a marijuana product that does not meet the requirements in Table 3.1 and documenting the destruction,
      - ii. Submitting marijuana that is not usable marijuana to a local law enforcement agency and documenting the submission, or
      - iii. Otherwise disposing of marijuana or a marijuana product and documenting the method of disposal, the laboratory agent overseeing the disposal, and the date of disposal;
    - g. Qualifying patient records, including purchases, denials of sale, any delivery options, confidentiality, and retention; and
    - h. Patient education and support, including the development and distribution of materials on:
      - i. Availability of different strains of marijuana and the purported effects of the different strains;
      - ii. Information about the purported effectiveness of various methods, forms, and routes of medical marijuana administration;
      - iii. Information about laboratory testing, the analytes for which the dispensary receives testing results, the right to receive a copy of the final report of testing specified in R9-17-404.06 upon request, and how to read and understand the final report of testing;
      - iv. Methods of tracking the effects on a qualifying patient of different strains and forms of marijuana; and
      - v. Prohibition on the smoking of medical marijuana in public places;
  3. Maintain copies of the policies and procedures at the dispensary and provide copies to the Department for review upon request;
  4. Review dispensary policies and procedures at least once every 12 months from the issue date of the dispensary registration certificate and update as needed;
  5. Employ or contract with a medical director;
  6. Ensure that each dispensary agent has the dispensary agent's registry identification card in the dispensary agent's immediate possession when the dispensary agent is:
    - a. Working or providing volunteer services at the dispensary or the dispensary's cultivation site, or
    - b. Transporting marijuana for the dispensary;
  7. Ensure that a dispensary agent accompanies any individual other than another dispensary agent associated with the dispensary when the individual is present in the enclosed, locked facility where marijuana is cultivated by the dispensary;
  8. Not allow an individual who does not possess a dispensary agent registry identification card issued under the dispensary registration certificate to:
    - a. Serve as a principal officer or board member for the dispensary,
    - b. Serve as the medical director for the dispensary,
    - c. Be employed by the dispensary, or

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- d. Provide volunteer services at or on behalf of the dispensary;
- 9. Provide written notice to the Department, including the date of the event, within 10 working days after the date, when a dispensary agent no longer:
  - a. Serves as a principal officer or board member for the dispensary,
  - b. Serves as the medical director for the dispensary,
  - c. Is employed by the dispensary, or
  - d. Provides volunteer services at or on behalf of the dispensary;
- 10. Document and report any loss or theft of marijuana from the dispensary to the appropriate law enforcement agency;
- 11. Maintain copies of any documentation required in this Chapter for at least 12 months after the date on the documentation and provide copies of the documentation to the Department for review upon request;
- 12. Post the following information in a place that can be viewed by individuals entering the dispensary:
  - a. If applicable, the dispensary's approval to operate;
  - b. The dispensary's registration certificate;
  - c. The name of the dispensary's medical director and the medical director's professional license number on a sign at least 20 centimeters by 30 centimeters;
  - d. The hours of operation during which the dispensary will dispense medical marijuana to a qualifying patient or a designated caregiver; and
  - e. A sign in a Department-provided format that contains the following language:
    - i. "WARNING: There may be potential dangers to fetuses caused by smoking or ingesting marijuana while pregnant or to infants while breast-feeding," and
    - ii. "WARNING: Use of marijuana during pregnancy may result in a risk of being reported to the Department of Child Safety during pregnancy or at the birth of the child by persons who are required to report;"
- 13. Not lend any part of the dispensary's income or property without receiving adequate security and a reasonable rate of interest;
- 14. Not purchase property for more than adequate consideration in money or cash equivalent;
- 15. Not pay compensation for salaries or other compensation for personal services that is in excess of a reasonable allowance;
- 16. Not sell any part of the dispensary's property or equipment for less than adequate consideration in money or cash equivalent; and
- 17. Not engage in any other transaction that results in a substantial diversion of the dispensary's income or property.
- B.** If a dispensary cultivates marijuana, the dispensary shall cultivate the marijuana in an enclosed, locked facility.

**Historical Note**

New Section made by exempt rulemaking at 17 A.A.R. 734, effective April 14, 2011 (Supp. 11-2). Amended by final rulemaking at 18 A.A.R. 3354, with an immediate effective date of December 5, 2012 (Supp. 12-4). Amended by final rulemaking at 23 A.A.R. 970, effective June 6, 2017 (Supp. 17-2). Amended by exempt rulemaking at 25 A.A.R. 2421, effective August 27, 2019 (Supp. 19-3). Amended by exempt rulemaking at 26 A.A.R. 734, with an immediate effective date of April 2, 2020 (Supp.

20-2).

**R9-17-311. Submitting an Application for a Dispensary Agent Registry Identification Card**

Except as provided in R9-17-107(F), to obtain a dispensary agent registry identification card for an individual serving as a principal officer or board member for the dispensary, employed by the dispensary, or providing volunteer services at or on behalf of the dispensary, the dispensary shall submit to the Department the following for each dispensary agent:

1. An application in a Department-provided format that includes:
  - a. The dispensary agent's first name; middle initial, if applicable; last name; and suffix, if applicable;
  - b. The dispensary agent's residence address and mailing address;
  - c. The county where the dispensary agent resides;
  - d. The dispensary agent's date of birth;
  - e. The identifying number on the applicable card or document in subsection (5)(a) through (e);
  - f. The name and registry identification number of the dispensary; and
  - g. The signature of the individual in R9-17-304(C)(1)(d) or R9-17-308(B)(1)(e), as applicable, designated to submit dispensary agent applications on the dispensary's behalf and the date the individual signed;
2. An attestation signed and dated by the dispensary agent that the dispensary agent has not been convicted of an excluded felony offense as defined in A.R.S. § 36-2801;
3. One of the following:
  - a. A statement that the dispensary agent does not currently hold a valid registry identification card, or
  - b. The assigned registry identification number for the dispensary agent for each valid registry identification card currently held by the dispensary agent;
4. A statement in a Department-provided format signed by the dispensary agent pledging not to divert marijuana to any individual who or entity that is not allowed to possess marijuana pursuant to A.R.S. Title 36, Chapter 28.1;
5. A copy of the dispensary agent's:
  - a. Arizona driver's license issued on or after October 1, 1996;
  - b. Arizona identification card issued on or after October 1, 1996;
  - c. Arizona registry identification card;
  - d. Photograph page in the dispensary agent's U.S. passport; or
  - e. Arizona driver's license or identification card issued before October 1, 1996 and one of the following for the dispensary agent:
    - i. Birth certificate verifying U.S. citizenship,
    - ii. U.S. Certificate of Naturalization, or
    - iii. U.S. Certificate of Citizenship;
6. A current photograph of the dispensary agent;
7. For the Department's criminal records check authorized in A.R.S. § 36-2804.05:
  - a. The dispensary agent's fingerprints on a fingerprint card that includes:
    - i. The dispensary agent's first name; middle initial, if applicable; and last name;
    - ii. The dispensary agent's signature;
    - iii. If different from the dispensary agent, the signature of the individual physically rolling the dispensary agent's fingerprints;
    - iv. The dispensary agent's address;

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- v. If applicable, the dispensary agent's surname before marriage and any names previously used by the dispensary agent;
  - vi. The dispensary agent's date of birth;
  - vii. The dispensary agent's Social Security number;
  - viii. The dispensary agent's citizenship status;
  - ix. The dispensary agent's gender;
  - x. The dispensary agent's race;
  - xi. The dispensary agent's height;
  - xii. The dispensary agent's weight;
  - xiii. The dispensary agent's hair color;
  - xiv. The dispensary agent's eye color; and
  - xv. The dispensary agent's place of birth; or
  - b. If the dispensary agent's fingerprints and information required in subsection (7)(a) were submitted to the Department within the previous six months as part of an application for a designated caregiver registry identification card or a dispensary agent registry identification card for another dispensary, the registry identification number on the registry identification card issued to the dispensary agent as a result of the application; and
8. The applicable fee in R9-17-102 for applying for a dispensary agent registry identification card.

**Historical Note**

New Section made by exempt rulemaking at 17 A.A.R. 734, effective April 14, 2011 (Supp. 11-2). Amended by emergency rulemaking at 18 A.A.R. 1010, effective April 11, 2012 for 180 days (Supp. 12-2). Emergency expired (Supp. 12-4). Amended by final rulemaking at 18 A.A.R. 3354, with an immediate effective date of December 5, 2012 (Supp. 12-4).

**R9-17-312. Submitting an Application to Renew a Dispensary Agent's Registry Identification Card**

To renew a dispensary agent's registry identification card for an individual serving as a principal officer or board member for the dispensary, employed by the dispensary, or providing volunteer services at or on behalf of the dispensary, the dispensary shall submit to the Department, at least 30 calendar days before the expiration of the dispensary agent's registry identification card, the following:

- 1. An application in a Department-provided format that includes:
  - a. The dispensary agent's first name; middle initial, if applicable; last name; and suffix, if applicable;
  - b. The dispensary agent's residence address and mailing address;
  - c. The county where the dispensary agent resides;
  - d. The dispensary agent's date of birth;
  - e. The registry identification number on the dispensary agent's current registry identification card;
  - f. The name and registry identification number of the dispensary; and
  - g. The signature of the individual in R9-17-304(C)(1)(d) or R9-17-308(B)(1)(e) designated to submit dispensary agent applications on the dispensary's behalf and the date the individual signed;
- 2. If the dispensary agent's name in subsection (1)(a) is not the same name as on the dispensary agent's current registry identification card, one of the following with the dispensary agent's new name:
  - a. An Arizona driver's license,
  - b. An Arizona identification card, or
  - c. The photograph page in the dispensary agent's U.S. passport;

- 3. A statement in a Department-provided format signed by the dispensary agent pledging not to divert marijuana to any individual who or entity that is not allowed to possess marijuana pursuant to A.R.S. Title 36, Chapter 28.1;
- 4. A current photograph of the dispensary agent;
- 5. For the Department's criminal records check authorized in A.R.S. § 36-2804.05:
  - a. The dispensary agent's fingerprints on a fingerprint card that includes:
    - i. The dispensary agent's first name; middle initial, if applicable; and last name;
    - ii. The dispensary agent's signature;
    - iii. If different from the dispensary agent, the signature of the individual physically rolling the dispensary agent's fingerprints;
    - iv. The dispensary agent's address;
    - v. If applicable, the dispensary agent's surname before marriage and any names previously used by the dispensary agent;
    - vi. The dispensary agent's date of birth;
    - vii. The dispensary agent's Social Security number;
    - viii. The dispensary agent's citizenship status;
    - ix. The dispensary agent's gender;
    - x. The dispensary agent's race;
    - xi. The dispensary agent's height;
    - xii. The dispensary agent's weight;
    - xiii. The dispensary agent's hair color;
    - xiv. The dispensary agent's eye color; and
    - xv. The dispensary agent's place of birth; or
  - b. If the dispensary agent's fingerprints and information required in subsection (5)(a) were submitted to the Department within the previous six months as part of an application for a designated caregiver registry identification card or a dispensary agent registry identification card for another dispensary, the registry identification number on the registry identification card issued to the dispensary agent as a result of the application; and
- 6. The applicable fee in R9-17-102 for applying to renew a dispensary agent's registry identification card.

**Historical Note**

New Section made by exempt rulemaking at 17 A.A.R. 734, effective April 14, 2011 (Supp. 11-2). Amended by emergency rulemaking at 18 A.A.R. 1010, effective April 11, 2012 for 180 days (Supp. 12-2). Emergency expired (Supp. 12-4). Amended by final rulemaking at 18 A.A.R. 3354, with an immediate effective date of December 5, 2012 (Supp. 12-4).

**R9-17-313. Medical Director**

- A. A dispensary shall appoint an individual who is a physician to function as a medical director.
- B. During a dispensary's hours of operation, a medical director or an individual who is a physician and is designated by the medical director to serve as medical director in the medical director's absence is:
  - 1. Onsite; or
  - 2. Able to be contacted by any means possible, such as by telephone or pager.
- C. A medical director shall:
  - 1. Develop and provide training to the dispensary's dispensary agents at least once every 12 months from the initial date of the dispensary's registration certificate on the following subjects:

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- a. Guidelines for providing information to qualifying patients related to risks, benefits, and side effects associated with medical marijuana;
  - b. Guidelines for providing support to qualifying patients related to the qualifying patient's self-assessment of the qualifying patient's symptoms, including a rating scale for pain, cachexia or wasting syndrome, nausea, seizures, muscle spasms, and agitation;
  - c. Recognizing signs and symptoms of substance abuse; and
  - d. Guidelines for refusing to provide medical marijuana to an individual who appears to be impaired or abusing medical marijuana; and
2. Assist in the development and implementation of review and improvement processes for patient education and support provided by the dispensary.
- D.** A medical director shall provide oversight for the development and dissemination of:
1. Educational materials for qualifying patients and designated caregivers that include:
    - a. Alternative medical options for the qualifying patient's debilitating medical condition;
    - b. Information about possible side effects of and contraindications for medical marijuana including possible impairment with use and operation of a motor vehicle or heavy machinery, when caring for children, or of job performance;
    - c. Guidelines for notifying the physician who provided the written certification for medical marijuana if side effects or contraindications occur;
    - d. A description of the potential for differing strengths of medical marijuana strains and products;
    - e. Information about potential drug-to-drug interactions, including interactions with alcohol, prescription drugs, non-prescription drugs, and supplements;
    - f. Techniques for the use of medical marijuana and marijuana paraphernalia;
    - g. Information about different methods, forms, and routes of medical marijuana administration;
    - h. Signs and symptoms of substance abuse, including tolerance, dependency, and withdrawal; and
    - i. A listing of substance abuse programs and referral information;
  2. A system for a qualifying patient or the qualifying patient's designated caregiver to document the qualifying patient's pain, cachexia or wasting syndrome, nausea, seizures, muscle spasms, or agitation that includes:
    - a. A log book, maintained by the qualifying patient and or the qualifying patient's designated caregiver, in which the qualifying patient or the qualifying patient's designated caregiver may track the use and effects of specific medical marijuana strains and products;
    - b. A rating scale for pain, cachexia or wasting syndrome, nausea, seizures, muscles spasms, and agitation;
    - c. Guidelines for the qualifying patient's self-assessment or, if applicable, assessment of the qualifying patient by the qualifying patient's designated caregiver; and
    - d. Guidelines for reporting usage and symptoms to the physician providing the written certification for medical marijuana and any other treating physicians; and
  3. Policies and procedures for refusing to provide medical marijuana to an individual who appears to be impaired or abusing medical marijuana.
- E.** A medical director for a dispensary shall not provide a written certification for medical marijuana for any qualifying patient.
- Historical Note**  
New Section made by exempt rulemaking at 17 A.A.R. 734, effective April 14, 2011 (Supp. 11-2).
- R9-17-314. Dispensing Medical Marijuana**  
Before a dispensary agent dispenses medical marijuana to a qualifying patient or a designated caregiver, the dispensary agent shall:
1. Verify the qualifying patient's or the designated caregiver's identity,
  2. Offer any appropriate patient education or support materials,
  3. Enter the qualifying patient's or designated caregiver's registry identification number on the qualifying patient's or designated caregiver's registry identification card into the medical marijuana electronic verification system,
  4. Verify the validity of the qualifying patient's or designated caregiver's registry identification card,
  5. Verify that the amount of medical marijuana the qualifying patient or designated caregiver is requesting would not cause the qualifying patient to exceed the limit on obtaining no more than two and one-half ounces of medical marijuana during any 14-calendar-day period, and
  6. Enter the following information into the medical marijuana electronic verification system for the qualifying patient or designated caregiver:
    - a. The amount of medical marijuana dispensed,
    - b. Whether the medical marijuana was dispensed to the qualifying patient or to the qualifying patient's designated caregiver,
    - c. The date and time the medical marijuana was dispensed,
    - d. The dispensary agent's registry identification number, and
    - e. The dispensary's registry identification number.
- Historical Note**  
New Section made by exempt rulemaking at 17 A.A.R. 734, effective April 14, 2011 (Supp. 11-2).
- R9-17-315. Qualifying Patient Records**
- A.** A dispensary shall ensure that:
1. A qualifying patient record is established and maintained for each qualifying patient who obtains medical marijuana from the dispensary;
  2. An entry in a qualifying patient record:
    - a. Is recorded only by a dispensary agent authorized by dispensary policies and procedures to make an entry,
    - b. Is dated and signed by the dispensary agent,
    - c. Includes the dispensary agent's registry identification number, and
    - d. Is not changed to make the initial entry illegible;
  3. If an electronic signature is used to sign an entry, the dispensary agent whose signature the electronic code represents is accountable for the use of the electronic signature;
  4. A qualifying patient record is only accessed by a dispensary agent authorized by dispensary policies and procedures to access the qualifying patient record;
  5. A qualifying patient record is provided to the Department for review upon request;
  6. A qualifying patient record is protected from loss, damage, or unauthorized use; and

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7. A qualifying patient record is maintained for five years from the date of the qualifying patient's or, if applicable, the qualifying patient's designated caregiver's last request for medical marijuana from the dispensary.
  - B. If a dispensary maintains qualifying patient records electronically, the dispensary shall ensure that:
    1. There are safeguards to prevent unauthorized access, and
    2. The date and time of an entry in a qualifying patient record is recorded electronically by an internal clock.
  - C. A dispensary shall ensure that the qualifying patient record for a qualifying patient who requests or whose designated caregiver on behalf of the qualifying patient requests medical marijuana from the dispensary contains:
    1. Qualifying patient information that includes:
      - a. The qualifying patient's name;
      - b. The qualifying patient's date of birth; and
      - c. The name of the qualifying patient's designated caregiver, if applicable;
    2. Documentation of any patient education and support materials provided to the qualifying patient or the qualifying patient's designated caregiver, including a description of the materials and the date the materials were provided;
    3. For each time the qualifying patient requests and does not obtain medical marijuana or, if applicable, the designated caregiver requests on behalf of the qualifying patient and does not obtain medical marijuana from the dispensary, the following:
      - a. The date,
      - b. The name and registry identification number of the individual who requested the medical marijuana, and
      - c. The dispensary's reason for refusing to provide the medical marijuana.
- Historical Note**  
New Section made by exempt rulemaking at 17 A.A.R. 734, effective April 14, 2011 (Supp. 11-2).
- R9-17-316. Inventory Control System**
- A. A dispensary shall designate in writing a dispensary agent who has oversight of the dispensary's medical marijuana inventory control system.
  - B. A dispensary shall only acquire marijuana from:
    1. The dispensary's cultivation site,
    2. Another dispensary or another dispensary's cultivation site,
    3. A qualifying patient authorized by the Department to cultivate marijuana, or
    4. A designated caregiver authorized by the Department to cultivate marijuana.
  - C. A dispensary shall establish and implement an inventory control system for the dispensary's medical marijuana that documents:
    1. Each day's beginning inventory, acquisitions, harvests, sales, disbursements, submissions to a laboratory agent or laboratory for testing, testing results received, disposal of unusable marijuana, and ending inventory;
    2. For acquiring medical marijuana from a qualifying patient or designated caregiver:
      - a. A description of the medical marijuana acquired including the amount and strain,
      - b. The name and registry identification number of the qualifying patient or designated caregiver who provided the medical marijuana,
      - c. The name and registry identification number of the dispensary agent receiving the medical marijuana on behalf of the dispensary, and
      - d. The date of acquisition;
3. For acquiring medical marijuana from another dispensary:
    - a. A description of the medical marijuana acquired including the amount, strain, and batch number;
    - b. The name and registry identification number of the dispensary providing the medical marijuana;
    - c. The name and registry identification number of the dispensary agent providing the medical marijuana;
    - d. The name and registry identification number of the dispensary agent receiving the medical marijuana on behalf of the dispensary; and
    - e. The date of acquisition;
  4. For each batch of marijuana cultivated:
    - a. The batch number;
    - b. Whether the batch originated from marijuana seeds or marijuana cuttings;
    - c. The origin and strain of the marijuana seeds or marijuana cuttings planted;
    - d. The number of marijuana seeds or marijuana cuttings planted;
    - e. The date the marijuana seeds or cuttings were planted;
    - f. A list of all chemical additives, including nonorganic pesticides, herbicides, and fertilizers used in the cultivation;
    - g. The number of plants grown to maturity;
    - h. Harvest information including:
      - i. Date of harvest,
      - ii. Final processed usable marijuana yield weight, and
      - iii. Name and registry identification number of the dispensary agent responsible for the harvest, and
    - i. The disposal of medical marijuana that is not usable marijuana including the:
      - i. Description of and reason for the marijuana being disposed of including, if applicable, the number of failed or other unusable plants;
      - ii. Date of disposal;
      - iii. Method of disposal; and
      - iv. Name and registry identification number of the dispensary agent responsible for the disposal;
  5. For providing medical marijuana to another dispensary:
    - a. The amount, strain, and batch number of medical marijuana provided;
    - b. The name and registry identification number of the other dispensary;
    - c. The name and registry identification number of the dispensary agent who received the medical marijuana on behalf of the other dispensary; and
    - d. The date the medical marijuana was provided;
  6. For receiving edible food products infused with medical marijuana from another dispensary:
    - a. A description of the edible food products received from the dispensary including total weight of each edible food product and estimated amount and batch number of the medical marijuana infused in each edible food product;
    - b. Total estimated amount and batch number of medical marijuana infused in the edible food products;
    - c. The name and registry identification number of the:

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- i. Dispensary and the dispensary agent providing the edible food products to the receiving dispensary, and
  - ii. Dispensary agent receiving the edible food products on behalf of the receiving dispensary; and
  - d. The date the edible food products were provided to the dispensary; and
- 7. For submitting marijuana or marijuana products to a laboratory agent or laboratory for testing:
  - a. The amount, strain, and batch number of the marijuana or marijuana products submitted;
  - b. The name and registry identification number of the laboratory;
  - c. The name and registry identification number of the laboratory agent who received the marijuana or marijuana products on behalf of the laboratory; and
  - d. The date the marijuana or marijuana products were submitted to the laboratory.
- D. The individual designated in subsection (A) shall conduct and document an audit of the dispensary's inventory that is accounted for according to generally accepted accounting principles at least once every 30 calendar days.
  - 1. If the audit identifies a reduction in the amount of medical marijuana in the dispensary's inventory not due to documented causes, the dispensary shall determine where the loss has occurred and take and document corrective action.
  - 2. If the reduction in the amount of medical marijuana in the dispensary's inventory is due to suspected criminal activity by a dispensary agent, the dispensary shall report the dispensary agent to the Department and to the local law enforcement authorities.
- E. A dispensary shall:
  - 1. Maintain the documentation required in subsections (C) and (D) at the dispensary for at least five years after the date on the document, and
  - 2. Provide the documentation required in subsections (C) and (D) to the Department for review upon request.
- 6. The following statement: "ARIZONA DEPARTMENT OF HEALTH SERVICES' WARNING: Marijuana use can be addictive and can impair an individual's ability to drive a motor vehicle or operate heavy machinery. Marijuana smoke contains carcinogens and can lead to an increased risk for cancer, tachycardia, hypertension, heart attack, and lung infection. KEEP OUT OF REACH OF CHILDREN";
- 7. If not cultivated by the dispensary, whether the medical marijuana was obtained from a qualifying patient, a designated caregiver, or another dispensary;
- 8. If not infused or prepared for sale by the dispensary, whether the marijuana product was obtained from another dispensary;
- 9. For a marijuana product, the ingredients in order of abundance;
- 10. The date of manufacture, harvest, or sale; and
- 11. The registry identification number of the qualifying patient.
- B. If a dispensary provides medical marijuana cultivated, or a marijuana product infused or prepared for sale, by the dispensary to another dispensary, the dispensary shall ensure that:
  - 1. The medical marijuana or marijuana product is labeled with:
    - a. The dispensary's registry identification number;
    - b. The amount, strain, and batch number of the medical marijuana or marijuana product; and
    - c. The date of harvest or sale; and
  - 2. A copy of laboratory testing results for the medical marijuana or marijuana product is provided to the receiving dispensary.
- C. Until November 1, 2020, a dispensary shall ensure that medical marijuana or a marijuana product provided by the dispensary to a qualifying patient or designated caregiver either:
  - 1. Is labeled with a list of all chemical additives, including nonorganic pesticides, herbicides, and fertilizers, used in the cultivation and production of the medical marijuana; or
  - 2. Complies with requirements in R9-17-317.01.
- D. Until November 1, 2020, if a dispensary provides medical marijuana cultivated by the dispensary to another dispensary, the dispensary shall ensure that the medical marijuana is labeled with a list of all chemical additives, including nonorganic pesticides, herbicides, and fertilizers, used in the cultivation of the medical marijuana.

**Historical Note**

New Section made by exempt rulemaking at 17 A.A.R. 734, effective April 14, 2011 (Supp. 11-2). Amended by exempt rulemaking at 25 A.A.R. 2421, effective August 27, 2019 (Supp. 19-3).

**R9-17-317. Product Labeling**

- A. A dispensary shall ensure that medical marijuana or a marijuana product provided by the dispensary to a qualifying patient or a designated caregiver is labeled with:
  - 1. The dispensary's registry identification number;
  - 2. The amount, strain, and batch number of the medical marijuana or marijuana product;
  - 3. The form of the medical marijuana or marijuana product;
  - 4. As applicable, the weight of the medical marijuana or marijuana product;
  - 5. Beginning November 1, 2020, and in compliance with Table 3.1, the potency of the medical marijuana or marijuana product, based on laboratory testing results, including the percentage of:
    - a. Total tetrahydrocannabinol, reported according to R9-17-404.03(S)(2)(a);
    - b. Total cannabidiol, reported according to R9-17-404.03(S)(2)(b); and
    - c. Any other cannabinoid for which the dispensary is making a claim related to the effect of the cannabinoid on the human body;

**Historical Note**

New Section made by exempt rulemaking at 17 A.A.R. 734, effective April 14, 2011 (Supp. 11-2). Amended by exempt rulemaking at 26 A.A.R. 734, with an immediate effective date of April 2, 2020; amended by exempt rulemaking at 26 A.A.R. 968, effective April 20, 2020 (Supp. 20-2).

**R9-17-317.01. Analysis of Medical Marijuana or a Marijuana Product**

- A. Beginning on November 1, 2020, before offering a batch of medical marijuana or of a marijuana product for sale or dispensing to a qualifying patient or designated caregiver, a dispensary shall ensure that each batch of medical marijuana or marijuana product is tested in compliance with requirements in R9-17-404.03, R9-17-404.04, and Table 3.1.
- B. A dispensary shall ensure that:
  - 1. Until laboratory testing has been completed and testing results received by the dispensary that comply with requirements in R9-17-404.03, R9-17-404.04, and Table 3.1, a batch of marijuana or of a marijuana product is



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stored in a location away from medical marijuana and marijuana products offered for dispensing;

2. Only one sample of each batch of medical marijuana or marijuana product is collected according to ANSI/ASQ Standard Z1.4 (2018), General Inspection Level II, incorporated by reference, including no future editions, and available at <https://asq.org/quality-resources/z14-z19>, including:
    - a. Use, as applicable, of one of the following sampling methods:
      - i. Top, middle, and bottom sampling using a sample thief, a device consisting of two nested tubes with one or more aligned slots through which a sample may be collected and then sealed into the inner tube by rotating the outer tube;
      - ii. Star pattern sampling from the top, middle, and bottom of each storage container;
      - iii. Collecting discrete incremental units of a batch, such as every tenth unit or every twentieth drop; or
      - iv. Quartering until the sample reaches the size specified in subsection (B)(3); and
    - b. For sampling methods specified in subsections (B)(2)(a)(i) through (iii), quartering the volume of the aggregated portions collected to obtain the sample size specified in subsection (B)(3);
  3. The minimum size of the sample provided to a laboratory for testing is 16 grams;
  4. Each sample in subsection (B)(3) is packaged in a container made of the same material that would be used for dispensing;
  5. Each packaged sample is labeled with the:
    - a. The dispensary's registry identification number;
    - b. The amount, strain, and batch number of the medical marijuana or marijuana product;
    - c. The storage temperature for the medical marijuana or marijuana product; and
    - d. The date of sampling;
  6. A packaged sample in subsection (B)(4) is submitted to a laboratory that:
    - a. Has a laboratory registration certificate issued by the Department, and
    - b. Is approved by the Department to test for the analyte for which testing is being requested;
  7. Except as specified in subsections (C)(1) or (3)(b), as applicable, the samples in subsection (B)(4) are tested for each analyte specified in Table 3.1;
  8. Only batches of marijuana or marijuana products for which laboratory testing results in subsection (B)(7) are in compliance with the requirements in R9-17-404.03, R9-17-404.04, and Table 3.1 are offered for sale or dispensing; and
  9. Except as provided in subsection (C), any batch of marijuana or marijuana product that does not comply with the requirements in R9-17-404.03, R9-17-404.04, and Table 3.1 is remediated, if applicable, or destroyed according to policies and procedures.
- C. If a dispensary receives a final report of testing, specified in R9-17-404.06(B)(3), from a laboratory that indicates that a batch of marijuana or marijuana product does not comply with the requirements in R9-17-404.03, R9-17-404.04, and Table 3.1, the dispensary:
1. Within seven days after receiving the final report of testing, may request retesting by a second, independent laboratory of the remaining portion of the sample in subsection (B)(4) for all analytes that do not comply with the requirements in R9-17-404.03, R9-17-404.04, and Table 3.1;
  2. If the final report of testing from the second laboratory indicates that any analyte tested for according to subsection (C)(1) does not comply with the requirements in R9-17-404.03, R9-17-404.04, and Table 3.1, shall remediate, if applicable, or destroy the batch of marijuana or marijuana product according to policies and procedures;
  3. If the final report of testing from the second laboratory indicates that all analytes tested for according to subsection (C)(1) comply with the requirements in R9-17-404.03, R9-17-404.04, and Table 3.1:
    - a. Shall ensure that the batch of medical marijuana or marijuana product is not offered for sale or dispensing; and
    - b. May request retesting by a third, independent laboratory of the remaining portion of the sample in subsection (B)(4) for the analytes that do not comply with the requirements in R9-17-404.03, R9-17-404.04, and Table 3.1; and
  4. If the dispensary requested retesting of the remaining portion of the sample in subsection (B)(4) for an analyte by a third, independent laboratory according to subsection (C)(3)(b):
    - a. If the final report of testing from the third laboratory indicates that the analyte tested for according to subsection (C)(3) complies with the requirements in R9-17-404.03, R9-17-404.04, and Table 3.1, may offer the batch of medical marijuana or marijuana product for sale or dispensing; and
    - b. If the final report of testing from the third laboratory indicates that an analyte tested for according to subsection (C)(3) does not comply with the requirements in R9-17-404.03, R9-17-404.04, and Table 3.1, shall remediate, if applicable, or destroy the batch of medical marijuana or marijuana product according to policies and procedures.
- D. A dispensary shall ensure that remediation of a batch of marijuana or of a marijuana product that has undergone laboratory testing and does not comply with the requirements in R9-17-404.03, R9-17-404.04, and Table 3.1:
1. Is performed according to policies and procedures,
  2. Uses a method that is appropriate to address an analyte not in compliance with Table 3.1, and
  3. Does not introduce or produce a substance in a concentration that is known to be harmful to humans.
- E. If a batch of medical marijuana or a marijuana product is remediated, a dispensary shall submit samples from the remediated batch for laboratory testing according to subsection (B).
- F. A dispensary shall provide to the Department upon request a sample of the dispensary's inventory of medical marijuana or a marijuana product of sufficient quantity to enable the Department to conduct an analysis of the medical marijuana or marijuana product.

**Historical Note**

New Section made by exempt rulemaking at 26 A.A.R. 734, with an immediate effective date of April 2, 2020 (Supp. 20-2).

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**Table 3.1. Analytes****Key:**

CAS Number = Chemical Abstract Services Registry number

CFU = Colony-forming unit, a method to estimate the number of viable bacteria or fungal cells in a sample

<b>A. Microbial Contaminants</b>		
<b>Analyte</b>	<b>Maximum Allowable Contaminants</b>	<b>Required Action</b>
<i>Escherichia coli</i>	100 CFU/g	Remediate and retest, or Destroy
<i>Salmonella</i> spp.	Detectable in 1 gram	Destroy
<i>Aspergillus flavus</i> <i>Aspergillus fumigatus</i> <i>Aspergillus niger</i> <i>Aspergillus terreus</i>	Inhalable: Detectable in 1 gram	Remediate and retest, Remediate and use for preparing an extract or a concentrate, or Destroy
Mycotoxins: Aflatoxin B1, B2, G1, and G2 Ochratoxin A	Marijuana product prepared from an extract or concentrate of medical marijuana: 20 µg/kg (ppb) of total aflatoxins 20 µg/kg (ppb) of ochratoxin	Destroy

<b>B. Heavy Metals</b>		
<b>Analyte</b>	<b>Maximum Allowable Contaminants</b>	<b>Required Action</b>
Arsenic	0.4 ppm	Remediate and retest, or Destroy
Cadmium	0.4 ppm	
Lead	1.0 ppm	
Mercury	1.2 ppm	

<b>C. Residual Solvents</b>			
<b>Analyte</b>	<b>CAS Number</b>	<b>Maximum Allowable Concentration</b>	<b>Required Action</b>
Acetone	67-64-1	1,000 ppm	Remediate and retest, or Destroy
Acetonitrile	75-05-8	410 ppm	
Benzene	71-43-2	2 ppm	
Butanes (measured as the cumulative residue of n-butane and iso-butane)	106-97-8 and 75-28-5, respectively	5,000 ppm	
Chloroform	67-66-3	60 ppm	
Dichloromethane	75-09-2	600 ppm	
Ethanol	64-17-5	5,000 ppm	
Ethyl Acetate	141-78-6	5,000 ppm	
Ethyl Ether	60-29-7	5,000 ppm	
Heptane	142-82-5	5,000 ppm	
Hexanes (measured as the cumulative residue of n-hexane, 2-methylpentane, 3-methylpentane, 2,2-dimethylbutane, and 2,3-dimethylbutane)	110-54-3, 107-83-5, 96-14-0, 75-83-2, and 79-29-8, respectively	290 ppm	
Isopropyl Acetate	108-21-4	5,000 ppm	
Methanol	67-56-1	3,000 ppm	
Pentanes (measured as the cumulative residue of n-pentane, iso-pentane, and neo-pentane)	109-66-0, 78-78-4, and 463-82-1, respectively	5,000 ppm	
2-Propanol (IPA)	67-63-0	5,000 ppm	
Propane	74-98-6	5,000 ppm	
Toluene	108-88-3	890 ppm	
Xylenes (measured as the cumulative residue of 1,2-dimethylbenzene, 1,3-dimethylbenzene, and 1,4-dimethylbenzene, and the non-xylene, ethyl benzene)	1330-20-7 (95-47-6, 108-38-3, and 106-42-3, respectively, and 100-41-4)	2,170 ppm	

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<b>D. Pesticides, Fungicides, Herbicides, Growth Regulators</b>			
<b>Analyte</b>	<b>CAS Number</b>	<b>Maximum Allowable Concentration</b>	<b>Required Action</b>
Abamectin	71751-41-2	0.5 ppm	Remediate and retest, or Destroy
Acephate	30560-19-1	0.4 ppm	
Acequinocyl	57960-19-7	2.0 ppm	
Acetamiprid	135410-20-7	0.2 ppm	
Aldicarb	116-06-3	0.4 ppm	
Azoxystrobin	131860-33-8	0.2 ppm	
Bifenazate	149877-41-8	0.2 ppm	
Bifenthrin	82657-04-3	0.2 ppm	
Boscalid	188425-85-6	0.4 ppm	
Carbaryl	63-25-2	0.2 ppm	
Carbofuran	1563-66-2	0.2 ppm	
Chlorantraniliprole	500008-45-7	0.2 ppm	
Chlorfenapyr	122453-73-0	1.0 ppm	
Chlorpyrifos	2921-88-2	0.2 ppm	
Clofentezine	74115-24-5	0.2 ppm	
Cyfluthrin	68359-37-5	1.0 ppm	
Cypermethrin	52315-07-8	1.0 ppm	
Daminozide	1596-84-5	1.0 ppm	
DDVP (Dichlorvos)	62-73-7	0.1 ppm	
Diazinon	333-41-5	0.2 ppm	
Dimethoate	60-51-5	0.2 ppm	
Ethoprophos	13194-48-4	0.2 ppm	
Etofenprox	80844-07-1	0.4 ppm	
Etoxazole	153233-91-1	0.2 ppm	
Fenoxycarb	72490-01-8	0.2 ppm	
Fenpyroximate	134098-61-6	0.4 ppm	
Fipronil	120068-37-3	0.4 ppm	
Flonicamid	158062-67-0	1.0 ppm	
Fludioxonil	131341-86-1	0.4 ppm	
Hexythiazox	78587-05-0	1.0 ppm	
Imazalil	35554-44-0	0.2 ppm	
Imidacloprid	138261-41-3	0.4 ppm	
Kresoxim-methyl	143390-89-0	0.4 ppm	
Malathion	121-75-5	0.2 ppm	
Metalaxyl	57837-19-1	0.2 ppm	
Methiocarb	2032-65-7	0.2 ppm	
Methomyl	16752-77-5	0.4 ppm	
Methyl parathion	298-00-0	0.2 ppm	
MGK-264	113-48-4	0.2 ppm	
Myclobutanil	88671-89-0	0.2 ppm	
Naled	300-76-5	0.5 ppm	
Oxamyl	23135-22-0	1.0 ppm	
Paclobutrazol	76738-62-0	0.4 ppm	

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Permethrins (measured as the cumulative residue of cis- and trans- isomers)	52645-53-1 (54774-45-7 and 51877-74-8)	0.2 ppm
Phosmet	732-11-6	0.2 ppm
Piperonyl_butoxide	51-03-6	2.0 ppm
Prallethrin	23031-36-9	0.2 ppm
Propiconazole	60207-90-1	0.4 ppm
Propoxur	114-26-1	0.2 ppm
Pyrethrins (measured as the cumulative residue of pyrethrin 1, cinerin 1 and jasmolin 1)	8003-34-7 (121-21-1, 25402-06-6, and 4466-14-2)	1.0 ppm
Pyridaben	96489-71-3	0.2 ppm
Spinosad	168316-95-8	0.2 ppm
Spiromesifen	283594-90-1	0.2 ppm
Spirotetramat	203313-25-1	0.2 ppm
Spiroxamine	118134-30-8	0.4 ppm
Tebuconazole	107534-96-3	0.4 ppm
Thiacloprid	111988-49-9	0.2 ppm
Thiamethoxam	153719-23-4	0.2 ppm
Trifloxystrobin	141517-21-7	0.2 ppm

E. Potency		
Analyte	Labelling	Required Action
Tetrahydrocannabinolic acid (THC-A)	Label claim is not within +/- 20% of tested value	Revise label as necessary
Delta-9-tetrahydrocannabinol (Δ9-THC)		
Cannabidiolic acid (CBD-A)		
Cannabidiol (CBD)		

**Historical Note**

New Table 3.1 made by exempt rulemaking at 26 A.A.R. 734, with an immediate effective date of April 2, 2020 (Supp. 20-2).

**R9-17-318. Security**

- A.** Except as provided in R9-17-310(A)(7), a dispensary shall ensure that access to the enclosed, locked facility where marijuana is cultivated is limited to the dispensary's principal officers, board members, and authorized dispensary agents.
- B.** A dispensary agent may transport marijuana, marijuana plants, and marijuana paraphernalia between the dispensary and:
1. The dispensary's cultivation site,
  2. A qualifying patient,
  3. Another dispensary, and
  4. A laboratory agent or laboratory for testing.
- C.** Before transportation, a dispensary agent shall:
1. Complete a trip plan that includes:
    - a. The name of the dispensary agent in charge of transporting the marijuana;
    - b. The date and start time of the trip;
    - c. A description of the marijuana, marijuana plants, or marijuana paraphernalia being transported; and
    - d. The anticipated route of transportation; and
  2. Provide a copy of the trip plan in subsection (C)(1) to the dispensary.
- D.** During transportation, a dispensary agent shall:
1. Carry a copy of the trip plan in subsection (C)(1) with the dispensary agent for the duration of the trip;
  2. Use a vehicle without any medical marijuana identification;
  3. Have a means of communication with the dispensary; and
4. Ensure that the marijuana, marijuana plants, or marijuana paraphernalia are not visible.
- E.** After transportation, a dispensary agent shall enter the end time of the trip and any changes to the trip plan on the trip plan required in subsection (C)(1).
- F.** A dispensary shall:
1. Maintain the documents required in subsection (C)(2) and (E), and
  2. Provide a copy of the documents required in subsection (C)(2) and (E) to the Department for review upon request.
- G.** To prevent unauthorized access to medical marijuana at the dispensary and, if applicable, the dispensary's cultivation site, the dispensary shall have the following:
1. Security equipment to deter and prevent unauthorized entrance into limited access areas that include:
    - a. Devices or a series of devices to detect unauthorized intrusion, which may include a signal system interconnected with a radio frequency method, such as cellular, private radio signals, or other mechanical or electronic device;
    - b. Exterior lighting to facilitate surveillance;
    - c. Electronic monitoring including:
      - i. At least one 19-inch or greater call-up monitor,
      - ii. A video printer capable of immediately producing a clear still photo from any video camera image,
      - iii. Video cameras:
        - (1) Providing coverage of all entrances to and

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- exits from limited access areas and all entrances to and exits from the building, capable of identifying any activity occurring in or adjacent to the building; and
- (2) Having a recording resolution of at least 704 x 480 or the equivalent;
- iv. A video camera at each point of sale location allowing for the identification of any qualifying patient or designated caregiver purchasing medical marijuana,
- v. A video camera in each grow room capable of identifying any activity occurring within the grow room in low light conditions,
- vi. Storage of video recordings from the video cameras for at least 30 calendar days,
- vii. A failure notification system that provides an audible and visual notification of any failure in the electronic monitoring system, and
- viii. Sufficient battery backup for video cameras and recording equipment to support at least five minutes of recording in the event of a power outage; and
- d. Panic buttons in the interior of each building; and
- 2. Policies and procedures:
  - a. That restrict access to the areas of the dispensary that contain marijuana and if applicable, the dispensary's cultivation site to authorized individuals only;
  - b. That provide for the identification of authorized individuals;
  - c. That prevent loitering;
  - d. For conducting electronic monitoring; and
  - e. For the use of a panic button.

**Historical Note**

New Section made by exempt rulemaking at 17 A.A.R. 734, effective April 14, 2011 (Supp. 11-2). Amended by exempt rulemaking at 25 A.A.R. 2421, effective August 27, 2019 (Supp. 19-3).

**R9-17-319. Edible Food Products**

- A. A dispensary that prepares, sells, or dispenses marijuana-infused edible food products shall:
  - 1. Before preparing, selling, or dispensing marijuana-infused edible food product obtain written authorization from the Department to prepare, sell, or dispense marijuana-infused edible food products;
  - 2. If the dispensary prepares the marijuana-infused edible food products, ensure that the marijuana-infused edible food products are prepared according to the applicable requirements in 9 A.A.C. 8, Article 1;
  - 3. If the marijuana-infused edible food products are not prepared at the dispensary, obtain and maintain at the dispensary a copy of the current written authorization to prepare marijuana-infused edible food products from the dispensary that prepares the marijuana-infused edible products; and
  - 4. If a dispensary sells or dispenses marijuana-infused edible food products, ensure that the marijuana-infused edible food products are sold or dispensed according to applicable requirements in 9 A.A.C. 8, Article 1.
- B. A dispensary is responsible for the content and quality of any edible food product sold or dispensed by the dispensary.

**Historical Note**

New Section made by exempt rulemaking at 17 A.A.R. 734, effective April 14, 2011 (Supp. 11-2).

**R9-17-320. Cleaning and Sanitation**

- A. A dispensary shall ensure that any building or equipment used by a dispensary for the cultivation, harvest, preparation, packaging, storage, infusion, or sale of medical marijuana is maintained in a clean and sanitary condition.
  - 1. Medical marijuana in the process of production, preparation, manufacture, packing, storage, sale, distribution, or transportation is protected from flies, dust, dirt, and all other contamination.
  - 2. Refuse or waste products incident to the manufacture, preparation, packing, selling, distributing, or transportation of medical marijuana are removed from the building used as a dispensary and, if applicable, a building at the dispensary's cultivation site at least once every 24 hours or more often as necessary to maintain a clean condition.
  - 3. All trucks, trays, buckets, other receptacles, platforms, racks, tables, shelves, knives, saws, cleavers, other utensils, or the machinery used in moving, handling, cutting, chopping, mixing, canning, packaging, or other processes are cleaned daily.
  - 4. All stored edible food products are securely covered.
- B. A dispensary shall ensure that a dispensary agent at the dispensary or the dispensary's cultivation site:
  - 1. Cleans the dispensary agent's hands and exposed portions of the dispensary agent's arms in a hand washing sink:
    - a. Before preparing medical marijuana including working with food, equipment, and utensils;
    - b. During preparation, as often as necessary to remove soil and contamination and to prevent cross-contamination when changing tasks;
    - c. After handling soiled equipment or utensils;
    - d. After touching bare human body parts other than the dispensary agent's clean hands and exposed portions of arms; and
    - e. After using the toilet room;
  - 2. If working directly with the preparation of medical marijuana or the infusion of marijuana into non-edible products:
    - a. Keeps the dispensary agent's fingernails trimmed, filed, and maintained so that the edges and surfaces are cleanable;
    - b. Unless wearing intact gloves in good repair, does not have fingernail polish or artificial fingernails on the dispensary agent's fingernails; and
    - c. Wears protective apparel such as coats, aprons, gowns, or gloves to prevent contamination;
  - 3. Wears clean clothing appropriate to assigned tasks;
  - 4. Reports to the medical director any health condition experienced by the dispensary agent that may adversely affect the safety or quality of any medical marijuana with which the dispensary agent may come into contact; and
  - 5. If the medical director determines that a dispensary agent has a health condition that may adversely affect the safety or quality of the medical marijuana, is prohibited from direct contact with any medical marijuana or equipment or materials for processing medical marijuana until the medical director determines that the dispensary agent's health condition will not adversely affect the medical marijuana.

**Historical Note**

New Section made by exempt rulemaking at 17 A.A.R. 734, effective April 14, 2011 (Supp. 11-2).

**R9-17-321. Physical Plant**

- A. A dispensary or a dispensary's cultivation site shall be located at least 500 feet from a private school or a public school that

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existed before the date the dispensary submitted the initial dispensary registration certificate application.

- B. A dispensary shall provide onsite parking or parking adjacent to the building used as the dispensary.
- C. A building used as a dispensary or the location used as a dispensary's cultivation site shall have:
  1. At least one toilet room;
  2. Each toilet room shall contain:
    - a. A flushable toilet;
    - b. Mounted toilet tissue;
    - c. A sink with running water;
    - d. Soap contained in a dispenser; and
    - e. Disposable, single-use paper towels in a mounted dispenser or a mechanical air hand dryer;
  3. At least one hand washing sink not located in a toilet room;
  4. Designated storage areas for medical marijuana or materials used in direct contact with medical marijuana separate from storage areas for toxic or flammable materials; and
  5. If preparation or packaging of medical marijuana is done in the building, a designated area for the preparation or packaging that:
    - a. Includes work space that can be sanitized, and
    - b. Is only used for the preparation or packaging of medical marijuana.
- D. For each commercial device used at a dispensary or the dispensary's cultivation site, the dispensary shall:
  1. Ensure that the commercial device is licensed or certified pursuant to A.R.S. § 41-2091,
  2. Maintain documentation of the commercial device's license or certification, and
  3. Provide a copy of the commercial device's license or certification to the Department for review upon request.

**Historical Note**

New Section made by exempt rulemaking at 17 A.A.R. 734, effective April 14, 2011 (Supp. 11-2).

**R9-17-322. Denial or Revocation of a Dispensary Registration Certificate**

- A. The Department shall deny an application for a dispensary registration certificate or a renewal if:
  1. For an application for a dispensary registration certificate, the physical address of the building or, if applicable, the physical address of the dispensary's cultivation site is within 500 feet of a private school or a public school that existed before the date the dispensary submitted the initial dispensary registration certificate application;
  2. A principal officer or board member:
    - a. Has been convicted of an excluded felony offense;
    - b. Has served as a principal officer or board member for a dispensary that:
      - i. Had the dispensary registration certificate revoked, or
      - ii. Did not obtain an approval to operate the dispensary within the first year after the dispensary registration certificate was issued;
    - c. Is under 21 years of age;
    - d. Is a physician currently providing written certifications for medical marijuana for qualifying patients;
    - e. Is a law enforcement officer; or
    - f. Is an employee or contractor of the Department; or
  3. The application or the dispensary does not comply with the requirements in A.R.S. Title 36, Chapter 28.1 and this Chapter.

- B. The Department may deny an application for a dispensary registration certificate if a principal officer or board member of the dispensary provides false or misleading information to the Department.
- C. The Department shall revoke a dispensary's registration certificate if:
  1. The dispensary:
    - a. Operates before obtaining approval to operate a dispensary from the Department;
    - b. Diverts marijuana to an entity other than another dispensary with a valid dispensary registration certificate issued by the Department, a laboratory with a valid laboratory registration certificate issued by the Department, a qualifying patient with a valid registry identification card issued by the Department, a designated caregiver with a valid registry identification card issued by the Department, or a laboratory agent with a valid registry identification card issued by the Department; or
    - c. Acquires usable marijuana or mature marijuana plants from any entity other than another dispensary with a valid dispensary registration certificate issued by the Department, a qualifying patient with a valid registry identification card, or a designated caregiver with a valid registry identification card; or
  2. A principal officer or board member has been convicted of an excluded felony offense.
- D. The Department may revoke a dispensary registration certificate if the dispensary does not:
  1. Comply with the requirements in A.R.S. Title 36, Chapter 28.1 and this Chapter; or
  2. Implement the policies and procedures or comply with the statements provided to the Department with the dispensary's application.
- E. If the Department denies a dispensary registration certificate application, the Department shall provide notice to the applicant that includes:
  1. The specific reason or reasons for the denial, and
  2. All other information required by A.R.S. § 41-1076.
- F. If the Department revokes a dispensary registration certificate, the Department shall provide notice to the dispensary that includes:
  1. The specific reason or reasons for the revocation; and
  2. The process for requesting a judicial review of the Department's decision pursuant to A.R.S. Title 12, Chapter 7, Article 6.

**Historical Note**

New Section made by exempt rulemaking at 17 A.A.R. 734, effective April 14, 2011 (Supp. 11-2). Amended by emergency rulemaking at 18 A.A.R. 1010, effective April 11, 2012 for 180 days (Supp. 12-2). Emergency expired (Supp. 12-4). Amended by final rulemaking at 18 A.A.R. 3354, with an immediate effective date of December 5, 2012 (Supp. 12-4). Amended by exempt rulemaking at 25 A.A.R. 2421, effective August 27, 2019 (Supp. 19-3).

**R9-17-323. Denial or Revocation of a Dispensary Agent's Registry Identification Card**

- A. The Department shall deny a dispensary agent's application for or renewal of the dispensary agent's registry identification card if the dispensary agent:
  1. Does not meet the definition "nonprofit medical marijuana dispensary agent" in A.R.S. § 36-2801; or
  2. Previously had a registry identification card revoked for not complying with A.R.S. Title 36, Chapter 28.1 or this Chapter.

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- B. The Department may deny a dispensary agent's application for or renewal of the dispensary agent's registry identification card if the dispensary agent provides false or misleading information to the Department.
- C. The Department shall revoke a dispensary agent's registry identification card if the dispensary agent:
  - 1. Uses medical marijuana, if the dispensary agent does not have a qualifying patient registry identification card;
  - 2. Diverts medical marijuana to an entity other than another dispensary with a valid dispensary registration certificate issued by the Department, a laboratory with a valid laboratory registration certificate issued by the Department, a qualifying patient with a valid registry identification card issued by the Department, a designated caregiver with a valid registry identification card issued by the Department, or a laboratory agent with a valid registry identification card issued by the Department; or
  - 3. Has been convicted of an excluded felony offense.
- D. The Department may revoke a dispensary agent's registry identification card if the dispensary agent knowingly violates A.R.S. Title 36, Chapter 28.1 or this Chapter.
- E. If the Department denies or revokes a dispensary agent's registry identification card, the Department shall provide notice to the dispensary agent and the dispensary agent's dispensary that includes:
  - 1. The specific reason or reasons for the denial or revocation; and
  - 2. The process for requesting a judicial review of the Department's decision pursuant to A.R.S. Title 12, Chapter 7, Article 6.

**Historical Note**

New Section made by exempt rulemaking at 17 A.A.R. 734, effective April 14, 2011 (Supp. 11-2). Amended by exempt rulemaking at 25 A.A.R. 2421, effective August 27, 2019 (Supp. 19-3).

**ARTICLE 4. LABORATORIES AND LABORATORY AGENTS****R9-17-401. Owner**

- A. For the purposes of this Chapter the following individuals are considered owners:
  - 1. If an individual is applying for a laboratory registration certificate, the individual;
  - 2. If a corporation is applying for a laboratory registration certificate, two individuals who are officers of the corporation;
  - 3. If a partnership is applying for a laboratory registration certificate, two of the individuals who are partners;
  - 4. If a limited liability company is applying for a laboratory registration certificate, a manager or, if the limited liability company does not have a manager, an individual who is a member of the limited liability company;
  - 5. If an association or cooperative is applying for a laboratory registration certificate, two individuals who are members of the governing board of the association or cooperative;
  - 6. If a joint venture is applying for a laboratory registration certificate, two of the individuals who signed the joint venture agreement; and
  - 7. If a business organization type other than those described in subsections (A)(2) through (6) is applying for a laboratory registration certificate, two individuals who are members of the business organization.
- B. When a laboratory is required by this Chapter to provide information, sign documents, or ensure actions are taken, the indi-

vidual or individuals in subsection (A) shall comply with the requirement on behalf of the laboratory.

**Historical Note**

New Section made by exempt rulemaking at 25 A.A.R. 2421, effective August 27, 2019 (Supp. 19-3).

**R9-17-402. Applying for a Laboratory Registration Certificate**

- A. To apply for a laboratory registration certificate, an applicant shall submit to the Department the following:
  - 1. An application in a Department-provided format that includes:
    - a. The physical address of the laboratory;
    - b. The distance to the closest private school or public school from the laboratory;
    - c. The following information for the laboratory applying:
      - i. The legal name of the laboratory,
      - ii. Type of business organization,
      - iii. Mailing address,
      - iv. Telephone number, and
      - v. E-mail address;
    - d. The name of the owner designated to submit laboratory agent registry identification card applications on behalf of the laboratory;
    - e. The name, residence address, and date of birth of each owner;
    - f. The identifying number on the applicable card or document in subsection (A)(4)(d)(i) through (v);
    - g. The name, residence address, and date of birth of the technical laboratory director designated according to R9-17-404(3);
    - h. The name, residence address, and date of birth of each laboratory agent other than an owner or the technical laboratory director, if applicable;
    - i. Whether the laboratory agrees to allow the Department to submit supplemental requests for information;
    - j. An attestation that the information provided to the Department to apply for a laboratory registration certificate is true and correct; and
    - k. The signatures of the owner of the laboratory, according to R9-17-401(A), and the technical laboratory director and the date each signed;
  - 2. Policies and procedures that comply with the requirements in this Chapter that contain:
    - a. A quality assurance program and standards;
    - b. Inventory control;
    - c. A chain of custody and sample requirement process;
    - d. A records retention process;
    - e. A secure method to transfer the portion of a sample remaining after testing to another laboratory at the request of a dispensary according to R9-17-317.01(C);
    - f. Security;
    - g. A process to ensure marijuana or marijuana products testing results are accurate, precise, and scientifically valid before reporting the results; and
    - h. A process for disposal of marijuana or marijuana products that are submitted to the laboratory for testing;
  - 3. If the applicant is one of the business organizations in R9-17-401(A)(2) through (7), a copy of the business organization's articles of incorporation, articles of organization, or partnership or joint venture documents that include:
    - a. The name of the business organization,
    - b. The type of business organization, and

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- c. The names and titles of the individuals in R9-17-401(A);
  4. For each owner:
    - a. An attestation signed and dated by the owner that the owner has not been convicted of an excluded felony offense as defined in A.R.S. § 36-2801;
    - b. An attestation signed and dated by the owner that the owner does not have a direct or indirect familial or financial relationship with or interest in a dispensary, related medical marijuana business entity, or management company;
    - c. An attestation signed and dated by the owner that the laboratory will not test marijuana or marijuana products for a designated caregiver who the owner has a direct or indirect familial or financial relationship with;
    - d. An attestation signed and dated by the owner pledging not to divert marijuana to any individual who or entity that is not allowed to possess marijuana pursuant to A.R.S. Title 36, Chapter 28.1;
    - e. A copy the owner's:
      - i. Arizona driver's license issued on or after October 1, 1996;
      - ii. Arizona identification card issued on or after October 1, 1996;
      - iii. Arizona registry identification card;
      - iv. Photograph page in the owner's U.S. passport; or
      - v. Arizona driver's license or identification card issued before October 1, 1996 and one of the following for the owner:
        - (1) Birth certificate verifying U.S. citizenship,
        - (2) U.S. Certificate of Naturalization, or
        - (3) U.S. Certificate of Citizenship; and
    - f. For the Department's criminal records check authorized in A.R.S. §§ 36-2804.01 and 36-2804.07:
      - i. The owner's fingerprints on a fingerprint card that includes:
        - (1) The owner's first name; middle initial, if applicable; and last name;
        - (2) The owner's signature;
        - (3) If different from the owner, the signature of the individual physically rolling the owner's fingerprints;
        - (4) The owner's residence address;
        - (5) If applicable, the owner's surname before marriage and any names previously used by the owner;
        - (6) The owner's date of birth;
        - (7) The owner's Social Security number;
        - (8) The owner's citizenship status;
        - (9) The owner's gender;
        - (10) The owner's race;
        - (11) The owner's height;
        - (12) The owner's weight;
        - (13) The owner's hair color;
        - (14) The owner's eye color; and
        - (15) The owner's place of birth; or
      - ii. If the fingerprints and information required in subsection (A)(4)(f)(i) were submitted to the Department as part of an application for a designated caregiver registry identification card, dispensary agent registry identification card, or laboratory agent registry identification card within the previous six months, the registry identification number on the registry identification card issued to the owner as a result of the application;
  5. If zoning restrictions have been enacted, a sworn statement signed and dated by the individual or individuals in R9-17-401(A) certifying that the laboratory is in compliance with any local zoning restrictions;
  6. A copy of documentation issued by the local jurisdiction to the laboratory authorizing occupancy of the building as a laboratory, such as a certificate of occupancy, a special use permit, or a conditional use permit;
  7. A site plan drawn to scale of the laboratory location showing streets, property lines of the contiguous premises, buildings, parking areas, outdoor areas if applicable, fences, security features, fire hydrants if applicable, and access to water mains;
  8. A building plan drawn to scale of the building where the laboratory is located showing the:
    - a. Layout and dimensions of each room;
    - b. Name and function of each room;
    - c. Fire ratings of the materials used for ceilings, walls, doors, and floors of rooms used to store flammable substances;
    - d. Location of each fire protection device;
    - e. Layout of heating, air conditioning, exhaust, and ventilation systems;
    - f. Location and layout of refrigerated rooms or freezer rooms;
    - g. Location of each sink, safety shower, other water supply, or plumbing fixture;
    - h. Location of fixed or movable equipment and instruments that require dedicated electrical, water, vacuum, gas, or other building systems;
    - i. Location of security measures or equipment to protect from diversion of marijuana or marijuana products; and
    - j. Means of egress;
  9. Documentation of accreditation;
  10. The laboratory's Transaction Privilege Tax Number issued by the Arizona Department of Revenue, if applicable; and
  11. The applicable fee in R9-17-102 for applying for a laboratory registration certificate.
- B.** Within 72 hours after an owner receives a laboratory registration certificate pursuant to an application submitted according to subsection (A), the owner shall apply for a laboratory agent registry identification card, according to R9-17-405, for each laboratory agent, including an owner or a technical laboratory director.
  - C.** A change in location of the laboratory's physical address or ownership requires a new application to be submitted according to subsection (A).
  - D.** A separate laboratory registration certificate is required for each noncontiguous portion of a laboratory.

**Historical Note**

New Section made by exempt rulemaking at 25 A.A.R. 2421, effective August 27, 2019 (Supp. 19-3). Amended by exempt rulemaking at 26 A.A.R. 734, with an immediate effective date of April 2, 2020; amended by exempt rulemaking at 26 A.A.R. 968, effective April 20, 2020 (Supp. 20-2).

**R9-17-402.01. Applying for Approval for Testing**

To apply for approval for testing, an applicant shall submit to the Department, at least 60 calendar days before the expiration of the initial laboratory registration certificate for the laboratory, the following:



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1. An application in a Department-provided format that includes:
  - a. The name and registry identification number of the laboratory;
  - b. The physical address of the laboratory;
  - c. The name of the applicant;
  - d. The name of the technical laboratory director designated according to R9-17-404(3);
  - e. The name, address, and date of birth of or the laboratory agent registry identification card number for each laboratory agent;
  - f. For each parameter for which approval for testing is being requested:
    - i. The analyte to be tested for,
    - ii. The instruments and equipment to be used for testing, and
    - iii. The software to be used at the laboratory for instrument control and data reduction interpretation;
  - g. The laboratory's proposed hours of operation;
  - h. Whether the laboratory agrees to allow the Department to submit supplemental requests for information;
  - i. Whether the laboratory is ready for an inspection by the Department;
  - j. If the laboratory is not ready for an inspection by the Department, the date the laboratory will be ready for an inspection by the Department;
  - k. An attestation that the information provided to the Department to apply for approval to operate the laboratory is true and correct; and
  - l. The signatures of the owner of the laboratory, according to R9-17-401(A), and the technical laboratory director and the date each signed;
2. For each parameter listed according to subsection (1)(f):
  - a. The limit of quantitation;
  - b. A copy of current accreditation;
  - c. A copy of a proficiency testing report, if applicable, or accuracy testing documentation; and
  - d. A copy of the standard operating procedure; and
3. If different from the building plan submitted according to R9-17-402(A)(8), a building plan drawn to scale of the building where the laboratory is located showing the:
  - a. Layout and dimensions of each room;
  - b. Name and function of each room;
  - c. Fire ratings of the materials used for ceilings, walls, doors, and floors of rooms used to store flammable substances;
  - d. Location of each fire protection device;
  - e. Layout of heating, air conditioning, exhaust, and ventilation systems;
  - f. Location and layout of refrigerated rooms or freezer rooms;
  - g. Location of each sink, safety shower, other water supply, or plumbing fixture;
  - h. Location of fixed or movable equipment and instruments that require dedicated electrical, water, vacuum, gas, or other building systems;
  - i. Location of security equipment to protect from diversion of marijuana or marijuana products; and
  - j. Means of egress.

**Historical Note**

New Section made by exempt rulemaking at 26 A.A.R. 734, with an immediate effective date of April 2, 2020;

amended by exempt rulemaking at 26 A.A.R. 968, effective April 20, 2020 (Supp. 20-2).

**R9-17-403. Renewing a Laboratory Registration Certificate**

To renew a laboratory registration certificate, an applicant shall submit to the Department, at least 30 calendar days before the expiration date of the current laboratory registration certificate, but no more than 90 days before the expiration date of the current laboratory registration certificate, the following:

1. An application in a Department-provided format that includes:
  - a. The physical address of the laboratory;
  - b. The following information for the laboratory:
    - i. The legal name of the laboratory,
    - ii. The registry identification number for the laboratory,
    - iii. Type of business organization,
    - iv. Mailing address,
    - v. Telephone number, and
    - vi. E-mail address;
  - c. The name of the owner designated to submit laboratory agent registry identification card applications on behalf of the laboratory;
  - d. The name, residence address, and date of birth of each owner;
  - e. The name, residence address, and date of birth of the technical laboratory director designated according to R9-17-404(3);
  - f. The name, residence address, and date of birth of each laboratory agent, if applicable;
  - g. Whether the laboratory agrees to allow the Department to submit supplemental requests for information;
  - h. An attestation that the information provided to the Department to renew the laboratory registration certificate is true and correct; and
  - i. The signatures of the owner of the laboratory, according to R9-17-401(A), and the technical laboratory director and the date each signed;
2. For each owner:
  - a. An attestation signed and dated by the owner that the owner has not been convicted of an excluded felony offense as defined in A.R.S. § 36-2801; and
  - b. An attestation signed and dated by the owner that the laboratory will not test medical marijuana and medical marijuana products for:
    - i. A dispensary, related medical marijuana business entity, or management company that the owner has a direct or indirect familial or financial relationship with or interest in; or
    - ii. A designated caregiver who the owner has a direct or indirect familial or financial relationship with;
3. For each new or current parameter, documentation of current accreditation;
4. If a change has been made to the standard operating procedure for a current parameter, a copy of the revised standard operating procedure;
5. If a change has been made in the quality assurance plan for a current parameter required in R9-17-404.03 or R9-17-404.04, a copy of the revised quality assurance plan; and
6. The applicable fee in R9-17-102 for applying to renew a laboratory registration certificate.

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**Historical Note**

New Section made by exempt rulemaking at 25 A.A.R. 2421, effective August 27, 2019 (Supp. 19-3). Amended by exempt rulemaking at 26 A.A.R. 734, with an immediate effective date of April 2, 2020; amended by exempt rulemaking at 26 A.A.R. 968, effective April 20, 2020 (Supp. 20-2).

**R9-17-404. Administration**

An owner of a laboratory with a laboratory registration certificate shall:

1. Comply with the:
  - a. Quality assurance requirements in R9-17-404.05,
  - b. Operation requirements in R9-17-404.06, and
  - c. Laboratory records and reports requirements in R9-17-404;
2. Maintain accreditation for each approved parameter;
3. Designate in writing a technical laboratory director who:
  - a. Has knowledge and experience in overseeing a laboratory as documented by:
    - i. A doctoral degree in chemistry, biochemistry, microbiology, or a similar laboratory science;
    - ii. A master's degree in chemistry, biochemistry, microbiology, or a similar laboratory science and at least two years of experience working in a laboratory and providing laboratory testing; or
    - iii. A bachelor's degree in chemistry, biochemistry, microbiology, or a similar laboratory science and at least four years of experience working in a laboratory and providing laboratory testing; and
  - b. Is responsible for:
    - i. Ensuring that all services and tests provided by the laboratory are performed in compliance with the requirements in this Article;
    - ii. Directing and supervising services and tests provided by the laboratory;
    - iii. Overseeing the work of all personnel in the laboratory;
    - iv. Providing ongoing training to laboratory agents, as applicable to the functions performed by a laboratory agent; and
  - v. Ensuring safety and hazardous substance control in the laboratory;
4. Notify the Department in writing within 20 working days after any change in the technical laboratory director, providing the name and contact information for the new technical laboratory director;
5. Develop, document, and implement policies and procedures regarding:
  - a. Job descriptions and employment contracts, including:
    - i. Personnel duties, authority, responsibilities, and qualifications;
    - ii. Personnel supervision;
    - iii. Ongoing training, applicable to the functions performed by a laboratory agent;
    - iv. Training in and adherence to confidentiality requirements;
    - v. Periodic performance evaluations, including proficiency testing or accuracy testing, as applicable, on a rotating basis among all laboratory agents performing similar functions; and
    - v. Disciplinary actions;
  - b. Business records, such as manual or computerized records of assets and liabilities, monetary transactions, journals, ledgers, and supporting documents, including agreements, checks, invoices, and vouchers;
- c. Inventory control, including:
  - i. Tracking;
  - ii. Accepting medical marijuana or marijuana products for testing;
  - iii. Testing medical marijuana and marijuana products;
  - iv. Providing the remaining sample of tested medical marijuana or a marijuana product to another laboratory at the request of a dispensary according to R9-17-317.01(C);
  - v. Retaining the residual portion of a sample accepted for testing from a dispensary for at least 14 days after sending the final report of testing required in R9-17-404.06(B)(3) to the dispensary; and
  - vi. Disposing of medical marijuana or a marijuana product and documenting:
    - (1) The method of disposal;
    - (2) Whether the medical marijuana or marijuana product was tested;
    - (3) If not tested, the reason for not testing;
    - (4) The laboratory agent overseeing the disposal; and
    - (5) The date of disposal;
- d. Standard operating procedures, including:
  - i. The review and updating of standard operating procedures;
  - ii. Requirements for a laboratory agent to review current, new, or updated standard operating procedures applicable to the functions performed by the laboratory agent; and
  - iii. Documenting the review of standard operating procedures by applicable laboratory agents;
- e. Laboratory records, including:
  - i. Maintenance and monitoring of instruments and equipment;
  - ii. Acceptance of medical marijuana and marijuana products for testing;
  - iii. The chain of custody for a sample accepted by the laboratory for testing;
  - iv. The storage of a submitted sample prior to testing to maintain the integrity of the sample and analyte;
  - v. The process for selecting a portion of a submitted sample for testing;
  - vi. Ensuring testing results are accurate, precise, and scientifically valid before reporting the results;
  - vii. Reporting of testing results;
  - viii. If applicable, transfer of the portion of a sample remaining after testing to another laboratory at the request of a dispensary according to R9-17-317.01(C), including:
    - (1) The name and registry identification number of the dispensary,
    - (2) The name and registry identification number of the dispensary agent requesting the transfer on behalf of the dispensary,
    - (3) The date of the request,
    - (4) The amount of sample being transferred,
    - (5) The name and registry identification number of the other laboratory, and
    - (6) The name and registry identification number

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- ber of the laboratory agent receiving the marijuana or marijuana products on behalf of the other laboratory;
- ix. Confidentiality; and
  - x. Retention;
  - f. A quality assurance program and standards;
  - g. A records retention process; and
  - h. Security;
6. Review and document the review of laboratory policies and procedures at least once every 12 months after the issue date of the laboratory registration certificate and update as needed;
  7. Ensure that each laboratory agent has the laboratory agent's registry identification card in the laboratory agent's immediate possession when the laboratory agent is working or providing volunteer services related to marijuana or marijuana products testing at the laboratory;
  8. Ensure that a laboratory agent accompanies any individual other than another laboratory agent associated with the laboratory when the individual is present in the area of the laboratory where marijuana or marijuana products are being tested or stored for testing;
  9. Not allow an individual who does not possess a laboratory agent registry identification card issued under the laboratory registration certificate to:
    - a. Serve as an owner for the laboratory,
    - b. Be employed by the laboratory, or
    - c. Provide volunteer services at or on behalf of the laboratory;
  10. Provide written notice to the Department, including the date of the event, within 10 working days after the date, when a laboratory agent no longer:
    - a. Serves as an owner for the laboratory,
    - b. Is employed by the laboratory, or
    - c. Provides volunteer services at or on behalf of the laboratory; and
  11. Unless otherwise specified, maintain copies of any documentation required in this Chapter for at least 12 months after the date on the documentation and provide copies of the documentation to the Department for review upon request.

**Historical Note**

New Section made by exempt rulemaking at 25 A.A.R. 2421, effective August 27, 2019 (Supp. 19-3). Amended by exempt rulemaking at 26 A.A.R. 734, with an immediate effective date of April 2, 2020 (Supp. 20-2).

**R9-17-404.01. Compliance Monitoring**

- A. Submission of an application for a laboratory registration certificate constitutes permission for:
  1. The Department's entry to and inspection of the laboratory, and
  2. The Department to conduct proficiency testing according to R9-17-404.02.
- B. The Department shall conduct:
  1. An initial laboratory inspection; and
  2. A follow-up laboratory inspection, at least annually.
- C. The Department shall comply with A.R.S. § 41-1009 in conducting a laboratory inspection or investigation.
- D. The Department shall not accept allegations of a laboratory's noncompliance with A.R.S. Title 36, Chapter 28.1 or this Chapter from an anonymous source.
- E. If the Department receives an allegation of a laboratory's noncompliance with A.R.S. Title 36, Chapter 28.1 or this Chapter, the Department may conduct an unannounced inspection of the laboratory.

- F. If the Department determines that a laboratory is not in compliance with the requirements of A.R.S. Title 36, Chapter 28.1, or this Chapter, the Department:
  1. Shall provide the owner, according to R9-17-401(A), and technical laboratory director with a written notice that includes the specific rule or statute that was violated; and
  2. May:
    - a. Take an enforcement action as described in R9-17-410; or
    - b. Require that the technical laboratory director submit to the Department, within 30 calendar days after written notice from the Department, a corrective action plan to address issues of compliance that do not directly affect the health or safety of a qualifying patient or laboratory agent that:
      - i. Describes how each identified instance of noncompliance will be corrected and reoccurrence prevented, and
      - ii. Includes a date for correcting each instance of noncompliance that is appropriate to the actions necessary to correct the instance of noncompliance.
- G. Under A.R.S. § 41-1009(G) and (I), the Department's decision regarding whether a technical laboratory director may submit a corrective action plan on behalf of a laboratory or whether a deficiency has been corrected or has been corrected within a reasonable period of time is not an appealable agency action as defined by A.R.S. § 41-1092.

**Historical Note**

New Section made by exempt rulemaking at 26 A.A.R. 734, with an immediate effective date of April 2, 2020 (Supp. 20-2).

**R9-17-404.02. Proficiency Testing; Accuracy Testing**

- A. At least once in each 12-month period, and more often if requested by the Department, a technical laboratory director shall have at least one laboratory agent, selected according to policies and procedures, participate in proficiency testing provided by the Department or a proficiency testing service that:
  1. Includes at least one proficiency testing sample for each parameter for which the laboratory has been approved or is requesting approval and for which proficiency testing samples are available;
  2. Demonstrates the laboratory agent's competence in testing for the parameter; and
  3. If the laboratory has been approved or has requested approval to test an analyte by different methods, may use the same proficiency testing sample for each method.
- B. If a proficiency testing sample is not available for a specific parameter, a technical laboratory director shall have at least one laboratory agent, selected according to policies and procedures, participate in accuracy testing for the parameter.
- C. To demonstrate competence in testing for a parameter, test results reported for the parameter shall be within acceptance limits established by the Department, according to R9-17-404.03 or R9-17-404.04, or the proficiency testing service, as applicable.
- D. A technical laboratory director shall ensure that:
  1. Each sample for proficiency testing accepted at the laboratory is analyzed at the laboratory;
  2. Each sample for accuracy testing is analyzed at the laboratory;
  3. Each sample for proficiency testing or accuracy testing is tested according to R9-17-404.03 or R9-17-404.04, using the same procedures and techniques employed for routine sample testing;

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4. A proficiency testing service provides the results for each proficiency testing sample directly to the laboratory and the Department;
  5. If proficiency testing is provided by the Department, the laboratory submits to the Department payment for the actual costs of the materials for proficiency testing; and
  6. If proficiency testing is not provided by the Department, the laboratory selects a proficiency testing service and contracts with and pays the proficiency testing service directly for proficiency testing.
- E. The Department may submit blind proficiency testing samples to a laboratory at any time during the certification period.

**Historical Note**

New Section made by exempt rulemaking at 26 A.A.R. 734, with an immediate effective date of April 2, 2020 (Supp. 20-2).

**R9-17-404.03. Method Criteria and References for Chemical Analyses**

- A. In addition to the definitions in A.R.S. § 36-2801 and R9-17-101, the following definitions apply in this Section unless otherwise stated:
1. "Limit of quantitation" means the lowest concentration of an analyte that may be detected and the concentration of the analyte reliably and accurately determined.
  2. "Matrix" means the specific components of a sample, other than the analyte being tested for.
  3. "Mid-level standard" means a standard that is between the highest concentration and lowest concentration of standards containing the same substances that are used as a reference when testing for the concentration of an analyte.
  4. "Response factor" means the ratio between a signal produced by an analyte relative to a signal produced by an internal standard at a specific concentration.
  5. "Retention time" means the length of time taken by an analyte to pass through a chromatography column.
  6. "Standard" means a sample of known concentration and containing specific substances that is used as a reference when testing for the concentration of an analyte.
- B. To perform laboratory testing using chemical analytical methods for any of the analytes in Table 3.1, a laboratory may use:
1. An established national or international chemical method; or
  2. A laboratory-developed method that was validated according to:
    - a. AOAC - Appendix K: Guidelines for Dietary Supplements and Botanicals, 2013, which is incorporated by reference, includes no future editions or amendments, and is available at [http://www.eoma.aoac.org/app\\_k.pdf](http://www.eoma.aoac.org/app_k.pdf);
    - b. USDA - Guidelines for the Validation of Chemical Methods for the FDA FVM Program, 2nd Edition, April 2015, which is incorporated by reference, includes no future editions or amendments, and is available at <https://www.fda.gov/media/81810/download>; or
    - c. ICH - Validation of Analytical Procedures: Text and Methodology Q2(R1) 2005, which is incorporated by reference, includes no future editions or amendments, and is available at [https://database.ich.org/sites/default/files/Q2\\_R1\\_Guideline.pdf](https://database.ich.org/sites/default/files/Q2_R1_Guideline.pdf) or <https://www.fda.gov/regulatory-information/search-fda-guidance-documents/q2-r1-validation-analytical-procedures-text-and-methodology>.
- C. A technical laboratory director shall ensure that all instruments and equipment used for testing medical marijuana or a marijuana product by chemical analytical methods are:
1. Set up, tuned, and calibrated according to:
    - a. Manufacturer's acceptance criteria, or
    - b. Criteria validated according to subsection (B), as applicable;
  2. Monitored and maintained according to AOAC - Guidelines for Laboratories Performing Microbiological and Chemical Analyses of Food, Dietary Supplements, and Pharmaceuticals, Appendix A: Equipment, August 2018, which is incorporated by reference, includes no future editions or amendments, and is available at <https://www.aoac.org/aoac-accreditation-guidelines-for-laboratories-alacc>; and
  3. Applicable for the analytes to be tested.
- D. A technical laboratory director shall ensure that for an initial demonstration of capability:
1. Before implementing a method, at least four replicate reference samples for each analyte are:
    - a. Spiked into a clean matrix with, as applicable, an amount at or near the maximum allowable concentration for the analyte in Table 3.1 or the mid-level standard for potency testing; and
    - b. Taken through the entire sample preparation and analysis process;
  2. Whenever a significant change to instrumentation or to a standard operating procedure occurs, the laboratory demonstrates, as specified in subsection (D)(1), that acceptable precision and bias can still be obtained by the changed conditions; and
  3. Whenever a new laboratory agent who will be performing testing on medical marijuana or marijuana products is being trained, the laboratory agent demonstrates, as specified in subsection (D)(1), acceptable precision and bias.
- E. For potency testing or testing for pesticides, fungicides, herbicides, growth regulators, or residual solvents, a technical laboratory director shall ensure that:
1. For establishing the retention time for an analyte, the retention time is determined by three injections, over the course of a 72-hour period, of a standard at or near, as applicable:
    - a. The maximum allowable concentration in Table 3.1 for the analyte; or
    - b. The mid-level standard for potency testing; and
  2. The width of the retention time window for each analyte is defined as  $\pm 3$  times the standard deviation of the mean absolute retention time that was established during the 72-hour period or 0.1 minutes, whichever is greater.
- F. A technical laboratory director shall ensure that:
1. The laboratory complies with the following requirements related to calibration and standards:
    - a. Except as specified in subsection (F)(1)(c), a minimum of:
      - i. Five standards are used for an average response factor or for a linear model,
      - ii. Six standards are used for a quadratic model, and
      - iii. Seven standards are used for a cubic model;
    - b. An X-value of zero is not included as a calibration point;
    - c. A calibration curve for heavy metal testing includes a minimum of three standards and a calibration blank;
    - d. One standard is at or near the limit of quantitation;

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- e. Except as specified in subsection (F)(1)(f) and as applicable, one standard for each analyte is at or near the:
  - i. Maximum allowable concentration in Table 3.1 for the analyte, or
  - ii. Mid-level standard for potency testing; and
- f. For testing for residual solvents, either:
  - i. One standard for each analyte is at or near the maximum allowable concentration in Table 3.1 for the analyte; or
  - ii. A standard is created containing a concentration of specific analytes that is a dilution factor from the maximum allowable concentration in Table 3.1 for the analyte and is used when performing multiple runs on a sample, with or without dilution, to cover the range of maximum allowable concentrations in Table 3.1;
- g. One standard is above the maximum allowable concentration in Table 3.1 for an analyte;
- 2. The acceptance criteria for testing is one of the following, as applicable:
  - a. The maximum relative standard deviation for the average calibration factor, for an external calibration model, or the response factor, for an internal calibration model, is no more than 20%; and
  - b. For linear and non-linear calibration models, the coefficient of determination ( $r^2$ ) is greater than or equal to 0.99;
- 3. For chromatographic testing methods using internal standards for calibration:
  - a. The relative retention time of each analyte to the internal calibration standard is within 0.06 units;
  - b. The areas of the peaks for the internal standards in any sample are between 50 and 200% of the area of the peak of the internal standard in subsection (F)(1)(e) used for calibration; and
  - c. The internal standards:
    - i. Have retention times similar to the analytes being tested for,
    - ii. Do not interfere with any of the analytes, and
    - iii. Have similar chemical properties as the analytes being tested for; and
- 4. For methods testing for heavy metals, the internal standards:
  - a. Are appropriate for the analyte, and
  - b. Do not interfere with any of the analytes.
- G. To obtain an acceptable calibration, a technical laboratory director:
  - 1. May use any of the following options:
    - a. Perform instrument maintenance to optimize analyte responses, as long as all resulting calibration models meet the acceptance criteria appropriate for the analyte;
    - b. If the problem appears to be associated with a single standard:
      - i. Reanalyze that one standard, at the time of calibration and before any samples are analyzed, to rule out problems due to random error; and
      - ii. Recalculate and reevaluate the standard against the acceptance criteria;
    - c. Narrow the calibration range by replacing one or more of the calibration standards at the upper or lower ends of the curve;
    - d. Narrow the calibration range by removing data points from either extreme end of the range and recalculating the calibration function; or
    - e. Perform a new initial calibration according to subsection (F); and
  - 2. May not:
    - a. Remove data points from within a calibration range while still retaining the extreme ends of the calibration range, or
    - b. Use non-linear calibrations to compensate for detector saturation or to avoid proper instrument maintenance.
- H. A technical laboratory director shall ensure that for initial calibration verification:
  - 1. Standards are prepared either from a different source or from a different lot of standards from the same source than the source from which the initial calibration standards specified in subsection (F)(1) were obtained and must be at or near, as applicable:
    - a. The maximum allowable concentrations for an analyte in Table 3.1,
    - b. According to subsection (F)(1)(f)(ii), or
    - c. The mid-level standard for potency testing; and
  - 2. The following acceptance criteria are used:
    - a. For potency testing, 80 to 120% recovery of true value;
    - b. For testing for pesticides, fungicides, herbicides, growth regulators, or residual solvents, 70 to 130% recovery of the true value; and
    - c. For heavy metal testing, 90 to 110% recovery of the true value.
- I. A technical laboratory director shall ensure that for the limit of quantitation:
  - 1. The limit of quantitation is initially verified by the analysis of at least seven replicate samples, spiked at the limit of quantitation, and processed through all preparation and analysis steps of the method;
  - 2. The signal to noise ratio of the replicate samples in subsection (I)(1) is at least 5:1;
  - 3. The mean recovery of the replicate samples in subsection (I)(1) is:
    - a. For potency testing,  $\pm 20\%$  of the true value;
    - b. For testing for pesticides, fungicides, herbicides, growth regulators, or residual solvents,  $\pm 50\%$  of the true value; and
    - c. For heavy metal testing,  $\pm 35\%$  of the true value;
  - 4. The relative standard deviation of the replicate samples in subsection (I)(1) is less than 20%;
  - 5. The limit of quantitation is, as applicable, no greater than:
    - a. Half the maximum allowable concentrations for an analyte in Table 3.1, or
    - b. 1.0 mg/g for each analyte for potency testing;
  - 6. Any changes to specific sample amounts, dilutions, or volumes employed are reflected in the limit of quantitation stated on a sample report; and
  - 7. Documentation of the current limit of quantitation is maintained for each analyte for each instrument.
- J. Except as provided in subsection (P), a technical laboratory director shall ensure that for batch analysis:
  - 1. Continuing calibration verification standards:
    - a. Are prepared from the same calibration standard source used to prepare the standards specified in subsection (F)(1):
      - i. Initially, with a concentration at or near, as applicable, the maximum allowable concentration for an analyte in Table 3.1, according to subsection (F)(1)(f)(ii), or the mid-level standard for potency testing; and

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- ii. Subsequently, with a concentration at or between the highest concentration and lowest concentration of standards for the analytes in the batch;
    - b. Have the following acceptance criteria:
      - i. For potency testing, 80 - 120% recovery of true value;
      - ii. For testing for pesticides, fungicides, herbicides, growth regulators, or residual solvents, 70 - 130% recovery of the true value; and
      - iii. For heavy metal testing, 90 - 110% recovery of the true value;
  - 2. If internal standards are used in continuing calibration verification, the acceptability criteria of the internal standards is determined as follows:
    - a. For testing for pesticides, fungicides, herbicides, growth regulators, or residual solvents by mass spectrometry, if the area of the peak for an internal standard is different by a factor of two from the area of the respective standard in subsection (F)(1)(e), for the most recent initial calibration sequence, according to subsection (F):
      - i. The mass spectrometer is inspected for malfunctions and corrected, and
      - ii. Reanalysis of the continuing calibration verification meets acceptance criteria in subsection (J)(1)(b)(ii) before any samples are tested; and
    - b. For heavy metal testing:
      - i. The intensity of an internal standard is monitored for each analysis to ensure that the intensity does not vary by more than  $\pm 30\%$ , with respect to the intensity during the initial calibration in subsection (F); and
      - ii. If the intensity of an internal standard is outside the range also observed in the calibration blank required in subsection (F)(1)(c):
        - (1) Testing is stopped until the problem is corrected, the instrument is recalibrated, and the new calibration is verified;
        - (2) Reanalysis of the continuing calibration verification meets acceptance criteria in subsection (J)(1)(b)(iii) before any samples are tested; and
        - (3) The affected samples are retested; and
  - 3. The frequency of continuing calibration verification is as follows:
    - a. For potency testing, heavy metal testing, or testing for pesticides, fungicides, herbicides, growth regulators, or residual solvents by a method other than mass spectrometry:
      - i. At the beginning of the test;
      - ii. After every 20 samples, not counting a quality control sample, such as a sample required in subsection (K); and
      - iii. At the end of the test; and
    - b. For testing for pesticides, fungicides, herbicides, growth regulators, or residual solvents by mass spectrometry:
      - i. At the beginning of the testing,
      - ii. After every 12 hours of running, and
      - iii. At the end of the run.
- K.** Except as provided in subsection (P), a technical laboratory director shall ensure that for batch analysis:
- 1. A method blank, with a matrix similar to each type of sample matrix to be tested within the batch:
    - a. Contains the same internal standards as the samples in the batch,
    - b. Is prepared and tested with each batch, and
    - c. Produces results below the limit of quantitation;
  - 2. Except as provided in subsection (R), a laboratory control sample and duplicate:
    - a. Are prepared at or near, as applicable:
      - i. The maximum allowable concentrations for an analyte in Table 3.1,
      - ii. According to subsection (F)(1)(f)(ii), or
      - iii. The mid-level standard for potency testing;
    - b. Are carried through all stages of sample preparation and included with each analytical batch of up to 20 samples; and
    - c. Have the following acceptance criteria:
      - i. For potency testing, 80 - 120% recovery of true value;
      - ii. For testing for pesticides, fungicides, herbicides, growth regulators, or residual solvents, 70 - 130% recovery of the true value; and
      - iii. For heavy metal testing, 80 - 120% recovery of the true value;
  - 3. The relative percent difference for the laboratory control sample and duplicate, calculated on the basis of concentration or amount, is no more than 20%; and
  - 4. A matrix spike:
    - a. Is prepared at or near, as applicable, the maximum allowable concentrations for an analyte in Table 3.1 or the mid-level standard for potency testing;
    - b. Is carried through all stages of sample preparation and included with each analytical batch of up to 20 samples for each matrix type; and
    - c. Has either the following acceptance criteria or acceptance criteria within statistically derived limits developed by the laboratory:
      - i. For potency testing, 80 - 120% recovery of true value;
      - ii. For testing for pesticides, fungicides, herbicides, growth regulators, or residual solvents, 70 - 130% recovery of the true value; and
      - iii. For heavy metal testing, 75 - 125% recovery of the true value.
- L.** A technical laboratory director shall ensure that:
- 1. Except as provided in subsection (P), for potency testing or testing for pesticides, fungicides, herbicides, growth regulators, or residual solvents by mass spectrometry, the relative intensities of the characteristic ions agrees within 30% of the relative intensities of these ions in the reference spectrum; and
  - 2. For heavy metal testing, the intensity of each internal standard is monitored for each analysis to ensure that the intensity does not vary more than  $\pm 30\%$ , with respect to the intensity of the internal standard during the initial calibration specified in subsection (F).
- M.** A technical laboratory director shall ensure that the resolution of chromatographic peaks in potency testing or testing for pesticides, fungicides, herbicides, growth regulators, or residual solvents by a method other than mass spectrometry is maintained so that the height of the valley between the two chromatographic peaks is less than 50% of the average of the two peak heights.
- N.** A technical laboratory director shall ensure that confirmation for testing for pesticides, fungicides, herbicides, growth regulators, or residual solvents by a method other than mass spectrometry:
- 1. Is performed using:

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- a. A second column:
    - i. That has a stationary phase dissimilar to the stationary phase in the primary column, and
    - ii. From which the analyte is eluted in a different order than from the primary column;
  - b. A different instrument type, such as gas chromatography followed by mass spectrometry;
  - c. Gas chromatography with two different types of detectors; or
  - d. Other recognized confirmation techniques;
2. Meets the applicable criteria in subsections (D) through (M); and
  3. Includes as part of the confirmation of the analyte:
    - a. An evaluation of the agreement of the quantitative values of the results from both methods of testing; and
    - b. Determination of the relative percent difference between the values.
- O.** If the relative percent difference between the values obtained according to subsection (N) is more than 40%, a technical laboratory director shall ensure that:
1. The chromatograms are checked to see if an obviously overlapping peak is causing an erroneously high result, and the chromatographic conditions are reviewed; and
  2. Either:
    - a. If a problem is found with one of the tests, the result from the other test is reported; and
    - b. If there is no evidence of a chromatographic problem, the higher result is reported.
- P.** A technical laboratory director may release testing results that are scientifically valid and defensible, according to R9-17-404.06(B)(3), with the following data qualifier notations if:
1. The target analyte detected in the calibration blank required in subsection (F)(1)(c) or the method blank specified in subsection (K)(1) is at or above the limit of quantitation, but the sample result:
    - a. For potency testing, is below the limit of quantitation – B1; or
    - b. When testing for pesticides, fungicides, herbicides, growth regulators, heavy metals, or residual solvents, is below the maximum allowable concentration in Table 3.1 for the analyte – B2;
  2. The limit of quantitation and the sample results were adjusted to reflect sample dilution - D1;
  3. The relative intensity of a characteristic ion in a sample analyte exceeded the acceptance criteria in subsection (L)(1) with respect to the reference spectra, indicating interference – I1;
  4. When testing for pesticides, fungicides, herbicides, growth regulators, heavy metals, or residual solvents, the percent recovery of a laboratory control sample is greater than the acceptance limits in subsection (K)(2)(c), but the sample's target analytes were not detected above the maximum allowable concentrations in Table 3.1 for the analytes in the sample – L1;
  5. The recovery from the matrix spike in subsection (K)(4) was:
    - a. High, but the recovery from the laboratory control sample in subsection (K)(2) was within acceptance criteria – M1,
    - b. Low, but the recovery from the laboratory control sample in subsection (K)(2) was within acceptance criteria – M2, or
    - c. Unusable because the analyte concentration was disproportionate to the spike level, but the recovery from the laboratory control sample in subsection (K)(2) was within acceptance criteria – M3;
  6. The analysis of a spiked sample required a dilution such that the spike recovery calculation does not provide useful information, but the recovery from the associated laboratory control sample in subsection (K)(2) was within acceptance criteria – M4;
  7. The analyte concentration was determined by the method of standard addition, in which the standard is added directly to the aliquots of the analyzed sample – M5;
  8. A description of the variance is described in the final report of testing according to R9-17-404.06(B)(3)(d)(iii) – N1;
  9. The relative percent difference for the laboratory control sample and duplicate exceeded the limit in subsection (K)(3), but the recovery in subsection (K)(2) was within acceptance criteria – R1;
  10. The relative percent difference for a sample and duplicate exceeded the limit in subsection (O) – R2; or
  11. The recovery from continuing calibration verification standards exceeded the acceptance limits in subsection (J)(1)(b), but the sample's target analytes were not detected above the maximum allowable concentrations in Table 3.1 for the analytes in the sample – V1.
- Q.** A technical laboratory director shall include in the final report of testing, according to R9-17-404.06(B)(3)(d)(ii), the following data qualifier notations if:
1. Sample integrity was not maintained – Q1; or
  2. The sample is heterogeneous, and sample homogeneity could not be readily achieved using routine laboratory practices – Q2.
- R.** For batch analysis of samples to determine potency, a technical laboratory director may check precision by using either a duplicate laboratory control sample or a duplicate sample prepared from the medical marijuana or marijuana product being tested, according to requirements in subsections (K)(2) and (3).
- S.** A technical laboratory director shall ensure that the reporting units for:
1. Pesticides, fungicides, herbicides, growth regulators, heavy metals, or residual solvents is in parts per million (ppm); and
  2. Potency is in percent relative to the bulk plant material (w/w) and for:
    - a. Total tetrahydrocannabinol, the sum of tetrahydrocannabinolic acid (THC-A), multiplied by 0.877, and delta-9-tetrahydrocannabinol ( $\Delta$ 9-THC); and
    - b. Total cannabidiol, the sum of cannabidiolic acid (CBD-A), multiplied by 0.877, and cannabidiol (CBD).

**Historical Note**

New Section made by exempt rulemaking at 26 A.A.R. 734, with an immediate effective date of April 2, 2020 (Supp. 20-2).

**R9-17-404.04. Method Criteria and References for Analyses for Microbial Contaminants**

- A.** To perform laboratory testing for the microbial contaminants in Table 3.1, a laboratory shall use an applicable method:
1. Described in:
    - a. The Bacteriological Analytical Manual (BAM), 2019, which is incorporated by reference, includes no future editions or amendments, and is available at <https://www.fda.gov/food/laboratory-methods-food/bacteriological-analytical-manual-bam>; or

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- b. AOAC Official Methods of Analysis, 21st Edition, 2019, which is incorporated by reference, includes no future editions or amendments, and is available at <https://www.aoac.org/official-methods-of-analysis-21st-edition-2019>; and
- 2. Validated according to, as applicable:
  - a. AOAC - Appendix J: Guidelines for Validation of Microbiological Methods for Food and Environmental Surfaces, 2012, which is incorporated by reference, includes no future editions or amendments, and is available at [http://www.eoma.aoac.org/app\\_j.pdf](http://www.eoma.aoac.org/app_j.pdf);
  - b. AOAC - Appendix K: Guidelines for Dietary Supplements and Botanicals, 2013, which is incorporated by reference, includes no future editions or amendments, and is available at [http://www.eoma.aoac.org/app\\_k.pdf](http://www.eoma.aoac.org/app_k.pdf); or
  - c. ICH - Validation of Analytical Procedures: Text and Methodology Q2(R1) 2005, which is incorporated by reference, includes no future editions or amendments, and is available at [https://database.ich.org/sites/default/files/Q2\\_R1\\_Guideline.pdf](https://database.ich.org/sites/default/files/Q2_R1_Guideline.pdf) or <https://www.fda.gov/regulatory-information/search-fda-guidance-documents/q2-r1-validation-analytical-procedures-text-and-methodology>.
- B. A technical laboratory director shall ensure that all instruments and equipment used for testing medical marijuana or a marijuana product for microbial contaminants are:
  - 1. Set up, calibrated, and verified according to:
    - a. Manufacturer's acceptance criteria; and
    - b. Requirements for the specific method, as specified in subsection (A)(1)(a) or (b), as applicable;
  - 2. Monitored and maintained according to AOAC - Guidelines for Laboratories Performing Microbiological and Chemical Analyses of Food, Dietary Supplements, and Pharmaceuticals, Appendix A: Equipment, August 2018, which is incorporated by reference, includes no future editions or amendments, and is available at <https://www.aoac.org/aoac-accreditation-guidelines-for-laboratories-alacc>; and
  - 3. Applicable for the analytes to be tested.
- C. A technical laboratory director shall ensure that:
  - 1. The organisms required as controls are checked, as appropriate for their application:
    - a. To ensure there is no contamination with other organisms,
    - b. For verification of biochemical or other biological characteristics, and
    - c. To ascertain the number of organisms; and
  - 2. Documentation is maintained of the:
    - a. Checking required in subsection (C)(1), and
    - b. Traceability of the organisms in subsection (C)(1) from date of possession.
- D. A technical laboratory director shall ensure that for an initial demonstration of capability:
  - 1. Before implementing a method, at least four replicate reference samples for each analyte are:
    - a. Spiked with control organisms at an amount allowing for quantitation, and
    - b. Taken through the entire sample preparation and analysis process;
  - 2. Whenever a significant change to instrumentation or to a standard operating procedure occurs, the laboratory demonstrates, as specified in subsection (D)(1), that acceptable precision and bias can still be obtained by the changed conditions; and
- 3. Whenever a new laboratory agent who will be performing testing on medical marijuana or marijuana products is being trained, the laboratory agent demonstrates, as specified in subsection (D)(1), acceptable precision and bias.
- E. A technical laboratory director shall ensure that each batch of media or reagent:
  - 1. Is examined to ensure it is suitable for use;
  - 2. If externally prepared, has a certificate of meeting quality control standards, issued by the manufacturer;
  - 3. If internally prepared, has documentation of:
    - a. Instructions for preparation;
    - b. Traceability to dehydrated media or reagent concentrate;
    - c. Sterility, including, as applicable:
      - i. Autoclave records showing the date, run number, autoclave identifier, nature of the material being autoclaved, time at desired temperature, and name of the laboratory agent starting the autoclave; and
      - ii. For another sterilization method, records showing the date, type of sterilization method, nature of the material being sterilized, confirmation of the sterilization as applicable to the method, and name of the laboratory agent initiating the sterilization method;
    - d. Checking for the following, as applicable, including the name of the laboratory agent who performed the check and date of the check:
      - i. pH,
      - ii. Appearance,
      - iii. Fill volumes,
      - iv. Batch size, and
      - v. Quantity; and
  - 4. Undergoes quality control verification, as applicable, including the name of the laboratory agent who performed the verification and date of verification, for:
    - a. The ability of media to sustain growth of the organism for which the media will be used;
    - b. If applicable, the ability of media to select for specific organisms or characteristics of an organism;
    - c. The ability of a reagent to function as intended; and
    - d. Sterility of the media or reagent before use.
- F. If test kits or other identification systems are used for laboratory testing, a technical laboratory director shall ensure that:
  - 1. Each lot of test kits or other identification systems undergoes quality control verification, including the name of the laboratory agent who performed the verification and date of verification, for:
    - a. Having a certificate of meeting quality control standards, issued by the manufacturer; and
    - b. Passing a visual inspection of physical characteristics; and
  - 2. If an identification system is intended to speciate organisms, the identification system is tested with at least one control organism appropriate for the identification system to confirm acceptability.
- G. A technical laboratory director shall ensure that:
  - 1. For testing for *Aspergillus* with a plating method:
    - a. One of the following plating media is used:
      - i. Malt extract agar, BAM Media M182;
      - ii. Dichloran rose bengal chloramphenicol agar, BAM Media M183; or
      - iii. Potato dextrose agar with rose bengal and chloramphenicol; and



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- b. Petrifilm™, Simplate™, or another pre-made plate that is unsuitable for growing spreading molds is not used; and
    - 2. For testing for mycotoxins by any method, at least a 0.5 g sample is tested.
  - H. A technical laboratory director shall ensure that:
    - 1. The reporting units for *Escherichia coli* are colony forming units per gram (CFU/g);
    - 2. Reporting for *Salmonella* is “Detected” or “Not detected” in one gram;
    - 3. Reporting for *Aspergillus* is “Detected” or “Not detected” in one gram; and
    - 4. Reporting for mycotoxins includes:
      - a. Total aflatoxins in units of micrograms per kilogram (µg/kg), and
      - b. Ochratoxin A in units of micrograms per kilogram (µg/kg).
- Historical Note**  
 New Section made by exempt rulemaking at 26 A.A.R. 734, with an immediate effective date of April 2, 2020 (Supp. 20-2).
- R9-17-404.05. Quality Assurance**
- A. An owner holding a laboratory registration certificate or applicant shall ensure that the analytical data produced at the owner’s or applicant’s laboratory are of known and acceptable precision and accuracy, as prescribed by the method criteria for each analyte in R9-17-404.03 or R9-17-404.04, and are scientifically valid and defensible.
  - B. An owner holding a laboratory registration certificate or applicant shall establish, implement, and comply with a written quality assurance plan that contains the following and is available at the laboratory for Department review:
    - 1. A title page identifying the laboratory and date of review and including the technical laboratory director’s signature of approval;
    - 2. A table of contents;
    - 3. An organization chart or list of the laboratory personnel, including names, lines of authority, and identification of principal quality assurance personnel;
    - 4. A copy of the current laboratory registration certificate and a list of approved parameters;
    - 5. A statement of quality assurance objectives, including data quality objectives with precision and accuracy goals and the criteria for determining the acceptability of each testing;
    - 6. Specifications for:
      - a. Sample containers,
      - b. Preparation of sample containers, and
      - c. Preservation of samples;
    - 7. A procedure for documenting laboratory receipt of samples and tracking of samples during laboratory testing;
    - 8. A procedure for analytical instrument calibration, including frequency of calibration and complying with the requirements for calibration in subsection (D);
    - 9. A procedure for testing data reduction and validation and reporting of final results, including the identification and treatment of data outliers, the determination of the accuracy of data transcription, and all calculations;
    - 10. A statement of the frequency of all quality control checks;
    - 11. A statement of the acceptance criteria for all quality control checks;
    - 12. Preventive maintenance procedures and schedules;
  - 13. Assessment procedures for data acceptability, including appropriate procedures for manual integration of chromatograms and when manual integration is inappropriate;
  - 14. Corrective action procedures to be taken when results from analytical quality control checks are unacceptable, including steps to demonstrate the presence of any interference if the precision, accuracy, or limit of quantitation of the reported testing result is affected by the interference; and
  - 15. Procedures for chain-of-custody documentation, including procedures for the documentation and reporting of any deviation from the sample handling or preservation requirements.
- C. An owner holding a laboratory registration certificate or applicant shall ensure that a laboratory’s written quality assurance plan is a separate document available at the laboratory and includes all of the components required in subsection (B), but an owner or applicant may satisfy the components required in subsections (B)(3) through (15) through incorporating by reference provisions in separate documents, such as standard operating procedures.
  - D. An owner holding a laboratory registration certificate or applicant shall:
    - 1. Have available at the laboratory all methods, equipment, reagents, and supplies necessary for the testing for which the owner or applicant is approved or is requesting approval;
    - 2. Use only reagents of a grade equal to or greater than that required by the method criteria in R9-17-404.03 or R9-17-404.04, and document the use of the reagents;
    - 3. Maintain and require each laboratory agent performing testing on medical marijuana or a marijuana product to comply with a complete and current standard operating procedure that meets the requirements for each method, as specified in R9-17-404.03 or R9-17-404.04, which shall include at least:
      - a. A description of all procedures to be followed when the method is performed;
      - b. A list of the concentrations for calibration standards, check standards, and spikes;
      - c. Requirements for instrumental conditions and set up;
      - d. A requirement for frequency of calibration;
      - e. The quantitative methods to be used to calculate the final concentration of an analyte in samples, including any factors used in the calculations and the calibration algorithm used; and
      - f. Requirements for preventative maintenance;
    - 4. Calibrate each instrument as required by the standard operating procedure, as specified in R9-17-404.03 or R9-17-404.04, for which the equipment is used;
    - 5. Maintain calibration documentation, including documentation that demonstrates the calculations performed using each calibration model;
    - 6. Develop, document, and maintain a current limit of quantitation, as specified in R9-17-404.03, for each compliance parameter for each instrument;
    - 7. For each parameter tested at the laboratory use the quality control acceptance criteria specified according to R9-17-404.03, R9-17-404.04, and Table 3.1;
    - 8. Discard or segregate all expired standards or reagents;
    - 9. Maintain a record showing the traceability of reagents; and
    - 10. Ensure that a calibration model is not used or changed to avoid necessary instrument maintenance.

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- E. Except as provided in subsection (F), an owner holding a laboratory registration certificate or applicant shall ensure that each laboratory standard operating procedure is a separate document available at the laboratory and includes all of the components required in subsection (D)(3).
- F. An owner holding a laboratory registration certificate or applicant may satisfy the components required in subsections (D)(3)(e) and (f) through incorporating by reference provisions in separate documents, such as other standard operating procedures.

**Historical Note**

New Section made by exempt rulemaking at 26 A.A.R. 734, with an immediate effective date of April 2, 2020 (Supp. 20-2).

**R9-17-404.06. Operations**

- A. A technical laboratory director shall ensure that:
  - 1. A sample of medical marijuana or a marijuana product accepted at the technical laboratory director's laboratory is analyzed at the laboratory and as received;
  - 2. If an instrument or equipment used for testing medical marijuana or a marijuana product has a mechanism to track any changes made to testing results, the tracking mechanism is activated;
  - 3. The facility and utilities required to operate equipment and perform testing of medical marijuana or marijuana products are maintained;
  - 4. Environmental controls are maintained within the laboratory to ensure that laboratory environmental conditions do not affect analytical results beyond quality control limits established for the methods performed at the laboratory;
  - 5. Storage, handling, and disposal of hazardous materials at the laboratory are in accordance with all state and federal regulations;
  - 6. The laboratory complies with all applicable federal, state, and local occupational safety and health regulations; and
  - 7. The following information is maintained for all laboratory agents providing supervisory, quality assurance, or analytical functions related to testing of medical marijuana or a marijuana product:
    - a. A summary of each laboratory agent's education and professional experience;
    - b. Documentation of each laboratory agent's applicable certifications and specialized training;
    - c. Information related to the laboratory agent's registry identification card;
    - d. Documentation of each laboratory agent's review of the quality assurance plan required under R9-17-404.05(B) and the methods and laboratory standard operating procedures for all testing of marijuana or marijuana products performed by the laboratory agent or for which the laboratory agent has supervisory or quality assurance responsibility;
    - e. Documentation of each laboratory agent's completion of training on the use of equipment and of proper laboratory technique, including the name of the laboratory agent, the name of the instructor, the duration of the training, and the date of completion of the training;
    - f. Documentation of each laboratory agent's completion of training classes, continuing education courses, seminars, and conferences that relate to the testing procedures used by the laboratory agent for testing of marijuana or marijuana products;
- B. A technical laboratory director shall ensure that:
  - 1. A testing record for marijuana or marijuana products contains:
    - a. Sample information, including the following:
      - i. A unique sample identification assigned at the laboratory;
      - ii. A description of the marijuana or marijuana product from which the submitted sample was taken, including the amount, strain, and batch number;
      - iii. The sample collection date and time; and
      - iv. The type of testing to be performed;
    - b. A picture of the sample as submitted;
    - c. The name and registry identification number of the dispensary, qualifying patient, or designated caregiver submitting the sample to the laboratory;
    - d. If applicable, name and the registry identification number of the dispensary agent submitting the sample to the laboratory on behalf of a dispensary;
    - e. The date and time of receipt of the sample at the laboratory;
    - f. The name and registry identification number of the laboratory agent who received the sample at the laboratory;
    - g. The dates and times of testing, including the date and time of each critical step;
    - h. Whether testing results related to a sample were changed;
    - i. If testing results related to a sample were changed, what was changed, the name of the laboratory agent who changed the testing results, the time and date the data were changed, and why the testing results were changed;
    - j. If testing results were changed due to retesting:
      - i. What was used or done to the sample, and
      - ii. The original and changed testing results;
    - k. The actual results of testing, including all raw data, work sheets, and calculations performed;

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- l. The actual results of quality control data validating the test results, including the calibration and calculations performed;
- m. The name of each laboratory agent who performed the testing; and
- n. A copy of the final report;
2. A testing result for medical marijuana or a marijuana product that is known to be inaccurate is not reported; and
3. A final report of testing of marijuana or marijuana products contains:
  - a. The name, address, and telephone number of the laboratory;
  - b. The registry identification number assigned to the laboratory by the Department;
  - c. Actual scientifically valid and defensible results of testing of a sample of medical marijuana or a marijuana product in appropriate units of measure, obtained in accordance with R9-17-404.03, R9-17-404.04, and the quality assurance plan;
  - d. Either:
    - i. A statement that testing results were obtained according to requirements in the quality assurance plan in R9-17-404.05, in the applicable standard operating procedure, and in R9-17-404.03 or R9-17-404.04; or
    - ii. A description of any variances from the requirements in the quality assurance plan in R9-17-404.05, the applicable standard operating procedure, R9-17-404.03, or R9-17-404.04, and the reason for the variance;
  - e. A list of each method used to obtain the reported results;
  - f. Sample information, including the following:
    - i. The unique sample identification assigned at the laboratory;
    - ii. A picture of the sample as submitted;
    - iii. A description of the marijuana or marijuana product from which the submitted sample was taken, including the amount, strain and batch number;
    - iv. The sample collection date and time;
    - v. The name and registry identification number of the dispensary, qualifying patient, or designated caregiver submitting the sample to the laboratory; and
    - vi. If applicable, name and the registry identification number of the dispensary agent submitting the sample to the laboratory on behalf of a dispensary;
  - g. The date of testing for each parameter reported;
  - h. The date of the final report; and
  - i. The technical laboratory director's or designee's signature.

**Historical Note**

New Section made by exempt rulemaking at 26 A.A.R. 734, with an immediate effective date of April 2, 2020 (Supp. 20-2).

**R9-17-404.07. Adding or Removing Parameters for Testing**

- A. During the term of a laboratory registration certificate, an owner may request to have one or more parameters:
  1. Added to the laboratory registration certificate, or
  2. Removed from the laboratory registration certificate.
- B. To request a change to one or more parameters, an applicant shall submit to the Department:

1. The following information in a Department-provided format:
  - a. The name, address, and telephone number of the applicant;
  - b. The name, address, and telephone number of the laboratory for which the change is requested;
  - c. If requesting the removal of a parameter, identification of the parameter to be removed; and
  - d. If requesting the addition of a parameter:
    - i. The analyte to be tested for;
    - ii. The instruments and equipment to be used for testing;
    - iii. The software to be used at the laboratory for instrument control and data reduction interpretation; and
    - iv. The limit of quantitation, if applicable;
2. The following for each parameter requested to be added:
  - a. A copy of current accreditation;
  - b. A copy of a proficiency testing report, if applicable, or accuracy testing documentation; and
  - c. A copy of the standard operating procedure; and
3. If applicable, any changes to the quality assurance plan in R9-17-404.05(B) made due to the addition or removal of the parameter.
- C. The Department may conduct a laboratory inspection during the substantive review period for a request to have one or more parameters added to a laboratory registration certificate.
- D. The Department shall process a request to have one or more parameters added to a laboratory registration certificate as provided in R9-17-107.

**Historical Note**

New Section made by exempt rulemaking at 26 A.A.R. 734, with an immediate effective date of April 2, 2020 (Supp. 20-2).

**R9-17-405. Submitting an Application for a Laboratory Agent Registry Identification Card**

To obtain a laboratory agent registry identification card for an individual serving as an owner for the laboratory, employed by the laboratory, or providing volunteer services at or on behalf of the laboratory, the owner shall submit to the Department the following for each laboratory agent:

1. An application in a Department-provided format that includes:
  - a. The laboratory agent's first name; middle initial, if applicable; last name; and suffix, if applicable;
  - b. The laboratory agent's residence address and mailing address;
  - c. The county where the laboratory agent resides;
  - d. The laboratory agent's date of birth;
  - e. The identifying number on the applicable card or document in subsections (5)(a) through (e);
  - f. The name and registry identification number of the laboratory; and
  - g. The signature of the individual in R9-17-402(A)(1)(c) designated to submit laboratory agent applications on the laboratory's behalf and the date the individual signed;
2. An attestation signed and dated by the laboratory agent that the laboratory agent:
  - a. Has not been convicted of an excluded felony offense as defined in A.R.S. § 36-2801, and
  - b. Will not test medical marijuana and medical marijuana products for:
    - i. A dispensary, related medical marijuana business entity, or management company that the

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- laboratory agent has a direct or indirect familial or financial relationship with or interest in; or
- ii. A designated caregiver who the laboratory has a direct or indirect familial or financial relationship with;
3. One of the following:
    - a. A statement that the laboratory agent does not currently hold a valid registry identification card, or
    - b. The assigned registry identification number for the laboratory agent for each valid registry identification card currently held by the laboratory agent;
  4. A statement in a Department-provided format, signed by the laboratory agent, pledging not to divert marijuana to any individual who or entity that is not allowed to possess marijuana pursuant to A.R.S. Title 36, Chapter 28.1;
  5. A copy of the laboratory agent's:
    - a. Arizona driver's license issued on or after October 1, 1996;
    - b. Arizona identification card issued on or after October 1, 1996;
    - c. Arizona registry identification card;
    - d. Photograph page in the laboratory agent's U.S. passport; or
    - e. Arizona driver's license or identification card issued before October 1, 1996 and one of the following for the laboratory agent:
      - i. Birth certificate verifying U.S. citizenship,
      - ii. U.S. Certificate of Naturalization, or
      - iii. U.S. Certificate of Citizenship;
  6. A current photograph of the laboratory agent;
  7. For the Department's criminal records check authorized in A.R.S. §§ 36-2804.01 and 36-2804.07:
    - a. The laboratory agent's fingerprints on a fingerprint card that includes:
      - i. The laboratory agent's first name; middle initial, if applicable; and last name;
      - ii. The laboratory agent's signature;
      - iii. If different from the laboratory agent, the signature of the individual physically rolling the laboratory agent's fingerprints;
      - iv. The laboratory agent's address;
      - v. If applicable, the laboratory agent's surname before marriage and any names previously used by the laboratory agent;
      - vi. The laboratory agent's date of birth;
      - vii. The laboratory agent's Social Security number;
      - viii. The laboratory agent's citizenship status;
      - ix. The laboratory agent's gender;
      - x. The laboratory agent's race;
      - xi. The laboratory agent's height;
      - xii. The laboratory agent's weight;
      - xiii. The laboratory agent's hair color;
      - xiv. The laboratory agent's eye color; and
      - xv. The laboratory agent's place of birth; or
    - b. If the laboratory agent's fingerprints and information required in subsection (7)(a) were submitted to the Department within the previous six months as part of an application for a designated caregiver registry identification card, a dispensary agent registry identification card, or a laboratory agent registry identification card, the registry identification number on the registry identification card issued to the laboratory agent as a result of the application; and
  8. The applicable fee in R9-17-102 for applying for a laboratory agent registry identification card.

**Historical Note**

New Section made by exempt rulemaking at 25 A.A.R. 2421, effective August 27, 2019 (Supp. 19-3).

**R9-17-406. Submitting an Application to Renew a Laboratory Agent's Registry Identification Card**

To renew a laboratory agent's registry identification card for an individual serving as an owner for the laboratory, employed by the laboratory, or providing volunteer services at or on behalf of the laboratory, the laboratory shall submit to the Department, at least 30 calendar days before the expiration of the laboratory agent's registry identification card, but no more than 90 days before the expiration date of the laboratory's agent's registry identification card, the following:

1. An application in a Department-provided format that includes:
  - a. The laboratory agent's first name; middle initial, if applicable; last name; and suffix, if applicable;
  - b. The laboratory agent's residence address and mailing address;
  - c. The county where the laboratory agent resides;
  - d. The laboratory agent's date of birth;
  - e. The registry identification number on the laboratory agent's current registry identification card;
  - f. The identifying number on the applicable card or document in subsection (6)(a) through (e);
  - g. The name and registry identification number of the laboratory; and
  - h. The signature of the individual in R9-17-402(A)(1)(c) designated to submit laboratory agent applications on the laboratory's behalf and the date the individual signed;
2. If the laboratory agent's name in subsection (1)(a) is not the same name as on the laboratory agent's current registry identification card, one of the following with the laboratory agent's new name:
  - a. An Arizona driver's license,
  - b. An Arizona identification card, or
  - c. The photograph page in the laboratory agent's U.S. passport;
3. An attestation signed and dated by the laboratory agent that the laboratory agent:
  - a. Has not been convicted of an excluded felony offense as defined in A.R.S. § 36-2801; and
  - b. Will not test medical marijuana and medical marijuana products for:
    - i. A dispensary, related medical marijuana business entity or management company the laboratory agent has a direct or indirect familial or financial relationship with or interest in; or
    - ii. A designated caregiver the laboratory has a direct or indirect familial or financial relationship with;
4. One of the following:
  - a. A statement that the laboratory agent does not currently hold a valid registry identification card, or
  - b. The assigned registry identification number for the laboratory agent for each valid registry identification card currently held by the laboratory agent;
5. A statement in a Department-provided format signed by the laboratory agent pledging not to divert marijuana to any individual who or entity that is not allowed to possess marijuana pursuant to A.R.S. Title 36, Chapter 28.1;
6. A copy of the laboratory agent's:
  - a. Arizona driver's license issued on or after October 1, 1996;

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- b. Arizona identification card issued on or after October 1, 1996;
- c. Arizona registry identification card;
- d. Photograph page in the laboratory agent's U.S. passport; or
- e. Arizona driver's license or identification card issued before October 1, 1996 and one of the following for the laboratory agent:
  - i. Birth certificate verifying U.S. citizenship,
  - ii. U.S. Certificate of Naturalization, or
  - iii. U.S. Certificate of Citizenship;
- 7. A current photograph of the laboratory agent;
- 8. For the Department's criminal records check authorized in A.R.S. §§ 36-2804.01 and 36-2804.07:
  - a. The laboratory agent's fingerprints on a fingerprint card that includes:
    - i. The laboratory agent's first name; middle initial, if applicable; and last name;
    - ii. The laboratory agent's signature;
    - iii. If different from the laboratory agent, the signature of the individual physically rolling the laboratory agent's fingerprints;
    - iv. The laboratory agent's address;
    - v. If applicable, the laboratory agent's surname before marriage and any names previously used by the laboratory agent;
    - vi. The laboratory agent's date of birth;
    - vii. The laboratory agent's Social Security number;
    - viii. The laboratory agent's citizenship status;
    - ix. The laboratory agent's gender;
    - x. The laboratory agent's race;
    - xi. The laboratory agent's height;
    - xii. The laboratory agent's weight;
    - xiii. The laboratory agent's hair color;
    - xiv. The laboratory agent's eye color; and
    - xv. The laboratory agent's place of birth; or
  - b. If the laboratory agent's fingerprints and information required in subsection (8)(a) were submitted to the Department within the previous six months as part of an application for a designated caregiver registry identification card, a dispensary agent registry identification card, or a laboratory agent registry identification card, the registry identification number on the registry identification card issued to the laboratory agent as a result of the application; and
- 9. The applicable fee in R9-17-102 for applying to renew a laboratory agent's registry identification card.

**Historical Note**

New Section made by exempt rulemaking at 25 A.A.R. 2421, effective August 27, 2019 (Supp. 19-3).

**R9-17-407. Inventory Control System**

- A. A laboratory shall not accept submissions of marijuana or marijuana products for testing from an individual who or entity that is not allowed to possess marijuana pursuant to A.R.S. Title 36, Chapter 28.1.
- B. A technical laboratory director laboratory shall designate in writing a laboratory agent who has oversight of the laboratory's marijuana inventory control system.
- C. A technical laboratory director shall establish and implement an inventory control system for the laboratory's medical marijuana and marijuana products that documents:
  - 1. Each day's beginning medical marijuana and marijuana products inventory, medical marijuana and marijuana products accepted for testing, medical marijuana and marijuana products transferred to another laboratory at

the request of a dispensary according to R9-17-3317.01(C), disposal of medical marijuana or marijuana products, and ending medical marijuana and marijuana products inventory;

- 2. The chain of custody for each sample of medical marijuana or a marijuana product submitted to the laboratory for testing;
- 3. Any damage to a sample's container or possible tampering; and
- 4. As applicable, for submissions of marijuana and marijuana products for testing:
  - a. A description of the submitted marijuana or marijuana products including the amount, strain and batch number;
  - b. The name and registry identification number of the dispensary that submitted the marijuana or marijuana products;
  - c. The name and registry identification number of the dispensary agent that submitted the marijuana or marijuana products;
  - d. The name and registry identification number of the qualifying patient that submitted the marijuana or marijuana products;
  - e. The name and registry identification number of the designated caregiver that submitted the marijuana or marijuana products;
  - f. The name and registry identification number of the laboratory agent receiving the marijuana or marijuana products on behalf of the laboratory;
  - g. The date of acquisition;
  - h. The date of each test; and
  - i. The test results.
- D. The individual designated in subsection (A) shall conduct and document an audit of the laboratory's inventory that is accounted for according to generally accepted accounting principles at least once every 30 calendar days.
  - 1. If the audit identifies a reduction in the amount of marijuana or marijuana products in the laboratory's inventory not due to documented causes, the technical laboratory director shall determine where the loss has occurred and take and document corrective action.
  - 2. If the reduction in the amount of marijuana or marijuana products in the laboratory's inventory is due to suspected criminal activity by a laboratory agent, the technical laboratory director shall report the laboratory agent to the Department and to the local law enforcement authorities and document the report.
- E. A laboratory shall:
  - 1. Maintain the documentation required in subsections (C) and (D) at the dispensary for at least five years after the date on the document, and
  - 2. Provide the documentation required in subsections (C) and (D) to the Department for review upon request.

**Historical Note**

New Section made by exempt rulemaking at 25 A.A.R. 2421, effective August 27, 2019 (Supp. 19-3). Amended by exempt rulemaking at 26 A.A.R. 734, with an immediate effective date of April 2, 2020; amended by exempt rulemaking at 26 A.A.R. 968, effective April 20, 2020 (Supp. 20-2).

**R9-17-408. Security**

- A. Except as provided in R9-17-404(8), a laboratory shall ensure that access to the area of the laboratory where marijuana or marijuana products are being tested or stored for testing is limited to a laboratory's owners and authorized laboratory agents.

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- B.** A laboratory agent may transport marijuana or marijuana products submitted for testing to a laboratory.
- C.** Before transportation to a laboratory, a laboratory agent shall:
1. Complete a trip plan that includes:
    - a. The name of the laboratory agent in charge of transporting the marijuana or marijuana products;
    - b. The date and start time of the trip;
    - c. A description of the marijuana or marijuana products being transported;
    - d. Any anticipated stops during the trip, including the locations of the stops; and
    - e. The anticipated route of transportation; and
  2. Provide a copy of the trip plan in subsection (C)(1) to the laboratory.
- D.** During transportation to the laboratory, a laboratory agent shall:
1. Carry a copy of the trip plan in subsection (C)(1) with the laboratory agent for the duration of the trip;
  2. Use a vehicle without any medical marijuana identification;
  3. Have a means of communication with the laboratory; and
  4. Ensure that the marijuana or marijuana products are not visible.
- E.** After transportation, a laboratory agent shall enter the end time of the trip and any changes to the trip plan on the trip plan required in subsection (C)(1).
- F.** If a dispensary agent transports medical marijuana or a marijuana product to a laboratory for testing, the laboratory shall require that a copy of the trip plan be provided by the dispensary before accepting the medical marijuana or marijuana product for testing.
- G.** A laboratory shall:
1. Maintain the documents required in subsections (C)(2), (E), and (F); and
  2. Provide a copy of the documents required in subsections (C)(2), (E), and (F) to the Department for review upon request.
- H.** To prevent unauthorized access to marijuana or marijuana products at the laboratory for testing, the laboratory shall have the following:
1. Security equipment to deter and prevent unauthorized entrance into limited access areas that include:
    - a. Devices or a series of devices to detect unauthorized intrusion, which may include a signal system interconnected with a radio frequency method, such as cellular, private radio signals, or other mechanical or electronic device;
    - b. Exterior lighting to facilitate surveillance;
    - c. Electronic monitoring including:
      - i. At least one 19-inch or greater call-up monitor;
      - ii. A video printer capable of immediately producing a clear still photo from any video camera image;
      - iii. Video cameras:
        - (1) Providing coverage of all entrances to and exits from limited access areas and all entrances to and exits from the building, capable of identifying any activity occurring in or adjacent to the building; and
        - (2) Having a recording resolution of at least 704 x 480 or the equivalent;
      - iv. A video camera in each area of the laboratory where marijuana or marijuana products are being tested or stored for testing capable of identifying any activity occurring within the area in low light conditions;
  - v. Storage of video recordings from the video cameras for at least 30 calendar days;
  - vi. A failure notification system that provides an audible and visual notification of any failure in the electronic monitoring system; and
  - vii. Sufficient battery backup for video cameras and recording equipment to support at least five minutes of recording in the event of a power outage; and
- d. Panic buttons in the interior of each building; and
2. Policies and procedures that:
    - a. Restrict access to the areas of the laboratory that contain marijuana or marijuana products and, if applicable, to authorized individuals only;
    - b. Provide for the identification of authorized individuals; and
    - c. Prevent loitering.

**Historical Note**

New Section made by exempt rulemaking at 25 A.A.R. 2421, effective August 27, 2019 (Supp. 19-3). Amended by exempt rulemaking at 26 A.A.R. 734, with an immediate effective date of April 2, 2020 (Supp. 20-2).

**R9-17-409. Physical Plant**

- A.** A laboratory shall ensure that designated storage areas for marijuana or marijuana products or materials used in direct contact with marijuana or marijuana products are:
1. Separate from storage areas for toxic or flammable materials; and
  2. Maintained in a manner to prevent:
    - a. Microbial contamination and proliferation, and
    - b. Contamination or infestation by insects or rodents.
- B.** A laboratory shall ensure that a designated storage area for medical marijuana or a marijuana product is:
1. At an appropriate temperature for the medical marijuana or marijuana product, as specified on the packaged sample;
  2. Monitored to ensure that a:
    - a. Room temperature storage area is maintained between 20°C and 28°C,
    - b. Refrigerated storage area is maintained between 2°C and 8°C, and
    - c. Freezer storage area is maintained at less than -20°C; and
  3. Labelled to indicate the temperature range and types of medical marijuana or marijuana products to be stored in the storage area.
- C.** A laboratory shall ensure that a designated area for testing medical marijuana or a marijuana product for microbial contaminants is maintained in a manner to prevent exposure of the medical marijuana or marijuana product to external microbial contaminants.
- D.** A laboratory shall ensure that a designated area for testing medical marijuana or a marijuana product for pesticides, fungicides, herbicides, growth regulators, heavy metals, or residual solvents is maintained in a manner to prevent exposure of the medical marijuana or marijuana product to external contamination.

**Historical Note**

New Section made by exempt rulemaking at 25 A.A.R. 2421, effective August 27, 2019 (Supp. 19-3). Amended by exempt rulemaking at 26 A.A.R. 734, with an immediate effective date of April 2, 2020 (Supp. 20-2).

**R9-17-410. Denial or Revocation of a Laboratory Registration Certificate**

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- A.** The Department shall deny an application for a laboratory registration certificate if:
1. The physical address of the laboratory is within 500 feet of a private school or a public school that existed before the date the laboratory submitted the initial laboratory registration certificate application;
  2. An owner:
    - a. Has been convicted of an excluded felony offense, or
    - b. Is under 21 years of age;
  3. The application or the laboratory does not comply with the requirements in A.R.S. Title 36, Chapter 28.1 and this Chapter;
  4. The laboratory acquires marijuana or marijuana products from an individual who or entity that is not allowed to possess marijuana pursuant to A.R.S. Title 36, Chapter 28.1;
  5. The laboratory diverts marijuana or marijuana products to an individual who or entity that is not allowed to possess marijuana pursuant to A.R.S. Title 36, Chapter 28.1;
  6. An owner has any direct or indirect familial or financial relationship with or interest in a dispensary or related medical marijuana business entity or management company, or any direct or indirect familial or financial relationship with a designated caregiver for whom the laboratory is testing marijuana and marijuana products for medical use in this state; or
  7. The laboratory fails to maintain accreditation.
- B.** The Department may deny an application for a laboratory registration certificate if an owner of the laboratory provides false or misleading information to the Department.
- C.** The Department shall revoke a laboratory's registration certificate if:
1. The laboratory acquires marijuana or marijuana products from an individual who or entity that is not allowed to possess marijuana pursuant to A.R.S. Title 36, Chapter 28.1;
  2. The laboratory diverts marijuana or marijuana products to an individual who or entity that is not allowed to possess marijuana pursuant to A.R.S. Title 36, Chapter 28.1;
  3. An owner has been convicted of an excluded felony offense;
  4. An owner has any direct or indirect familial or financial relationship with or interest in a dispensary or related medical marijuana business entity or management company, or any direct or indirect familial or financial relationship with a designated caregiver for whom the laboratory is testing marijuana and marijuana products for medical use in this state; or
  5. The laboratory fails to maintain accreditation.
- D.** The Department may deny an application for a laboratory registration certificate or revoke a laboratory registration certificate if the laboratory does not:
1. Comply with:
    - a. The requirements in A.R.S. Title 36, Chapter 28.1 and this Chapter; or
    - b. The provisions in a corrective action plan submitted according to R9-17-404.01(E)(2)(b); or
  2. Implement the policies and procedures or comply with the statements provided to the Department with the laboratory's application.
- E.** If the Department denies a laboratory registration certificate application, the Department shall provide notice to the applicant that includes:
1. The specific reason or reasons for the denial, and
  2. All other information required by A.R.S. § 41-1076.
- F.** If the Department revokes a laboratory registration certificate, the Department shall provide notice to the laboratory that includes:
1. The specific reason or reasons for the revocation; and
  2. The process for requesting a judicial review of the Department's decision pursuant to A.R.S. Title 12, Chapter 7, Article 6.

**Historical Note**

New Section made by exempt rulemaking at 25 A.A.R. 2421, effective August 27, 2019 (Supp. 19-3). Amended by exempt rulemaking at 26 A.A.R. 734, with an immediate effective date of April 2, 2020 (Supp. 20-2).

**R9-17-411. Denial or Revocation of a Laboratory Agent's Registry Identification Card**

- A.** The Department shall deny an application for or renewal of a laboratory agent's registry identification card if the laboratory agent does not meet the requirements in A.R.S. § 36-2801.
- B.** The Department may deny an application for or renewal of a laboratory agent's registry identification card if the laboratory agent provides false or misleading information to the Department.
- C.** The Department shall revoke a laboratory agent's registry identification card if the laboratory agent:
1. Uses marijuana, if the laboratory agent does not have a qualifying patient registry identification card;
  2. Diverts marijuana or marijuana products to an individual who or entity that is not allowed to possess marijuana pursuant to A.R.S. Title 36, Chapter 28.1; or
  3. Has been convicted of an excluded felony offense.
- D.** The Department may revoke a laboratory agent's registry identification card if the laboratory agent knowingly violates A.R.S. Title 36, Chapter 28.1 or this Chapter.
- E.** If the Department denies or revokes a laboratory agent's registry identification card, the Department shall provide notice to the laboratory agent and the laboratory agent's laboratory that includes:
1. The specific reason or reasons for the denial or revocation; and
  2. The process for requesting a judicial review of the Department's decision pursuant to A.R.S. Title 12, Chapter 7, Article 6.

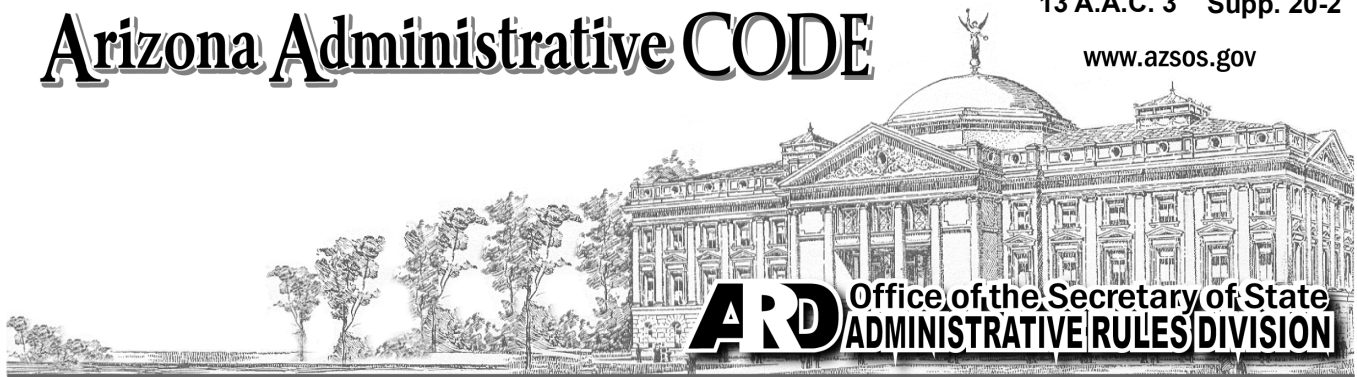
**Historical Note**

New Section made by exempt rulemaking at 25 A.A.R. 2421, effective August 27, 2019 (Supp. 19-3).

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## TITLE 13. PUBLIC SAFETY

### CHAPTER 3. DEPARTMENT OF PUBLIC SAFETY - TOW TRUCKS

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Sections, Parts, Exhibits, Tables or Appendices codified in this supplement. The list provided contains quick links to the updated rules.

This Chapter contains rule Sections that were filed to be codified in the *Arizona Administrative Code* between the dates of April 1, 2020 through June 30, 2020 (Supp. 20-2).

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#### The release of this Chapter in Supp. 20-2 replaces Supp. 19-1, 1-12 pages

Please note that the Chapter you are about to replace may have rules still in effect after the publication date of this supplement. Therefore, all superseded material should be retained in a separate binder and archived for future reference.





## Administrative Rules Division

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## TITLE 13. PUBLIC SAFETY

## CHAPTER 3. DEPARTMENT OF PUBLIC SAFETY - TOW TRUCKS

(Authority: A.R.S. § 28-1007 et seq.)

*Editor's Note: This Chapter was recodified under A.R.S. § 41-1011(C) to comply with the numbering system prescribed by the Office of the Secretary of State (Supp. 03-4).*

## ARTICLE 1. REPEALED AND EXPIRED

Article 1, consisting of Section R13-3-101, automatically repealed; expired by G.R.R.C. under A.R.S. § 41-1056(E) at 16 A.A.R. 1175, both effective June 1, 2010 (Supp. 10-2).

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## ARTICLE 2. REPEALED AND EXPIRED

Article 2, consisting of Sections R13-3-201 through R13-3-204, automatically repealed; expired by G.R.R.C. under A.R.S. § 41-1056(E) at 16 A.A.R. 1175, both effective June 1, 2010 (Supp. 10-2).

## Section

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## ARTICLE 3. REPEALED AND EXPIRED

Article 3, consisting of Sections R13-3-301 through R13-3-308, automatically repealed; expired by G.R.R.C. under A.R.S. § 41-1056(E) at 16 A.A.R. 1175, both effective June 1, 2010 (Supp. 10-2).

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## ARTICLE 4. REPEALED AND EXPIRED

Article 4, consisting of Sections R13-3-401 and R13-3-402, automatically repealed; expired by G.R.R.C. under A.R.S. § 41-1056(E) at 16 A.A.R. 1175, both effective June 1, 2010 (Supp. 10-2).

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## ARTICLE 5. REPEALED AND EXPIRED

Article 5, consisting of Section R13-3-501, automatically repealed; expired by G.R.R.C. under A.R.S. § 41-1056(E) at 16 A.A.R. 1175, both effective June 1, 2010 (Supp. 10-2).

## Section

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## ARTICLE 6. REPEALED AND EXPIRED

Article 6, consisting of Sections R13-3-601 through R13-3-604, automatically repealed; expired by G.R.R.C. under A.R.S. § 41-1056(E) at 16 A.A.R. 1175, both effective June 1, 2010 (Supp. 10-2).

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## CHAPTER 3. DEPARTMENT OF PUBLIC SAFETY - TOW TRUCKS

**ARTICLE 1. REPEALED AND EXPIRED****R13-3-101. Repealed and Expired****Historical Note**

Former rules 2.0 - 2.08; Former Section R13-3-01 repealed, former Section R13-3-02 renumbered and amended as Section R13-3-101 effective September 26, 1985 (Supp. 85-5). Amended by final rulemaking at 12 A.A.R. 1735, effective July 1, 2006 (Supp. 06-2). Section automatically repealed; expired by G.R.R.C. under A.R.S. § 41-1056(E) at 16 A.A.R. 1175, both effective June 1, 2010 (Supp. 10-2).

**ARTICLE 2. REPEALED AND EXPIRED****R13-3-201. Repealed and Expired****Historical Note**

Former rule 3.0; Former Section R13-3-11 renumbered and amended as Section R13-3-201 effective September 26, 1985 (Supp. 85-5). Amended by final rulemaking at 12 A.A.R. 1735, effective July 1, 2006 (Supp. 06-2). Section automatically repealed; expired by G.R.R.C. under A.R.S. § 41-1056(E) at 16 A.A.R. 1175, both effective June 1, 2010 (Supp. 10-2).

**R13-3-202. Repealed and Expired****Historical Note**

Former rules 3.01 - 3.01.03; Former Section R13-3-12 renumbered and amended as Section R13-3-202 effective September 26, 1985 (Supp. 85-5). Amended by final rulemaking at 12 A.A.R. 1735, effective July 1, 2006 (Supp. 06-2). Section automatically repealed; expired by G.R.R.C. under A.R.S. § 41-1056(E) at 16 A.A.R. 1175, both effective June 1, 2010 (Supp. 10-2).

**R13-3-203. Repealed and Expired****Historical Note**

Former rules 3.02 - 3.02.05; Former Section R13-3-13 renumbered and amended as Section R13-3-203 effective September 26, 1985 (Supp. 85-5). Amended by final rulemaking at 12 A.A.R. 1735, effective July 1, 2006 (Supp. 06-2). Amended by final rulemaking at 14 A.A.R. 713, effective April 5, 2008 (Supp. 08-1). Section automatically repealed; expired by G.R.R.C. under A.R.S. § 41-1056(E) at 16 A.A.R. 1175, both effective June 1, 2010 (Supp. 10-2).

**R13-3-204. Repealed and Expired****Historical Note**

Former rules 3.02.06 - 3.02.10; Former Section R13-3-14 renumbered and amended as Section R13-3-204 effective September 26, 1985 (Supp. 85-5). Amended by final rulemaking at 12 A.A.R. 1735, effective July 1, 2006 (Supp. 06-2). Section automatically repealed; expired by G.R.R.C. under A.R.S. § 41-1056(E) at 16 A.A.R. 1175, both effective June 1, 2010 (Supp. 10-2).

**ARTICLE 3. REPEALED AND EXPIRED****R13-3-301. Repealed and Expired****Historical Note**

Former rules 4.0 - 4.02; Former Section R13-3-21 renumbered and amended as Section R13-3-301 effective September 26, 1985 (Supp. 85-5). Amended by final rulemaking at 12 A.A.R. 1735, effective July 1, 2006 (Supp. 06-2). Section automatically repealed; expired by G.R.R.C. under A.R.S. § 41-1056(E) at 16 A.A.R. 1175,

both effective June 1, 2010 (Supp. 10-2).

**R13-3-302. Repealed and Expired****Historical Note**

Former rule 5.0; Former Section R13-3-22 renumbered without change as Section R13-3-302 effective September 26, 1985 (Supp. 85-5). Amended by final rulemaking at 12 A.A.R. 1735, effective July 1, 2006 (Supp. 06-2). Section automatically repealed; expired by G.R.R.C. under A.R.S. § 41-1056(E) at 16 A.A.R. 1175, both effective June 1, 2010 (Supp. 10-2).

**R13-3-303. Repealed and Expired****Historical Note**

Former rules 6.0 - 6.02; Former Section R13-3-23 renumbered and amended as Section R13-3-303 effective September 26, 1985 (Supp. 85-5). Amended by final rulemaking at 12 A.A.R. 1735, effective July 1, 2006 (Supp. 06-2). Section automatically repealed; expired by G.R.R.C. under A.R.S. § 41-1056(E) at 16 A.A.R. 1175, both effective June 1, 2010 (Supp. 10-2).

**R13-3-304. Repealed and Expired****Historical Note**

Former rules 7.0 - 7.03; Former Section R13-3-24 renumbered and amended as Section R13-3-304 effective September 26, 1985 (Supp. 85-5). Amended by final rulemaking at 12 A.A.R. 1735, effective July 1, 2006 (Supp. 06-2). Section automatically repealed; expired by G.R.R.C. under A.R.S. § 41-1056(E) at 16 A.A.R. 1175, both effective June 1, 2010 (Supp. 10-2).

**R13-3-305. Repealed and Expired****Historical Note**

Former rules 8.0 - 8.04; Correction, subsection C. Paragraph 4. not included in original publication (Supp. 77-1). Former Section R13-3-25 renumbered and amended as Section R13-3-305 effective September 26, 1985 (Supp. 85-5). Amended by final rulemaking at 12 A.A.R. 1735, effective July 1, 2006 (Supp. 06-2). Section automatically repealed; expired by G.R.R.C. under A.R.S. § 41-1056(E) at 16 A.A.R. 1175, both effective June 1, 2010 (Supp. 10-2).

**R13-3-306. Repealed and Expired****Historical Note**

Former rules 9.0 - 9.05.03; Correction, subsection (C)(3) and (4) not included in original publication (Supp. 77-1). Former Section R13-3-26 renumbered and amended as Section R13-3-306 effective September 26, 1985 (Supp. 85-5). Amended by final rulemaking at 12 A.A.R. 1735, effective July 1, 2006 (Supp. 06-2). Section automatically repealed; expired by G.R.R.C. under A.R.S. § 41-1056(E) at 16 A.A.R. 1175, both effective June 1, 2010 (Supp. 10-2).

**R13-3-307. Repealed and Expired****Historical Note**

Former rules 10.0 - 10.04; Former Section R13-3-27 renumbered and amended as Section R13-3-307 effective September 26, 1985 (Supp. 85-5). Amended by final rulemaking at 12 A.A.R. 1735, effective July 1, 2006 (Supp. 06-2). Section automatically repealed; expired by G.R.R.C. under A.R.S. § 41-1056(E) at 16 A.A.R. 1175,

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both effective June 1, 2010 (Supp. 10-2).

**R13-3-308. Repealed and Expired****Historical Note**

Former rules 11.0 - 11.06; Former Section R13-3-28 renumbered as Section R13-3-308 effective September 26, 1985 (Supp. 85-5). Amended by final rulemaking at 12 A.A.R. 1735, effective July 1, 2006 (Supp. 06-2). Section automatically repealed; expired by G.R.R.C. under A.R.S. § 41-1056(E) at 16 A.A.R. 1175, both effective June 1, 2010 (Supp. 10-2).

**ARTICLE 4. REPEALED AND EXPIRED****R13-3-401. Repealed and Expired****Historical Note**

Former rules 12.0 - 12.17.02.02; Former Section R13-3-35 renumbered and amended as Section R13-3-401 effective September 26, 1985 (Supp. 85-5). Amended by final rulemaking at 12 A.A.R. 1735, effective July 1, 2006 (Supp. 06-2). Section automatically repealed; expired by G.R.R.C. under A.R.S. § 41-1056(E) at 16 A.A.R. 1175, both effective June 1, 2010 (Supp. 10-2).

**R13-3-402. Repealed and Expired****Historical Note**

Former rule 12.18; Former Section R13-3-36 renumbered and amended as Section R13-3-402 effective September 26, 1985 (Supp. 85-5). Amended by final rulemaking at 12 A.A.R. 1735, effective July 1, 2006 (Supp. 06-2). Section automatically repealed; expired by G.R.R.C. under A.R.S. § 41-1056(E) at 16 A.A.R. 1175, both effective June 1, 2010 (Supp. 10-2).

**ARTICLE 5. REPEALED AND EXPIRED****R13-3-501. Repealed and Expired****Historical Note**

Former rules 13.0 - 13.05; Former Section R13-3-40 renumbered and amended as Section R13-3-501 effective September 26, 1985 (Supp. 85-5). Amended by final rulemaking at 12 A.A.R. 1735, effective July 1, 2006 (Supp. 06-2). Section automatically repealed; expired by G.R.R.C. under A.R.S. § 41-1056(E) at 16 A.A.R. 1175, both effective June 1, 2010 (Supp. 10-2).

**ARTICLE 6. REPEALED AND EXPIRED****R13-3-601. Repealed and Expired****Historical Note**

Former rules 14.0 - 14.02; Former Section R13-3-45 renumbered and amended as Section R13-3-601 effective September 26, 1985 (Supp. 85-5). Amended by final rulemaking at 12 A.A.R. 1735, effective July 1, 2006 (Supp. 06-2). Section automatically repealed; expired by G.R.R.C. under A.R.S. § 41-1056(E) at 16 A.A.R. 1175, both effective June 1, 2010 (Supp. 10-2).

**R13-3-602. Repealed and Expired****Historical Note**

Former rules 15.0 - 15.01; Former Section R13-3-46 renumbered and amended as Section R13-3-602 effective September 26, 1985 (Supp. 85-5). Amended by final rulemaking at 12 A.A.R. 1735, effective July 1, 2006 (Supp. 06-2). Section automatically repealed; expired by G.R.R.C. under A.R.S. § 41-1056(E) at 16 A.A.R. 1175,

both effective June 1, 2010 (Supp. 10-2).

**R13-3-603. Repealed and Expired****Historical Note**

Former rules 16.0 - 16.01.05; Former Section R13-3-47 renumbered and amended as Section R13-3-603 effective September 26, 1985 (Supp. 85-5). Amended by final rulemaking at 12 A.A.R. 1735, effective July 1, 2006 (Supp. 06-2). Section automatically repealed; expired by G.R.R.C. under A.R.S. § 41-1056(E) at 16 A.A.R. 1175, both effective June 1, 2010 (Supp. 10-2).

**R13-3-604. Repealed and Expired****Historical Note**

Former rules 17.0 - 17.08; Former Section R13-3-48 renumbered and amended as Section R13-3-604 effective September 26, 1985 (Supp. 85-5). Amended by final rulemaking at 12 A.A.R. 1735, effective July 1, 2006 (Supp. 06-2). Section automatically repealed; expired by G.R.R.C. under A.R.S. § 41-1056(E) at 16 A.A.R. 1175, both effective June 1, 2010 (Supp. 10-2).

**ARTICLE 7. DEFINITIONS, SCOPE, AND ENFORCEMENT DATES****R13-3-701. Definitions**

- A. The definitions in A.R.S. §§ 28-101 and 41-1701 apply to this Chapter.
- B. In this Chapter:
  1. "Alter" means adding, modifying, or removing any equipment or component after a tow truck has received a permit decal from the Department, in a manner that may affect the operation of the tow truck, compliance with A.R.S. § 28-1108 and this Chapter, or the health, safety, or welfare of any individual.
  2. "Bed assembly" means the part of a tow truck that is located behind the cab, is attached to the frame, and is used to mount a boom assembly, hoist, winch, or equipment for transporting vehicles.
  3. "Boom assembly" means a device, consisting of sheaves, one or more winches, and wire rope, that is attached to a tow truck and used to lift or tow another vehicle.
  4. "Collision" means an incident involving one or more moving vehicles resulting in damage to a vehicle or its load that requires the completion of a written report of accident under A.R.S. § 28-667(A).
  5. "Collision recovery" means initial towing or removing a vehicle involved in a collision from the collision scene.
  6. "Denial" means refusal to satisfy a request.
  7. "Department" means the Arizona Department of Public Safety.
  8. "Director" means the Director of the Arizona Department of Public Safety or the Director's designee.
  9. "Emergency brake" means the electrical, mechanical, hydraulic, or air brake components used to slow or stop a vehicle after a failure of the service brake system.
  10. "Flatbed" means an open platform that is located behind the cab and attached to the frame of a truck.
  11. "G.V.W.R." means Gross Vehicle Weight Rating, the value specified by the manufacturer as the fully assembled weight of a single motor vehicle.
  12. "Hook" means a steel hook attached to an end of a wire rope or chain.
  13. "Parking brake system" means the electrical, mechanical, hydraulic, or air brake components used to hold the tow truck or combination under any condition of loading to prevent movement when parked.

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14. "Permit decal" means the non-transferable decal that a tow truck company is required to obtain from the Department before operating a tow truck for the purpose of towing a vehicle.
15. "Person" means the same as in A.R.S. § 1-215.
16. "Power-assisted service brake system" means a service-brake system that is equipped with a booster to supply additional power to the service-brake system by means of air, vacuum, electric, or hydraulic pressure.
17. "Power-operated winch" means a winch that is operated by electrical, mechanical, or hydraulic power.
18. "Service-brake system" means the electrical, mechanical, hydraulic, or air brake components used to slow or stop a vehicle in motion.
19. "Snatch block" means a metal case that encloses one or more pulleys and can be opened to receive a wire rope and redirect energy from a winch.
20. "State" means the state of Arizona.
21. "Steering wheel clamp" means a device used to secure in a fixed position the steering wheel of a vehicle being towed.
22. "Suspension" is the temporary withdrawal of the tow truck permit decal because the Department determines the tow truck or tow truck agent is not in compliance with one or more requirements of this Chapter.
23. "Tow bar" means a device attached to the rear of a tow truck to secure a towed vehicle to the tow truck by chains, straps, or hooks.
24. "Tow plate" means a solid metal support attached to the rear of a tow truck to secure a towed vehicle to the tow truck by chains, straps, or hooks.
25. "Tow sling" means two or more flexible straps attached to the wire rope or boom assembly of a tow truck to hoist a towed vehicle by chains, straps, or hooks.
26. "Tow truck" means a motor vehicle designed, manufactured, or altered to tow or transport one or more vehicles. The following are tow trucks:
  - a. A truck with a flatbed equipped with a winch;
  - b. A truck drawing a semi-trailer or trailer equipped with a winch;
  - c. A motor vehicle that has a boom assembly or hoist permanently attached to its bed or frame;
  - d. A motor vehicle that has a tow sling, tow plate, tow bar, under-lift, or wheel-lift attached to the rear of the vehicle; and
  - e. A truck-tractor drawing a semi-trailer equipped with a winch.
27. "Tow truck agent" means an individual who operates a tow truck on behalf of a tow truck company, and includes owners, individuals employed by the tow truck company, and independent contractors.
28. "Tow truck company" means a person that owns, leases, or operates a tow truck that travels on a street or highway to transport a vehicle, including, but not limited to a vehicle that is damaged, disabled, unattended, repossessed, or abandoned.
29. "Truck-tractor protection valve" means a device that supplies air to the service brake system of a trailer to release the service brakes while the trailer is being towed by a truck- tractor, or to activate the service brakes if the supply of air from the truck-tractor to the trailer is disconnected or depleted.
30. "Under-lift" means an electrical, mechanical, or hydraulic device attached to the rear of a tow truck used to lift the front or rear of a vehicle by its axles or frame.
31. "Vehicle" means the same as in A.R.S. § 28-101.
32. "Wheel lift" means an electrical, hydraulic, or mechanical device attached to the rear of a tow truck used to lift the front or rear of a vehicle by its tires or wheels.
33. "Winch" means a device used for winding or unwinding wire rope.
34. "Wire rope" means flexible steel or synthetic strands that are twisted or braided together and may surround a hemp or wire core.
35. "Work lamp" means a lighting system that is mounted on a tow truck capable of illuminating an area to the rear of the tow truck.

**Historical Note**

New Section made by final rulemaking at 12 A.A.R. 1735, effective July 1, 2006 (Supp. 06-2). At the Department's request, the A.R.S. citation was corrected in subsection (B)(1) as Laws 2015, Ch. 265 transferred duties relating to towing services; Office file number M16-202 (Supp. 16-3). Amended by final expedited rulemaking at 25 A.A.R. 844, effective March 19, 2019 (Supp. 19-1).

**R13-3-702. Scope of Chapter**

This Chapter applies only to a tow truck company in the business of towing and a tow truck agent.

**Historical Note**

New Section made by final rulemaking at 12 A.A.R. 1735, effective July 1, 2006 (Supp. 06-2).

**R13-3-703. Enforcement Dates**

As of the effective date of Articles 7 through 13, a tow truck agent shall ensure that a tow truck:

1. Introduced into the state on or after the effective date of Articles 7 through 13 meets the requirements of Articles 7 through 13;
2. Sold to a new owner meets the requirements of Articles 7 through 13 before operating as a tow truck within this state; or
3. Not included in the definition of "tow truck" in R13-3-701 before the effective date of Articles 7 through 13, meets the requirements of Articles 7 through 13 within six months of the effective date of Articles 7 through 13 when operating as a tow truck in this state.

**Historical Note**

New Section made by final rulemaking at 12 A.A.R. 1735, effective July 1, 2006 (Supp. 06-2). Amended by final expedited rulemaking at 25 A.A.R. 844, effective March 19, 2019 (Supp. 19-1).

**ARTICLE 8. TOW TRUCK COMPANY REGISTRATION****R13-3-801. Tow Truck Company Registration**

A. A person shall not operate a tow truck to tow a vehicle unless a tow truck agent registers the tow truck company with the Department. The tow truck agent shall:

1. Obtain a tow truck company application from the Department and complete the application form by including the following information:
  - a. The name, address, and telephone number of the tow truck company;
  - b. The tow truck owner's name, address, telephone number and date of birth. If the owner is a corporation, the corporation's name, address, and telephone number;
2. Obtain and keep in effect at all times the minimum limits of financial responsibility required by A.R.S. §§ 28-4009, 28-4032, 28-4033, 28-4131, and 28-4135, as applicable, for each tow truck owned, leased, or operated by the company; and

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3. Sign the application in the presence of a Notary Public or Department Officer certifying under penalty of suspension of the permit decal that the tow truck company and the tow truck agent shall:
    - a. Comply with this Chapter; and
    - b. Have the necessary experience and qualifications to operate a tow truck in the manner required by this Chapter;
  4. Include with a completed application, proof of financial responsibility that indicates:
    - a. Name of the insured;
    - b. Name, address, and telephone number of the insurance carrier;
    - c. Policy number;
    - d. Date on which the policy expires; and
    - e. Amount of coverage; and
  5. Submit the completed application form and proof of financial responsibility in person to the Department.
- B.** If information provided on the original application form changes, the tow truck agent shall submit a new application form to the Department within 10 calendar days of the change. The Department may suspend a tow truck permit decal for failure to notify the Department of a change.
- C.** If it is discovered that a tow truck permit decal was issued on information supplied by the applicant that the applicant knew or should have reasonably known was false or inaccurate, the Department may suspend the tow truck permit decal.

**Historical Note**

New Section made by final rulemaking at 12 A.A.R. 1735, effective July 1, 2006 (Supp. 06-2).

**ARTICLE 9. TOW TRUCK REGISTRATION AND COMPLIANCE INSPECTION****R13-3-901. Tow Truck Registration**

- A.** A tow truck company shall register each tow truck by obtaining an identification number and permit decal before operating the tow truck to tow a vehicle.
- B.** A tow truck company shall apply for an identification number and permit decal by completing the Department's tow truck inspection application. The company may obtain the application from the Department. The signature on the application of the owner or a tow truck agent shall be notarized or signed in the presence of a Department officer.

**Historical Note**

New Section made by final rulemaking at 12 A.A.R. 1735, effective July 1, 2006 (Supp. 06-2).

**R13-3-902. Inspection by the Department**

- A.** The Department shall inspect a tow truck for compliance with this Chapter as soon as possible after the tow truck inspection application form is filed and no later than seven days after the application form is filed.
- B.** The Department may conduct unannounced, in-service inspections of a tow truck at the roadside, at the company's place of business, or any reasonable time and place to determine the condition of the tow truck.
- C.** The Department shall issue tow truck permit decals and identification number decals individually for each approved tow truck.
- D.** When a tow truck inspection is conducted under subsection (A) or (B), the following apply:
  1. Department inspectors shall examine the tow truck for compliance with the safety requirements and specifications for the tow truck class under this Chapter.

2. If the Department finds that the tow truck complies with this Chapter, the Department shall issue an inspection report and if applicable, a permit decal.
  3. If the Department finds that the tow truck does not comply with this Chapter, but has no deficiency listed in R13-3-1201(C)(7), the Department shall issue an inspection report that:
    - a. Specifies the deficiencies found,
    - b. Requires corrective measures, and
    - c. Allows five calendar days for the tow truck agent to correct the deficiencies.
  4. If the Department finds that the tow truck does not comply with this Chapter because of deficiencies listed in R13-3-1201(C)(7), the Department shall not issue a permit decal but shall issue an inspection report that:
    - a. Specifies the deficiencies found, and
    - b. Requires corrective measures.
- E.** A tow truck agent shall ensure that a legible copy of the most recent tow truck inspection report is kept in the driver's compartment area of the tow truck and is produced upon demand to any peace officer. The Department may suspend a tow truck permit decal for failure to comply with this subsection.
1. A tow truck agent shall ensure that:
    - a. A permit decal is affixed to the lower outside left rear window or the left outside of the rear cab wall of the tow truck windshield. A permit decal issued prior to the effective date of this Section may remain on the lower outside right corner of the tow truck's windshield until the permit has expired or been replaced, and
    - b. An identification number decal is permanently affixed to the driver's compartment area.
  2. The Department may suspend a permit decal for failure to maintain the permit decal or identification number decal in compliance with subsection (E)(1).
  3. If a tow truck inspection report, permit decal, or identification number decal is lost, damaged, destroyed, or stolen, the tow truck company shall immediately notify the Department.
    - a. The tow truck company shall provide notification in writing either to Arizona Department of Public Safety, P.O. Box 6638, Mail Drop 1240, Phoenix, AZ 85005-6638, or by e-mail to TowTruck-Unit@azdps.gov and include the name of the tow truck agent who registered the tow truck and the number of the lost, damaged, destroyed, or stolen inspection report, permit decal, or identification number decal.
    - b. Upon receipt of the notification, the Department shall issue the replacement inspection report, permit decal, or identification number decal.

**Historical Note**

New Section made by final rulemaking at 12 A.A.R. 1735, effective July 1, 2006 (Supp. 06-2). Amended by final rulemaking at 14 A.A.R. 713, effective April 5, 2008 (Supp. 08-1). Amended by final expedited rulemaking at 25 A.A.R. 844, effective March 19, 2019 (Supp. 19-1). Amended by final rulemaking at 26 A.A.R. 963, effective June 20, 2020 (Supp. 20-20).

**R13-3-903. Changes in Ownership**

If a tow truck is sold, leased, or otherwise disposed of, the permit decal issued to the tow truck immediately becomes void.

1. Before sale, lease, or other disposal of a tow truck, a tow truck agent shall remove and destroy the permit decal.

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2. Within 10 calendar days following the sale, lease, or other disposal of the tow truck, a tow truck agent shall notify the Department in writing of the action. The notice shall include:
  - a. Date on which ownership changed or the tow truck was disposed of;
  - b. Whether the tow truck was sold, leased, or the method and reason for other disposal;
  - c. Name of person who sold, leased, or disposed of the tow truck;
  - d. If applicable, name and address of the person that purchased or leased the tow truck; and
  - e. Vehicle identification number of tow truck that was sold, leased, or disposed of.
3. A person to whom a tow truck is sold, leased, or otherwise disposed of shall complete the registration and inspection process before operating the tow truck to tow a vehicle within this state.

**Historical Note**

New Section made by final rulemaking at 12 A.A.R. 1735, effective July 1, 2006 (Supp. 06-2).

**ARTICLE 10. TOW TRUCK SPECIFICATIONS BY CLASS****R13-3-1001. Light-duty Tow Truck**

A light-duty tow truck has a minimum of:

1. A G.V.W.R. of 10,000 pounds;
2. A boom assembly with a rated capacity of 8,000 pounds, if so equipped;
3. A power-operated winch with a line pull capacity of 8,000 pounds and a 3/8-inch diameter wire rope with a breaking strength of 12,200 pounds, if so equipped;
4. A tow sling, tow plate, or tow bar that meets the requirements of R13-3-1201(C)(16), or a wheel-lift or under-lift with a lifting capacity of 2,500 pounds when fully extended;
5. Chains or straps and hooks that meet the requirements of R13-3-1104;
6. Axles, wheels, and tires that meet the requirements of R13-3-1102; and
7. Brakes that meet the requirements of R13-3-1103.

**Historical Note**

New Section made by final rulemaking at 12 A.A.R. 1735, effective July 1, 2006 (Supp. 06-2).

**R13-3-1002. Light-duty Tow Truck with Collision Recovery Capabilities**

A light-duty tow truck with collision recovery capabilities has a minimum of:

1. A G.V.W.R. of 14,001 pounds;
2. A boom assembly with a rated capacity of 8,000 pounds;
3. A power-operated winch with a line pull capacity of 8,000 pounds and a 3/8-inch diameter wire rope with a breaking strength of 12,200 pounds;
4. A tow sling, tow plate, or tow bar that meets the requirements of R13-3-1201(C)(16), or a wheel-lift or under-lift with a lifting capacity of 3,000 pounds when fully extended;
5. Chains or straps and hooks that meet the requirements of R13-3-1104;
6. Axles, wheels, and tires that meet the requirements of R13-3-1102; and
7. Brakes that meet the requirements of R13-3-1103.

**Historical Note**

New Section made by final rulemaking at 12 A.A.R.

1735, effective July 1, 2006 (Supp. 06-2).

**R13-3-1003. Light-duty Flatbed Tow Truck**

A light-duty flatbed tow truck has a minimum of:

1. A G.V.W.R. of 10,000 pounds;
2. A power-operated winch with a line pull capacity of 8,000 pounds and a 3/8-inch diameter wire rope with a breaking strength of 12,200 pounds;
3. A bed assembly with a distributed load capacity of 7,500 pounds;
4. A wheel-lift or under-lift with a lifting capacity of 2,000 pounds when fully extended, if so equipped;
5. A tow plate or tow bar that meets requirements of R13-3-1201(C)(16), if so equipped;
6. Chains or straps and hooks that meet the requirements of R13-3-1104;
7. Axles, wheels, and tires that meet the requirements of R13-3-1102; and
8. Brakes that meet the requirements of R13-3-1103.

**Historical Note**

New Section made by final rulemaking at 12 A.A.R. 1735, effective July 1, 2006 (Supp. 06-2). Amended by final rulemaking at 14 A.A.R. 713, effective April 5, 2008 (Supp. 08-1).

**R13-3-1004. Light-duty Flatbed Tow Truck with Collision Recovery Capabilities**

A light-duty flatbed tow truck with collision recovery capabilities has a minimum of:

1. A G.V.W.R. of 14,001 pounds;
2. A power-operated winch with a line pull capacity of 8,000 pounds and a 3/8-inch diameter wire rope with a breaking strength of 12,200 pounds;
3. A bed assembly with a distributed load capacity of 7,500 pounds;
4. A wheel-lift or under-lift with a lifting capacity of 2,500 pounds when fully extended, if so equipped;
5. A tow plate or tow bar that meets requirements of R13-3-1201(C)(16), if so equipped;
6. Chains or straps and hooks that meet the requirements of R13-3-1104;
7. Axles, wheels, and tires that meet the requirements of R13-3-1102; and
8. Brakes that meet the requirements of R13-3-1103.

**Historical Note**

New Section made by final rulemaking at 12 A.A.R. 1735, effective July 1, 2006 (Supp. 06-2). Amended by final rulemaking at 14 A.A.R. 713, effective April 5, 2008 (Supp. 08-1).

**R13-3-1005. Light-duty Tow Truck-tractor and Semi-trailer Combination**

A light-duty tow truck-tractor and semi-trailer combination has a minimum of:

1. A G.V.W.R. of 8,600 pounds for a truck-tractor;
2. A G.V.W.R. of 7,500 pounds for a semi-trailer;
3. A power-operated winch with a line pull capacity of 8,000 pounds and a 3/8-inch diameter wire rope with a breaking strength of 12,200 pounds;
4. Chains or straps and hooks that meet the requirements of R13-3-1104;
5. Axles, wheels, and tires that meet the requirements of R13-3-1102; and
6. Brakes that meet the requirements of R13-3-1103 and A.R.S. § 28-952(A).

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**Historical Note**

New Section made by final rulemaking at 12 A.A.R.  
1735, effective July 1, 2006 (Supp. 06-2).

**R13-3-1006. Medium-duty Tow Truck with Collision Recovery Capabilities**

A medium-duty tow truck has a minimum of:

1. A G.V.W.R. of 23,500 pounds;
2. A boom assembly with a rated capacity of 24,000 pounds;
3. A power-operated winch with a line-pull capacity of 20,000 pounds and a 1/2-inch diameter wire rope with a breaking strength of 21,400 pounds, or two power-operated winches each with a line-pull capacity of 10,000 pounds and a 7/16-inch diameter wire rope with breaking strength of 16,540 pounds;
4. A tow sling, tow plate, or tow bar that meets the requirements of R13-3-1201(C)(16), or a wheel-lift or under-lift with a lifting capacity of 5,000 pounds when fully extended;
5. Chains or straps and hooks that meet the requirements of R13-3-1104;
6. Axles, wheels, and tires that meet the requirements of R13-3-1102; and
7. Brakes that meet the requirements of R13-3-1103.

**Historical Note**

New Section made by final rulemaking at 12 A.A.R.  
1735, effective July 1, 2006 (Supp. 06-2).

**R13-3-1007. Medium-duty Flatbed Tow Truck with Collision Recovery Capabilities**

A medium-duty flatbed tow truck has a minimum of:

1. A G.V.W.R. of 23,500 pounds;
2. A power-operated winch with a line pull capacity of 10,000 pounds and a 7/16-inch diameter wire rope with a breaking strength of 16,540 pounds;
3. A bed assembly with a distributed load capacity of 15,000 pounds;
4. A wheel-lift or under-lift with a lifting capacity of 3,000 pounds when fully extended, if so equipped;
5. A tow plate or tow bar that meets the requirements of R13-3-1201(C)(16), if so equipped;
6. Chains or straps and hooks that meet the requirements of R13-3-1104;
7. Axles, wheels, and tires that meet the requirements of R13-3-1102; and
8. Brakes that meet the requirements of R13-3-1103.

**Historical Note**

New Section made by final rulemaking at 12 A.A.R.  
1735, effective July 1, 2006 (Supp. 06-2).

**R13-3-1008. Medium-duty Tow Truck-tractor and Semi-trailer Combination**

A medium-duty tow truck-tractor and semi-trailer combination has a minimum of:

1. A G.V.W.R. of 23,500 pounds for a truck-tractor;
2. A G.V.W.R. of 17,000 pounds for a semi-trailer;
3. A power-operated winch with a line pull capacity of 10,000 pounds and a 7/16-inch diameter wire rope with a breaking strength of 16,540 pounds;
4. Chains or straps and hooks that meet the requirements of R13-3-1104;
5. Axles, wheels, and tires that meet the requirements of R13-3-1102; and
6. Brakes that meet the requirements of R13-3-1103 and A.R.S. § 28-952(A)(3).

**Historical Note**

New Section made by final rulemaking at 12 A.A.R.  
1735, effective July 1, 2006 (Supp. 06-2).

**R13-3-1009. Heavy-duty Tow Truck**

A heavy-duty tow truck has a minimum of:

1. A G.V.W.R. of 35,000 pounds;
2. Tandem rear axles;
3. A boom assembly with a rated capacity of 50,000 pounds, if so equipped;
4. Two power-operated winches with a line pull capacity of 25,000 pounds each and a 9/16-inch diameter wire rope with a breaking strength of 27,000 pounds, if so equipped;
5. A tow sling, tow plate, or tow bar that meets the requirements of R13-3-1201(C)(16), or a wheel-lift or under-lift with a lifting capacity of 12,000 pounds when fully extended;
6. Chains or straps and hooks that meet the requirements of R13-3-1104;
7. Axles, wheels, and tires that meet the requirements of R13-3-1102;
8. Air brakes that meet the requirements of R13-3-1103; and
9. Seventy-five feet of air line configured so the ends can be connected between the tow truck and the towed unit, allowing the air supply of the tow truck's brake system to be transmitted to the towed unit's service brake system.

**Historical Note**

New Section made by final rulemaking at 12 A.A.R.  
1735, effective July 1, 2006 (Supp. 06-2).

**R13-3-1010. Heavy-duty Tow Truck with Collision Recovery Capabilities**

A heavy-duty tow truck has a minimum of:

1. A G.V.W.R. of 35,000 pounds;
2. Tandem rear axles;
3. A boom assembly with a rated capacity of 50,000 pounds;
4. Two power-operated winches with a line pull capacity of 25,000 pounds each and a 9/16-inch diameter wire rope with a breaking strength of 27,000 pounds;
5. A tow sling, tow plate, or tow bar that meets the requirements of R13-3-1201(C)(16), or a wheel-lift or under-lift with a lifting capacity of 12,000 pounds when fully extended;
6. Chains or straps and hooks that meet the requirements of R13-3-1104;
7. Axles, wheels, and tires that meet the requirements of R13-3-1102;
8. Air brakes that meet the requirements of R13-3-1103; and
9. Seventy-five feet of air line configured so the ends can be connected between the tow truck and the towed unit, allowing the air supply of the tow truck's brake system to be transmitted to the towed unit's service brake system.

**Historical Note**

New Section made by final rulemaking at 12 A.A.R.  
1735, effective July 1, 2006 (Supp. 06-2).

**R13-3-1011. Heavy-duty Flatbed Tow Truck with Collision Recovery Capabilities**

A heavy-duty flatbed tow truck has a minimum of:

1. A G.V.W.R. of 33,000 pounds;
2. A power-operated winch with a line pull capacity of 20,000 pounds and a 1/2-inch diameter wire rope with a breaking strength of 21,400 pounds;



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3. A bed assembly with a distributed load capacity of 20,000 pounds;
4. A wheel-lift or under-lift with a lifting capacity of 4,000 pounds when fully extended, if so equipped;
5. A tow plate or tow bar that meets the requirements of R13-3-1201(C)(16), if so equipped;
6. Chains or straps and hooks that meet the requirements of R13-3-1104;
7. Axles, wheels and tires that meet the requirements of R13-3-1102; and
8. Air brakes that meet the requirements of R13-3-1103.

**Historical Note**

New Section made by final rulemaking at 12 A.A.R. 1735, effective July 1, 2006 (Supp. 06-2).

**R13-3-1012. Heavy-duty Tow Truck-tractor and Semi-trailer Combination**

A heavy-duty tow truck-tractor and semi-trailer combination has a minimum of:

1. A truck tractor with a G.V.W.R. of 35,000 pounds;
2. Tandem rear axles for both a truck-tractor and semi-trailer;
3. A G.V.W.R. of 30,000 pounds on the semi-trailer;
4. A power-operated winch with a single line pull capacity of 20,000 pounds and a 1/2-inch diameter wire rope with a breaking strength of 21,400 pounds;
5. Chains or straps and hooks that meet the requirements of R13-3-1104;
6. Axles, tires, and wheels that meet the requirements of R13-3-1102; and
7. Air brakes that meet the requirements of R13-3-1103 for both a truck-tractor and semi-trailer.

**Historical Note**

New Section made by final rulemaking at 12 A.A.R. 1735, effective July 1, 2006 (Supp. 06-2).

**ARTICLE 11. TOW TRUCK EQUIPMENT REQUIREMENTS****R13-3-1101. Compliance with Chapter and Identification Requirements**

- A. At all times a tow truck agent shall display on both sides of each tow truck the company name, full name of the town or city in which the company is located, and ten digit telephone number. Letters shall contrast sharply in color with the background on which the letters are placed, be readily legible during daylight hours from a distance of 50 feet while the tow truck is stationary, and be maintained in a manner that retains the legibility.
- B. A tow truck agent shall ensure that all tow trucks meet the requirements of this Chapter. The Department may suspend a permit decal for failure to meet the requirements of this Chapter.

**Historical Note**

New Section made by final rulemaking at 12 A.A.R. 1735, effective July 1, 2006 (Supp. 06-2).

**R13-3-1102. Axle, Wheel, and Tire Requirements**

- A. A tow truck agent shall ensure that a tow truck has:
  1. Axles, wheels, and tires with a manufacturer's capacity rating equal to or greater than the tow truck's G.V.W.R.; and
  2. At all points on major tread grooves, a tread-groove pattern depth of at least 4/32 of an inch on all tires on the steering axle, and 2/32 of an inch on all other tires.
- B. A tow truck agent shall ensure that a tow truck does not have:
  1. Fabric or cord exposed through the tire tread or sidewall;

2. A tire contacting another tire, suspension, or any other part of the vehicle; or
3. A tire visibly under-inflated or flat.

**Historical Note**

New Section made by final rulemaking at 12 A.A.R. 1735, effective July 1, 2006 (Supp. 06-2).

**R13-3-1103. Brake Requirements**

- A. A tow truck shall have a power-assisted service brake system, separate from the parking brake system, capable of stopping and holding the tow truck and its load under all conditions and on any grade on which the tow truck is operated. If a tow truck's service brake system is actuated by air, the tow truck shall be equipped with:
  1. A truck-tractor protection valve; and
  2. An audible or visible low air warning device that actuates at a minimum of 55 psi.
- B. A tow truck shall have a parking brake system, separate from the service brake system, which is capable of holding the tow truck and its load. If the tow truck's parking brake system is actuated by air, the tow truck shall be equipped with:
  1. A truck-tractor protection valve; and
  2. An audible or visible low air warning device that actuates at a minimum of 55 psi.

**Historical Note**

New Section made by final rulemaking at 12 A.A.R. 1735, effective July 1, 2006 (Supp. 06-2).

**R13-3-1104. Required Equipment**

- A. A light-duty tow truck shall be equipped with a minimum of 20 feet of recovery straps or 5/16-inch diameter chains with a hook on each end of each section. The straps or chains shall have an identifiable mark indicating a minimum working load limit strength of 3,900 pounds.
- B. A medium-duty tow truck shall be equipped with a minimum of 20 feet of recovery straps or 3/8-inch diameter chains with a hook on each end of each section. The straps or chains shall have an identifiable mark indicating a minimum working load limit strength of 7,100 pounds.
- C. A heavy-duty tow truck shall be equipped with a minimum of 20 feet of recovery straps or 1/2-inch diameter chains with a hook on each end of each section. The straps or chains shall have an identifiable mark indicating a minimum working load limit strength of 12,000 pounds.
- D. A semi-trailer or flatbed shall be equipped with "T" slots, eye bolts, "D" rings, or other means for attaching chains or straps, and four tie-down chains or straps with appropriate attachment hooks.
- E. All tow trucks shall be equipped with:
  1. Appropriate load securement devices if equipped with a wheel-lift, under-lift, tow bar, tow plate, or tow sling.
  2. A warning light assembly with a minimum of two light emitting sources. The lights shall:
    - a. Be mounted on the tow truck as high as practical and be visible from the front and rear of the tow truck for a distance of 100 feet under normal atmospheric conditions;
    - b. Show amber to the front and amber or red to the rear; and
    - c. Be wired independently of all other electrical circuits.
  3. A minimum of two work lamps. The lamps shall:
    - a. Have clear lenses;
    - b. Be capable of illuminating the area directly behind the tow truck for a distance of 50 feet; and

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- c. Be wired independently of all other electrical circuits.
- 4. Two portable lamps consisting of tail lights, brake lights, turn signals, and emergency flashers, if a tow truck is equipped with a wheel-lift, under-lift, tow bar, tow plate or tow sling. Each portable lamp shall be visible from 100 feet under normal atmospheric conditions and comply with A.R.S. §§ 28-925(A), 28-927, and 28-939.
- 5. One rear-vision mirror on each side of the tow truck. Each mirror shall have a minimum surface area of 24 square inches.
- 6. An operational battery-powered electric lantern or a two-cell flashlight.
- 7. A fire extinguisher having an Underwriter's Laboratories rating of 10 B:C or higher. The fire extinguisher shall be filled, readily accessible for use, and mounted securely to the tow truck.
- 8. A steering wheel securement device of sufficient strength to lock the steering mechanism in a straight, forward position, if a tow truck is equipped with a wheel-lift, under-lift, tow bar, tow plate or tow sling.

**Historical Note**

New Section made by final rulemaking at 12 A.A.R. 1735, effective July 1, 2006 (Supp. 06-2).

**R13-3-1105. Collision Recovery Equipment Requirements**

A tow truck with collision recovery capabilities shall be equipped with at least:

- 1. One #2 or larger square-point shovel;
- 2. One 14-inch wide or larger push broom;
- 3. Five gallons or 20 pounds of fluid absorbent material stored in a weatherproof container; and
- 4. One snatch block for each installed winch on the tow truck. Each snatch block shall be of a size and rating compatible with the size and rating of the installed wire rope.

**Historical Note**

New Section made by final rulemaking at 12 A.A.R. 1735, effective July 1, 2006 (Supp. 06-2).

**R13-3-1106. Wire Rope Restrictions**

A tow truck agent shall ensure that a wire rope is not used in a tow truck if it:

- 1. Has kinks, bird caging, or knots;
- 2. Is crushed more than 33% of original diameter;
- 3. Has core protrusion along the length of the rope;
- 4. Has more than 11 broken wires in six diameters of length;
- 5. Has more than three broken wires in any one strand; or
- 6. Has more than two broken wires at the end connection or fitting.

**Historical Note**

New Section made by final rulemaking at 12 A.A.R. 1735, effective July 1, 2006 (Supp. 06-2).

**R13-3-1107. Wire Rope End Specifications and Installation**

A tow truck agent shall ensure that:

- 1. All wire rope eye loops used on a tow truck are protected by a thimble;
- 2. Cable clamps are not used on a wire rope; and
- 3. Thimbles are not cracked, deformed, worn, loose, or have a strand of wire that slips.

**Historical Note**

New Section made by final rulemaking at 12 A.A.R. 1735, effective July 1, 2006 (Supp. 06-2).

**ARTICLE 12. REQUIREMENTS FOR TOW TRUCK AGENTS AND COMPANIES****R13-3-1201. Tow Truck Agent and Company Requirements**

- A. A tow truck company shall ensure that each tow truck agent:
  - 1. While operating a tow truck possesses and carries a valid driver's license for the class of tow truck operated;
  - 2. While operating a tow truck possesses and carries a current medical examination certificate in accordance with 49 CFR 391.45 as referenced in A.A.C. R17-5-202;
  - 3. Does not operate a tow truck if the agent has more than two moving violation convictions within the previous 12 months;
  - 4. Possesses the skill and knowledge to rig, move, pick up, and transport a vehicle without causing avoidable damage to the vehicle or other property;
  - 5. Has not consumed any alcoholic beverage within four hours of operating the tow truck;
  - 6. Is not using or under the influence of alcohol or any of the following substances as defined in A.R.S. § 13-3401 while operating a tow truck:
    - a. Peyote;
    - b. Vapor-releasing substance containing a toxic substance;
    - c. Marijuana;
    - d. Dangerous drugs;
    - e. Narcotic drugs; or
    - f. Prescription-only drug unless the tow truck agent obtains the prescription-only drug pursuant to a valid prescription.
  - 7. Has not been convicted of committing a crime involving fraud, embezzlement, or theft in the five years before operating a tow truck and has never been convicted of committing a felony homicide, felony kidnapping, felony assault, felony sexual offense, or felony robbery;
  - 8. Has not been convicted under A.R.S. § 28-1381 (driving while under the influence of narcotics, dangerous drugs, or intoxicating beverages) or A.R.S. § 28-693 (reckless driving) while engaged in the operation of a tow truck; and
  - 9. Does not operate a tow truck while the agent's license to drive is suspended under A.R.S. § 28-1321 (Implied Consent Law), A.R.S. § 28-3473 (license suspension or revocation), or A.R.S. § 28-4141 (suspended license, no insurance).
- B. A tow truck agent shall:
  - 1. Comply with A.R.S. § 28-1108;
  - 2. Permit a peace officer or other duly authorized agent of a law enforcement agency to inspect a tow truck to determine compliance with the requirements of this Chapter. The inspection may be conducted without notice at any reasonable time and place; and
  - 3. Have a certification from a licensed testing facility certifying the tested line-pull of the winch or the tested lifting capacity of the boom assembly, if the tow truck is equipped with a homemade boom assembly or homemade winch.
- C. A tow truck agent shall not:
  - 1. Operate a tow truck without an identification number and a legible copy of a tow truck inspection report, as required by this Chapter;
  - 2. Transfer a permit decal or tow truck inspection report from one tow truck to another;
  - 3. Tow or move a vehicle from a highway, street, or public property without prior authorization from the owner or operator of the vehicle, the owner's agent, a person responsible for maintaining the public property, or a law

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- enforcement officer. The tow truck agent may move, but shall not tow, a vehicle to extract an individual from wreckage or to remove a hazard to life or property at a collision scene;
4. Use a hand-operated or electric winch for collision recovery work;
  5. Operate a tow truck for collision recovery work unless certified for collision recovery;
  6. Use a flatbed tow truck with a G.V.W.R. of less than 14,001 pounds to transport more than one vehicle unless the additional vehicle is a golf cart, a motor-driven cycle, or a trailer that weighs less than 1,500 pounds;
  7. Operate a tow truck that has one or more of the following defects;
    - a. Both warning light assembly lights missing or inoperative;
    - b. All load securement devices missing or defective;
    - c. A portable lamp not in compliance with A.R.S. §§ 28-925(A), 28-927 or 28-939, if a portable lamp is required;
    - d. Any steering axle tire with less than 4/32-inch tread depth in one major groove;
    - e. For an axle other than a steering axle, a tire with less than 2/32-inch tread depth and for a dual wheel axle, both tires on the same side with less than 2/32-inch tread depth;
    - f. Any flat tire or tire with cord exposed by cut or wear;
    - g. Any tow plate, tow bar, tow sling, wheel-lift, or under-lift exhibiting wear in excess of manufacturer standards at any pivot point or any crack in a structural component;
    - h. Wire rope in violation of R13-3-1106;
    - i. Any component not maintained within manufacturer standards; or
    - j. A deficiency noted on an inspection report after the time-frame available to the tow truck agent to correct deficiencies has elapsed;
  8. Equip a tow truck with homemade boom assembly or homemade winch, unless the tow truck company has a certification from a licensed testing facility certifying the tested line pull of the winch or the tested lifting capacity of the boom assembly;
  9. Tow a vehicle using a tow sling, tow plate, or tow bar unless appropriate load securement devices are attached;
  10. Transport a vehicle by flatbed or truck, truck-tractor, or semi-trailer unless the vehicle is secured with a minimum of a four-point tie-down, not including the winch;
  11. Tow a vehicle with a wheel-lift, under-lift, tow plate, tow bar, or tow sling unless two safety chains are attached by crossing the chains with one end of each chain attached to a major structural member of the tow truck and the other end attached to a major structural member of the towed vehicle, with no attachments to the bumpers;
  12. Tow a vehicle using a tow plate, tow bar, tow sling, wheel-lift, or under-lift unless a portable lamp is affixed to the rear of the rear-most towed vehicle, in plain view, and when activated, visible to traffic traveling in the same direction;
  13. Activate warning light assembly except at the scene of service, or when transporting a vehicle that presents a hazard from a collision scene;
  14. Use any vehicle towed or article stored in the towed vehicle, unless it is the property of the tow truck company or tow truck agent;
  15. Operate a tow truck that exceeds the manufacturer's G.V.W.R. without a load or the manufacturer's rated capacity for the boom or bed assembly;
  16. Operate a tow truck that is equipped with a tow plate, tow bar, or tow sling unless the tow plate, tow bar, or tow sling has a manufacturer weight rating that exceeds any load carried on it; or
  17. Refuse to make prompt restitution for any damage for which the tow truck company is legally liable.
- D.** The Department may suspend a permit decal for failure to comply with these standards.

**Historical Note**

New Section made by final rulemaking at 12 A.A.R. 1735, effective July 1, 2006 (Supp. 06-2). At the Department's request, the A.R.S. citation was corrected in subsection (B)(1) as Laws 2015, Ch. 265 transferred duties relating to towing services; Office file number M16-202 (Supp. 16-3). Amended by final expedited rulemaking at 25 A.A.R. 844, effective March 19, 2019 (Supp. 19-1).

**ARTICLE 13. ENFORCEMENT****R13-3-1301. Waiver**

If the Director determines there is a compelling public necessity, the Director may waive the enforcement of this Chapter.

1. A person shall make a waiver request in writing.
2. The Director shall separately consider and decide each request for a waiver and each waiver shall only apply to the person requesting the waiver.
3. The Director shall provide the decision in writing.

**Historical Note**

New Section made by final rulemaking at 12 A.A.R. 1735, effective July 1, 2006 (Supp. 06-2).

**R13-3-1302. Suspension or Denial of Tow Truck Permit Decal**

- A.** The Director may deny or suspend a permit decal for up to one year if a person violates this Chapter.
- B.** The Department shall provide a written notice of a permit decal suspension to a tow truck company that includes the information specified in A.R.S. § 41-1092.03(A) and lists:
  1. The effective date of the suspension;
  2. The tow truck affected by the suspension;
  3. The specific violation; and
  4. The actions necessary for compliance and for the Department to end the suspension.
- C.** Beginning on the effective date of the suspension, the tow truck company shall not operate the identified tow truck to tow.
- D.** The tow truck company shall submit a corrective action plan to the Department that lists the steps the tow truck company will take to reach compliance.
  1. A tow truck agent shall sign the plan and submit the plan to the Department for approval and signature.
  2. Failure to submit a plan within 90 days of written notice of suspension by the Department constitutes withdrawal from the permit process and requires the tow truck company to reapply under Article 9 of this Chapter.
- E.** If the tow truck company complies with the corrective action plan, the Department shall reinstate the tow truck permit decal.
- F.** The Department shall not suspend a permit decal for a violation of R13-3-1201(A)(3) unless the tow truck company owner knew or should have known of the tow truck agent's convictions.

**Historical Note**

New Section made by final rulemaking at 12 A.A.R.

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1735, effective July 1, 2006 (Supp. 06-2).

**R13-3-1303. Appeals**

- A.** A person that has had issuance of a tow truck permit decal denied or suspended has a right to a hearing.
1. The Director or designee may combine requests for hearings into one hearing where there are common parties or issues.
  2. The hearing shall be conducted by the Office of Administrative Hearings pursuant to A.R.S. § 41-1092, et seq.
- B.** A person shall make a request for a hearing in writing to the Department within 30 calendar days from receipt of the notice of denial or suspension. If the request for a hearing is not received within the 30-day period, the person's right to a hearing is waived, unless the person shows that failure to timely request a hearing was beyond the person's control.
- C.** If a hearing is requested, the Department shall notify the person in writing at least 30 calendar days before the date set for hearing and include the following in the notice:

1. A statement of the time, place, and nature of the hearing;
  2. A statement of the legal authority and jurisdiction under which the hearing is to be held;
  3. A reference to the particular sections of the statutes and rules involved; and
  4. A short and plain statement of the matters asserted.
- D.** A final administrative decision shall be issued pursuant to A.R.S. § 41-1092.08.
1. A copy of the decision shall be mailed to each party.
  2. Within 35 calendar days after the date of service of the final decision rendered in the hearing, an appeal may be taken to the Superior Court of the county in which any of the conditions in A.R.S. § 12-905 apply. Appeals to the Superior Court are governed by the provisions of A.R.S. § 12-901 et seq.

**Historical Note**

New Section made by final rulemaking at 12 A.A.R.  
1735, effective July 1, 2006 (Supp. 06-2).



## TITLE 13. PUBLIC SAFETY

### CHAPTER 10. DEPARTMENT OF PUBLIC SAFETY - ALCOHOL TESTING

The table of contents on the first page contains quick links to the referenced page numbers in this Chapter. Refer to the notes at the end of a Section to learn about the history of a rule as it was published in the *Arizona Administrative Register*.

Sections, Parts, Exhibits, Tables or Appendices codified in this supplement. The list provided contains quick links to the updated rules.

This Chapter contains rule Sections that were filed to be codified in the *Arizona Administrative Code* between the dates of April 1, 2020 through June 30, 2020 (Supp. 20-2).

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<a href="#">R13-10-104.</a>	<a href="#">Testing Procedures .....</a>	<a href="#">3</a>		<a href="#">Procedure, Arizona Department of Public Safety,</a>	
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#### Questions about these rules? Contact:

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#### The release of this Chapter in Supp. 20-2 replaces Supp. 16-3, 1-21 pages

Please note that the Chapter you are about to replace may have rules still in effect after the publication date of this supplement. Therefore, all superseded material should be retained in a separate binder and archived for future reference.



## Administrative Rules Division

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## TITLE 13. PUBLIC SAFETY

## CHAPTER 10. DEPARTMENT OF PUBLIC SAFETY - ALCOHOL TESTING

(Authority: A.R.S. §§ 28-1322 through 28-1326 and 41-1713)

*Editor's Note: This Chapter, consisting of Article 1, Sections R13-10-101 through R13-10-109, Exhibits A through D, Exhibits E-1, through E-6, F-1 through F-5, G-1 through G-6, and H-1, through H-4, made by final rulemaking at 12 A.A.R. 1916, effective May 18, 2006 (Supp. 06-2).*

**ARTICLE 1. DETERMINATION OF ALCOHOL CONCENTRATION**

*Article 1, consisting of Sections R13-10-101 through R13-10-109, Exhibits A through D, and Exhibits E-1 through E-6, F-1 through F-5, G-1 through G-6, and H-1 through H-4, made by final rulemaking at 12 A.A.R. 1916, effective 9:00 a.m., May 18, 2006 (Supp. 06-2).*

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## CHAPTER 10. DEPARTMENT OF PUBLIC SAFETY - ALCOHOL TESTING

**ARTICLE 1. DETERMINATION OF ALCOHOL CONCENTRATION****R13-10-101. Definitions**

In this Article, unless the context otherwise requires:

1. "Alcohol concentration" or "AC" means grams of alcohol per 100 milliliters of blood or grams of alcohol per 210 liters of breath.
2. "Analyst" means an individual who has been issued an analyst permit by the Department to use approved methods to make alcohol concentration determinations from blood or other bodily substances.
3. "Analyst permit" means a document issued by the Department indicating the permit holder has been found qualified to utilize an approved method in the determination of alcohol concentrations.
4. "Analytical procedure" means a series of operations utilized by an analyst when employing an approved method in the determination of alcohol concentration.
5. "Calibration Check" means an operation utilizing a standard alcohol concentration solution to determine whether a device is accurately measuring alcohol concentrations that is performed as a Standard Calibration Check Procedure by a Quality Assurance Specialist at least every 31 days or performed as Concurrent Calibration Check Procedures by an Operator within a successfully completed test sequence bracketing a duplicate breath test.
6. "Concurrent Calibration Check Procedure" means an operation performed by an Operator, utilizing a standard alcohol concentration solution, within a successfully completed test sequence to determine whether a device is accurately measuring alcohol concentration during a duplicate breath test.
7. "Concurrent Quality Assurance Procedure" means operations performed by an Operator, including a Concurrent Calibration Check Procedure and diagnostic checks, within a successfully completed test sequence to determine whether a device is accurately and properly measuring alcohol concentration during a duplicate breath test.
8. "Deprivation period" means at least a 15-minute period immediately prior to a duplicate breath test during which period the subject has not ingested any alcoholic beverages or other fluids, eaten, vomited, smoked or placed any foreign object in the mouth.
9. "Determination" means an analysis of a specimen of blood, breath, or other bodily substance and expressing the results of the analysis in terms of alcohol concentration.
10. "Device" means a breath testing instrument.
11. "Duplicate breath test" means two consecutive breath tests that immediately follow a deprivation period, agree within 0.020 AC of each other, and are conducted at least five and no more than 10 minutes apart.
12. "Instructor" means a person approved by the Department to provide breath test training to prospective Operators and Quality Assurance Specialists on a specific approved device.
13. "Method" means an analytical technique utilized by an analyst or a device to make an alcohol concentration determination (e.g. gas chromatography, infrared spectrophotometry, or specific fuel cell detection.)
14. "Operator" means a person who has been issued an Operator permit from the Department to operate a specific approved device for the purpose of determining an alcohol concentration from a specimen of breath and to perform the Concurrent Quality Assurance Procedures, Concurrent Calibration Check Procedures, and diagnostic checks to determine whether a device is operating accurately and properly.
15. "Operator Permit" means a document issued by the Department indicating that the permit holder has been found qualified to operate and perform the associated Quality Assurance Procedures on a specific approved device.
16. "Periodic Maintenance" means a Quality Assurance Procedure consisting of either of the following, which determines whether a device is operating accurately and properly:
  - a. Standard Calibration Check Procedure and Standard Quality Assurance Procedure (these checks and procedures may be performed concurrently), or
  - b. Concurrent Calibration Check Procedures and Concurrent Quality Assurance Procedures performed within a successfully completed test sequence bracketing a duplicate breath test.
17. "Preliminary breath test" means a pre-arrest breath test.
18. "Preliminary breath tester" or "PBT" means any approved device used prior to an arrest for the purpose of obtaining a determination of alcohol concentration from a specimen of breath and includes any device included on the National Highway Traffic Safety Administration's Conforming Products List of Evidential Breath Measurement Devices as incorporated by reference in R13-10-103(F).
19. "Procedure" means a series of operations used by an Operator or a Quality Assurance Specialist when employing an approved device in the determination of alcohol concentration or performing associated quality assurance testing.
20. "Quality Assurance Procedure" means Periodic Maintenance consisting of either of the following, which determines whether a device is operating accurately and properly:
  - a. Standard Calibration Check Procedure and Standard Quality Assurance Procedure (these checks and procedures may be performed concurrently), or
  - b. Concurrent Calibration Check Procedures and Concurrent Quality Assurance Procedures performed within a successfully completed test sequence bracketing a duplicate breath test.
21. "Quality Assurance Specialist" means a person who has been issued a Quality Assurance Specialist permit from the Department to perform the Standard Calibration Check Procedure and the Standard Quality Assurance Procedure to determine the accurate and proper operation of a specific approved device.
22. "Quality Assurance Specialist permit" means a document issued by the Department indicating that the permit holder has been found qualified to perform the Standard Calibration Check Procedure and the Standard Quality Assurance Procedure on a specific approved device.
23. "Standard Calibration Check Procedure" means operations performed by a Quality Assurance Specialist, at least every 31 days, to determine whether a device is accurately measuring alcohol concentration.
24. "Standard Operational Procedure" means operations performed by an Operator for the purpose of determining an alcohol concentration from a specimen of breath.
25. "Standard Quality Assurance Procedure" means operations performed by a Quality Assurance Specialist, at least every 90 days.

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**Historical Note**

New Section made by final rulemaking at 12 A.A.R. 1916, effective 9:00 a.m., May 18, 2006 (Supp. 06-2).  
Section amended by final rulemaking at 26 A.A.R. 723, effective June 1, 2020 (Supp. 20-2).

**R13-10-102. Analyst Methods; Approval of Additional Methods**

- A.** An analyst shall use one of the following methods to analyze blood or other bodily substances to determine a person's alcohol concentration:
1. Gas chromatography, or
  2. Another method that has been approved by the Director under the procedure in subsections (B) and (C).
- B.** An applicant for an analyst permit may submit, with the permit application, a request that the Director approve a method other than a method approved under subsection (A)(1) or (2).
- C.** For a method to be approved by the Director, the method's accuracy and reproducibility shall comply with the following standards:
1. The test results of samples with a standard alcohol concentration shall agree with the established value within the limits of  $\pm 0.01$  grams per 100 milliliters of blood or  $\pm 10$  percent, whichever is greater.
  2. The accuracy and precision shall be determined on the basis of ten measurements at four alcohol concentrations between 0.020 and 0.350 grams per 100 milliliters of blood, to include at least one value  $< 0.100$  and one value  $> 0.250$ .

**Historical Note**

New Section made by final rulemaking at 12 A.A.R. 1916, effective 9:00 a.m., May 18, 2006 (Supp. 06-2).

**R13-10-103. Breath-testing Devices**

- A.** The Director may approve devices used to determine alcohol concentration from breath after the Department successfully tests a typical model of the device for compliance with the standards in subsection (B).
- B.** A device shall meet the following standards of performance:
1. Breath specimens tested shall be alveolar in composition.
  2. The device shall be capable of analysis of a solution of known alcohol concentration with an accuracy limit of a systematic error of no more than  $\pm 0.005$  grams per 210 liters of breath or  $\pm 5$  percent, whichever is greater, and a precision limit of an average standard deviation of no more than 0.0042 grams per 210 liters of breath. The accuracy and precision of the device being evaluated shall be determined on the basis of 10 consecutive measurements at 4 alcohol vapor concentrations that are between 0.020 and 0.350 grams per 210 liters of breath, to include at least one value  $< 0.100$  and one value  $> 0.250$ .
  3. The device shall be capable of testing a breath sample that results in alcohol concentrations of less than 0.01 grams per 210 liters of breath when alcohol-free subjects are tested.
- C.** The Department, upon specific findings that a device, method, or breath test procedure is inaccurate, unreliable, or is an unacceptable test for determining alcohol concentration or that its use has been discontinued in the state, shall disapprove in writing further use of the device, method, or procedure.
- D.** The methods approved by the Director for use by a device to determine alcohol concentration are infrared spectrophotometry and specific fuel cell detection.
- E.** The following devices are approved by the Director:

Device/Model	Manufacturer
--------------	--------------

Intoxilyzer Model 5000 with or without Vapor Recirculation and with or without Keyboard	CMI, Inc.
Intoxilyzer Model 5000EN	CMI, Inc.
Intoxilyzer Model 8000	CMI, Inc.
Intoxilyzer Model 9000	CMI, Inc.
RBT AZ (Alco Sensor AZ/RBT AZ)	Intoximeter, Inc.

- F.** Products included on the National Highway Traffic Safety Administration's Conforming Products List of Evidential Breath Measurement Devices set forth in 82 FR 50940-50944 (November 2, 2017) are approved by the Director as preliminary breath testers to determine alcohol concentration. This document is incorporated by reference and does not include any later amendments or editions. A copy of this document is available from the Department and may be obtained from the National Highway Traffic Safety Administration's web site ([www.nhtsa.gov](http://www.nhtsa.gov)) or by contacting the U.S. Government Printing Office, 732 North Capitol Street NW, Washington, DC 20401.
- G.** Devices listed in subsection (E) may be used to administer preliminary breath tests.
- H.** Except when a device is used as a PBT or for other non-evidential testing purposes, an Operator permit and Standard Operational Procedure are required for the operation of devices listed in subsection (E).
- I.** In addition to the devices approved in subsection (E), the Director may approve, in writing, a device and related Standard Operational and Quality Assurance Procedures after the device has been successfully tested for compliance with the standards in subsection (B) for use prior to and pending the device being added to subsection (E). The approval shall expire three years after its effective date unless subsection (E) is amended to include the approved device.
- J.** In addition to devices approved as preliminary breath testers in subsection (F), the Director may approve in writing as a PBT a new device placed on subsequent National Highway Traffic Safety Administration's Conforming Products Lists of Evidential Breath Measurement Devices for use pending the new Conforming Products List being added to subsection (F).

**Historical Note**

New Section made by final rulemaking at 12 A.A.R. 1916, effective 9:00 a.m., May 18, 2006 (Supp. 06-2).  
Section amended by final rulemaking at 26 A.A.R. 723, effective June 1, 2020 (Supp. 20-2).

**R13-10-104. Testing Procedures**

- A.** Law enforcement agencies or individuals acting independently of law enforcement agencies who conduct alcohol concentration determinations by means of devices shall utilize a quality assurance program that is conducted by Quality Assurance Specialists or Operators and generate records of periodic maintenance. This quality assurance program shall include:
1. Criteria for ensuring the accurate and proper operation of devices by the regular performance of Calibration Checks and Quality Assurance Procedures as referenced in subsections (A)(2) and (A)(3);
  2. Calibration Checks of devices that are performed within 31 days of each other as Standard Calibration Check Procedures or during a test sequence bracketing a duplicate breath test as Concurrent Calibration Check Procedures and recorded according to the requirements of the appropriate Quality Assurance Procedures set forth in Exhibits



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G-2, G-3, G-6, H-2 and I-2 or as approved by the Director according to R13-10-103(I). These checks shall indicate that the device is capable of determining the value of a standard alcohol concentration solution with an accuracy limit of  $\pm 0.01$  grams per 210 liters of breath or  $\pm 10$  percent, whichever is greater;

3. Quality Assurance Procedure checks of devices that are performed within 90 days of each other as Standard Quality Assurance Procedures or during a test sequence bracketing a duplicate breath test as Concurrent Quality Assurance Procedures, and recorded according to the requirements of the appropriate Quality Assurance Procedures set forth in Exhibits G-4, G-5, G-6, H-3, H-4 and I-2 or as approved by the Director according to R13-10-103(I). These checks shall indicate that the device is capable of proper operation and is functioning as required by the Quality Assurance Procedures for the device;
  4. Standard alcohol concentration solutions, either liquid or gas, that are National Institute of Standards and Technology (NIST) traceable; and
  5. Records of Calibration Checks, Quality Assurance Procedures and maintenance or repairs for each device in use.
- B.** An Operator shall utilize the Standard Operational Procedure approved by the Department for the device being operated in performing tests for the determination of alcohol concentration, as contained in Exhibits G-1, G-6, H-1 and I-1 or as approved by the Director according to R13-10-103(I).
- C.** Duplicate breath tests shall be administered at intervals of not less than five minutes nor more than 10 minutes. The results of both tests shall be within 0.020 alcohol concentration of each other. If the second test is not within 0.020 alcohol concentration of the first test, additional tests shall be administered until the results of two consecutive tests are within 0.020 alcohol concentration.

**Historical Note**

New Section made by final rulemaking at 12 A.A.R. 1916, effective 9:00 a.m., May 18, 2006 (Supp. 06-2).  
Section amended by final rulemaking at 26 A.A.R. 723, effective June 1, 2020 (Supp. 20-2).

**R13-10-105. Permits and Certificates**

- A.** The Department shall issue Analyst permits to qualified applicants, in accordance with R13-10-106(A), who have satisfactorily demonstrated through proficiency testing as specified in R13-10-108(A) their proficiency in conducting an alcohol concentration determination by one or more of the methods listed in R13-10-102. The Analyst permit shall:
1. State the method of alcohol concentration determination the permit holder is approved to utilize and the type of specimen the permit holder is approved to analyze (blood or other bodily substances); and
  2. Be valid for one year.
- B.** An Analyst shall employ, in testing for alcohol concentration in matters arising under A.R.S. Title 28, Chapter 4, Article 3, the same analytical procedures as those employed by the analyst for proficiency testing.
- C.** The Department shall issue two categories of device permits.
1. Operator permits shall be issued to applicants who qualify under R13-10-106(B) or (E). This permit authorizes operation and performance of associated Quality Assurance Procedures, including Concurrent Calibration Check Procedures and Concurrent Quality Assurance Procedures, performed within a successfully completed test sequence bracketing a duplicate breath test on the device specified on the permit. Operator permits issued after the initial effective date of this Section shall be valid for five

years from the date of issue. Permits issued to Operators before the initial effective date of this Section shall remain in effect and be valid for five years after the initial effective date of this Section.

2. Quality Assurance Specialist permits shall be issued to applicants who hold a valid Operator permit and who qualify as a Quality Assurance Specialist under R13-10-106(C) or (E). This Quality Assurance Specialist permit authorizes the holder to perform Quality Assurance Procedures, including Standard Calibration Check Procedures and Standard Quality Assurance Procedures, on the device specified on the permit. Quality Assurance Specialist permits issued after the initial effective date of this Section shall be valid for five years from the date of issue. Permits issued to Quality Assurance Specialists before the initial effective date of this Section shall remain in effect and be valid for five years after the initial effective date of this Section.
  3. Operator and Quality Assurance Specialist permits may be renewed by application as required by R13-10-107 and successful completion of a recertification course approved by the Department.
  4. The Department shall issue duplicate (replacement) permits upon request and upon verification of the qualifications set forth in R13-10-106.
- D.** Law enforcement agencies shall supply the Department, upon request, with a list of current Operator and Quality Assurance Specialist permit holders and shall update the list as required by the Department, but no more frequently than annually.
- E.** The Department shall issue Instructor certificates to qualified applicants who hold valid Operator and Quality Assurance Specialist permits and who qualify as an Instructor under R13-10-106(D) or (E). The Instructor certificate authorizes the holder to provide breath test training to prospective Operators and Quality Assurance Specialists on a specific approved device. Instructor certificates issued after the initial effective date of this Section shall be valid for five years from the date of issue. Instructor certificates issued before the initial effective date of this Section shall remain in effect and be valid for five years from the initial effective date of this Section. Instructor certificates may be renewed by application as required by R13-10-107 and successful completion of a recertification examination approved by the Department.

**Historical Note**

New Section made by final rulemaking at 12 A.A.R. 1916, effective 9:00 a.m., May 18, 2006 (Supp. 06-2).

**R13-10-106. Qualifications**

- A.** To qualify for an Analyst permit, a person shall hold a degree from a college or university accredited by a regional accrediting body recognized by the United States Department of Education and have earned 15 or more semester credits, or the equivalent, of chemistry, including three or more credits of organic chemistry.
- B.** To qualify for an Operator permit, a person shall:
1. Be employed by a law enforcement agency or laboratory that has access to a device for the person's use as set forth in R13-10-103; and
  2. Complete a course in the determination of alcohol concentration approved by the Department with a score of 80 percent or better. The Department shall approve courses taught by an Instructor if they contain the following:
    - a. Instruction on the effects of alcohol on the human body;
    - b. Instruction on and demonstration of the operational principles of the selected device, which shall include

## CHAPTER 10. DEPARTMENT OF PUBLIC SAFETY - ALCOHOL TESTING

a functional description and detailed operational description of the method;

- c. Instruction on the legal aspects of breath tests in general and on the particular method to be employed;
  - d. Concurrent Calibration Check Procedures (when applicable to the device) approved by the Department;
  - e. Concurrent Quality Assurance Procedures (when applicable to the device) approved by the Department;
  - f. Applicant participation with the appropriate device utilizing reference standards, testing of subjects, or other methods that will indicate the actual response of the device; and
  - g. Written and practical examination of the applicant for the purpose of determining the person's understanding of the course material and proficiency in operating the device.
- C. To qualify for a Quality Assurance Specialist permit, a person shall possess a valid Operator permit to operate the approved device and complete a course of training approved by the Department with a score of 80 percent or better. The Department shall approve courses taught by an Instructor if they contain the following:
- 1. Review of the theory of breath testing and the operation of the particular testing device;
  - 2. Standard Calibration Check Procedures approved by the Department;
  - 3. Standard Quality Assurance Procedures approved by the Department;
  - 4. Applicant participation with the appropriate device utilizing reference standards, testing of subjects, or other methods that will indicate the actual response of the device; and
  - 5. Written and practical examination of the applicant for the purpose of determining the person's understanding of the course material and proficiency in operating the device.
- D. To qualify as an Instructor, a person shall hold valid Operator and Quality Assurance Specialist permits on the device for which instruction is given. In addition, except as provided in subsection (E), all applicants shall complete a comprehensive instructor examination approved and administered by the Department with a score of 90 percent or better. The Department shall approve instructor examinations that include the following:
- 1. The theory of breath testing and the operation of the specific device, and
  - 2. Procedures for testing instrument accuracy and proper operation in accordance with Calibration Checks and Quality Assurance Procedures approved by the Department.
- E. If a device is newly approved and no Operator and Quality Assurance Specialist permits have been issued for the device, a person may qualify to be an Operator, Quality Assurance Specialist, and Instructor for the specific device by completing a Department-administered, manufacturer-endorsed, instructor training course and a comprehensive examination with a score of 90 percent or better. The Instructor training course shall include the following:
- 1. Review of the theory of breath testing,
  - 2. Instruction on the operation of the device, and
  - 3. Procedures for testing instrument accuracy and proper operation in accordance with Calibration Checks and Quality Assurance Procedures approved by the Department.

**Historical Note**

New Section made by final rulemaking at 12 A.A.R. 1916, effective 9:00 a.m., May 18, 2006 (Supp. 06-2).

**R13-10-107. Application Processes**

- A. An applicant for an initial Analyst permit or the renewal of an existing Analyst permit shall complete the form shown as Exhibit A and submit it to the Department.
- B. An applicant for an initial Operator permit or the renewal of an existing Operator permit shall complete the form shown as Exhibit B and submitted to the Department.
- C. An applicant for an initial Quality Assurance Specialist permit or the renewal of an existing Quality Assurance Specialist permit shall complete the form shown as Exhibit C and submitted to the Department.
- D. An applicant for an initial Instructor approval or the renewal of an existing Instructor approval shall complete the form shown as Exhibit D and submitted to the Department.

**Historical Note**

New Section made by final rulemaking at 12 A.A.R. 1916, effective 9:00 a.m., May 18, 2006 (Supp. 06-2).  
Section amended by final rulemaking at 26 A.A.R. 723, effective June 1, 2020 (Supp. 20-2).

**R13-10-108. Examination and Quality Assurance Requirements for Analysts**

- A. The Department shall require an Analyst permit applicant to successfully demonstrate the applicant's proficiency in making alcohol concentration determinations from test specimens in accordance with subsection (B). The applicant shall be examined only on the methods that relate to the type of determination for which the applicant desires a permit.
- B. An applicant shall, before receiving an initial Analyst permit or renewal of an existing Analyst permit, participate in and successfully complete proficiency testing administered by the Department. An applicant shall successfully analyze samples by testing at least three suitable reference standards or control samples with a known alcohol concentration in the range of 0.00 to 0.40 grams per 100 milliliters of blood and having the results agree with the established value within the limits of  $\pm 0.01$  grams per 100 milliliters of blood or  $\pm 10$  percent, whichever is greater. Proficiency testing shall be administered by the Department as follows:
  - 1. An applicant shall correctly analyze all proficiency samples in the set provided by the Department.
  - 2. When returning the results of analyses to the Department, the applicant shall attach an affidavit attesting that the applicant analyzed the proficiency samples without help or input from any other person.
  - 3. An applicant failing to correctly analyze all proficiency samples in the set will be provided an opportunity to successfully analyze a second set of samples.
  - 4. The Department shall deny the application of an applicant who declines or fails to correctly analyze the second set of proficiency samples and shall not issue a permit.
  - 5. An applicant who fails to successfully analyze the second set of proficiency samples and whose application is denied may reapply for an analyst's permit beginning 90 days from the date of denial.
- C. An analyst who conducts alcohol concentration determinations shall implement and maintain a quality assurance program. This program shall be designed to ensure the validity of test results by providing for:
  - 1. Chain of custody,
  - 2. Quality control,
  - 3. Analytical procedures,
  - 4. Documentation of test results, and

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5. Participation in proficiency testing.

**Historical Note**

New Section made by final rulemaking at 12 A.A.R. 1916, effective 9:00 a.m., May 18, 2006 (Supp. 06-2).

**R13-10-109. Revocation or Suspension of Permits; Appeals**

- A. The Department may suspend or revoke a permit for any of the following reasons:
  1. A false statement on the permit holder's application,
  2. The neglect or refusal to examine and report the results of sample specimens given the Analyst permit holder for proficiency testing purposes,
  3. The failure of an Analyst to maintain quality control over equipment or reagents necessary for accuracy in reporting,
  4. Failure to obtain results on proficiency test samples as indicated in R13-10-108(B),
  5. Failure to operate a device according to approved procedures or the failure to analyze blood or other bodily substances according to approved methods, or

6. The failure by a permit holder to maintain documentation required by this Article or to make it available to Departmental representatives for inspection for purposes of administering this Article.

- B. When a permit has been suspended or revoked in one or more of the approved methods or devices and there remain one or more methods or devices for which the permittee is approved that are not affected by the revocation or suspension, the permit holder shall return the suspended or revoked permit to the Department. The Department shall issue a replacement permit that shows only those approved methods or devices unaffected by the event leading to the suspension or revocation.
- C. The provisions of A.R.S. Title 41, Chapter 6, Article 10 are applicable to denials, revocations, suspensions and administrative appeals.

**Historical Note**

New Section made by final rulemaking at 12 A.A.R. 1916, effective 9:00 a.m., May 18, 2006 (Supp. 06-2).

## CHAPTER 10. DEPARTMENT OF PUBLIC SAFETY - ALCOHOL TESTING

## Exhibit A. Application for Blood Alcohol Analyst Permit

## APPLICATION FOR BLOOD ALCOHOL ANALYST PERMIT

## ARIZONA DEPARTMENT OF PUBLIC SAFETY

Scientific Analysis Bureau  
2102 W. Encanto Blvd.  
Phoenix, Arizona 85009  
(602) 223-2394

Application for Analyst permit to perform analysis of blood or other bodily substances for alcohol concentration determinations.

**TO BE COMPLETED BY APPLICANT - PLEASE PRINT CLEARLY**  
(ALL ITEMS MUST BE COMPLETED OR APPLICATION WILL NOT BE ACCEPTED)

IS THIS APPLICATION FOR? INITIAL PERMIT \_\_\_\_\_ RENEWAL \_\_\_\_\_ PERMIT NUMBER \_\_\_\_\_

1. Name: \_\_\_\_\_  
(Full legal name) (First) (Middle) (Last) (Maiden)

2. Date of Birth: \_\_\_\_\_  
(Month) (Day) (Year)

3. Employer: \_\_\_\_\_  
(Name)

\_\_\_\_\_  
(Address)

\_\_\_\_\_  
(Phone) (Fax)

4. Email address: \_\_\_\_\_

5. Education: I have earned a degree from an accredited college or university with 15 or more semester credits or the equivalent of college chemistry, including at least 3 credits in organic chemistry. Yes \_\_\_\_\_ No \_\_\_\_\_  
College(s) attended \_\_\_\_\_  
(City & State) (Year Graduated) (Degree)

\_\_\_\_\_  
(City & State) (Year Graduated) (Degree)

6. Check the analytical method(s) for which you require an Analyst permit:  
Gas Chromatography \_\_\_\_\_ Other: \_\_\_\_\_

I hereby certify that the information submitted in this application is true and correct.

\_\_\_\_\_  
(Signature of Applicant) (Date)

DPS Form Exh A (Rev. 19-1)

**Historical Note**

New Exhibit A made by final rulemaking at 12 A.A.R. 1916, effective 9:00 a.m., May 18, 2006 (Supp. 06-2). Exhibit A amended by final rulemaking at 26 A.A.R. 723, effective June 1, 2020 (Supp. 20-2).

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## Exhibit B. Application for Breath Alcohol Operator Permit

## APPLICATION FOR BREATH ALCOHOL OPERATOR PERMIT

## ARIZONA DEPARTMENT OF PUBLIC SAFETY

Scientific Analysis Bureau  
 2102 W. Encanto Blvd.  
 Phoenix, Arizona 85009  
 (602) 223-2394

Application for an Operator permit to perform alcohol concentration determinations and associated quality assurance procedures on an approved device.

**TO BE COMPLETED BY APPLICANT - PLEASE PRINT CLEARLY**  
 (ALL ITEMS MUST BE COMPLETED OR APPLICATION WILL NOT BE ACCEPTED)

IS THIS APPLICATION FOR? INITIAL PERMIT \_\_\_\_\_ RENEWAL \_\_\_\_\_

DO YOU HAVE AN OPERATOR PERMIT(S)? YES \_\_\_\_\_ NO \_\_\_\_\_

OPERATOR DEVICE(S) / PERMIT NUMBER(S) \_\_\_\_\_

1. Name: \_\_\_\_\_  
 (Full legal name) (First) (Middle) (Last) (Maiden)

2. Employer: \_\_\_\_\_  
 (Name)

\_\_\_\_\_  
 (Address)

\_\_\_\_\_  
 (Phone) (Fax)

3. Email address: \_\_\_\_\_

4. Operator permit requested for what device(s): \_\_\_\_\_

I hereby certify that the information submitted in this application is true and correct.

\_\_\_\_\_  
 (Signature of Applicant) Badge # (Date)

\*\*\*\*\*

**TO BE COMPLETED BY INSTRUCTOR**

1. Agency Conducting Training: \_\_\_\_\_

2. Date and Location of Training: \_\_\_\_\_  
 (Date) (Location)

3. Arizona Department of Public Safety course approval number: \_\_\_\_\_

4. Did applicant successfully complete the course? Pass \_\_\_\_\_ Fail \_\_\_\_\_

\_\_\_\_\_  
 (Signature of Instructor) (Print Name) (Date)

DPS Form Exh B (Rev. 19-1)

**Historical Note**

New Exhibit B made by final rulemaking at 12 A.A.R. 1916, effective 9:00 a.m., May 18, 2006 (Supp. 06-2). Exhibit B amended by final rulemaking at 26 A.A.R. 723, effective June 1, 2020 (Supp. 20-2).

## CHAPTER 10. DEPARTMENT OF PUBLIC SAFETY - ALCOHOL TESTING

## Exhibit C. Application for Breath Alcohol Quality Assurance Specialist Permit

## APPLICATION FOR BREATH ALCOHOL QUALITY ASSURANCE SPECIALIST PERMIT

## ARIZONA DEPARTMENT OF PUBLIC SAFETY

Scientific Analysis Bureau  
2102 W. Encanto Blvd.  
Phoenix, Arizona 85009  
(602) 223-2394

Application for a QAS permit to perform quality assurance procedures on an approved device.

**TO BE COMPLETED BY APPLICANT - PLEASE PRINT CLEARLY**

(ALL ITEMS MUST BE COMPLETED OR APPLICATION WILL NOT BE ACCEPTED)

IS THIS APPLICATION FOR? INITIAL PERMIT \_\_\_\_\_ RENEWAL \_\_\_\_\_

DO YOU HAVE AN OPERATOR PERMIT(S)? YES \_\_\_\_\_ NO \_\_\_\_\_

OPERATOR DEVICE(S) / PERMIT NUMBER(S) \_\_\_\_\_

1. Name: \_\_\_\_\_  
(Full legal name) (First) (Middle) (Last) (Maiden)

2. Employer: \_\_\_\_\_  
(Name)  
\_\_\_\_\_  
(Address)  
\_\_\_\_\_  
(Phone) (Fax)

3. Email address: \_\_\_\_\_

4. QAS permit requested for what device(s): \_\_\_\_\_

I hereby certify that the information submitted in this application is true and correct.

\_\_\_\_\_  
(Signature of Applicant) Badge # (Date)

\*\*\*\*\*

**TO BE COMPLETED BY INSTRUCTOR**

1. Agency Conducting Training: \_\_\_\_\_

2. Date and Location of Training: \_\_\_\_\_  
(Date) (Location)

3. Arizona Department of Public Safety course approval number: \_\_\_\_\_

4. Did applicant successfully complete the course? Pass \_\_\_\_\_ Fail \_\_\_\_\_

\_\_\_\_\_  
(Signature of Instructor) (Print Name) (Date)

DPS Form Exh C (Rev. 19-1)

**Historical Note**

New Exhibit C made by final rulemaking at 12 A.A.R. 1916, effective 9:00 a.m., May 18, 2006 (Supp. 06-2). Exhibit C amended by final rulemaking at 26 A.A.R. 723, effective June 1, 2020 (Supp. 20-2).

## CHAPTER 10. DEPARTMENT OF PUBLIC SAFETY - ALCOHOL TESTING

**Exhibit D. Application for Breath Testing Instructor****APPLICATION FOR BREATH TESTING INSTRUCTOR****ARIZONA DEPARTMENT OF PUBLIC SAFETY**

Scientific Analysis Bureau  
2102 W. Encanto Blvd.  
Phoenix, Arizona 85009  
(602) 223-2394

Application for an Instructor certificate to provide Operator and QAS training on an approved device.

**TO BE COMPLETED BY APPLICANT - PLEASE PRINT CLEARLY**  
(ALL ITEMS MUST BE COMPLETED OR APPLICATION WILL NOT BE ACCEPTED)

IS THIS APPLICATION FOR? INITIAL APPROVAL \_\_\_\_\_ RENEWAL \_\_\_\_\_

DO YOU HAVE AN OPERATOR PERMIT(S)? YES \_\_\_\_\_ NO \_\_\_\_\_

OPERATOR DEVICE(S) / PERMIT NUMBER(S)? \_\_\_\_\_

DO YOU HAVE QAS PERMIT(S)? YES \_\_\_\_\_ NO \_\_\_\_\_

QAS DEVICE(S) / PERMIT NUMBER(S) \_\_\_\_\_

1. Name: \_\_\_\_\_  
(Full legal name) (First) (Middle) (Last) (Maiden)

2. Employer: \_\_\_\_\_  
(Name)

\_\_\_\_\_  
(Address)

\_\_\_\_\_  
(Phone) (Fax)

3. Email address: \_\_\_\_\_

4. Instructor certificate requested for what device: \_\_\_\_\_

I hereby certify that the information submitted in this application is true and correct.

\_\_\_\_\_  
(Signature of Applicant)

\_\_\_\_\_  
(Date)

\*\*\*\*\*

**TO BE COMPLETED BY REGULATOR**

1. Arizona Department of Public Safety examination approval number: \_\_\_\_\_

2. Did applicant successfully attain Instructor approval? Pass \_\_\_\_\_ Fail \_\_\_\_\_

\_\_\_\_\_  
(Signature of Regulator)

\_\_\_\_\_  
(Print Name)

\_\_\_\_\_  
(Date)

DPS Form Exh D (Rev. 19-1)

**Historical Note**

New Exhibit D made by final rulemaking at 12 A.A.R. 1916, effective 9:00 a.m., May 18, 2006 (Supp. 06-2). Exhibit D amended by final rulemaking at 26 A.A.R. 723, effective June 1, 2020 (Supp. 20-2).

## CHAPTER 10. DEPARTMENT OF PUBLIC SAFETY - ALCOHOL TESTING

**Exhibit E-1. Expired****Historical Note**

New Exhibit E-1 made by final rulemaking at 12 A.A.R. 1916, effective 9:00 a.m., May 18, 2006 (Supp. 06-2).  
Exhibit E-1 expired under A.R.S. § 41-1056(J) at 22 A.A.R. 2054, effective May 31, 2016 (Supp. 16-3).

**Exhibit E-2. Expired****Historical Note**

New Exhibit E-2 made by final rulemaking at 12 A.A.R. 1916, effective 9:00 a.m., May 18, 2006 (Supp. 06-2).  
Exhibit E-2 expired under A.R.S. § 41-1056(J) at 22 A.A.R. 2054, effective May 31, 2016 (Supp. 16-3).

**Exhibit E-3. Expired****Historical Note**

New Exhibit E-3 made by final rulemaking at 12 A.A.R. 1916, effective 9:00 a.m., May 18, 2006 (Supp. 06-2).  
Exhibit E-3 expired under A.R.S. § 41-1056(J) at 22 A.A.R. 2054, effective May 31, 2016 (Supp. 16-3).

**Exhibit E-4. Expired****Historical Note**

New Exhibit E-4 made by final rulemaking at 12 A.A.R. 1916, effective 9:00 a.m., May 18, 2006 (Supp. 06-2).  
Exhibit E-4 expired under A.R.S. § 41-1056(J) at 22 A.A.R. 2054, effective May 31, 2016 (Supp. 16-3).

**Exhibit E-5. Expired****Historical Note**

New Exhibit E-5 made by final rulemaking at 12 A.A.R. 1916, effective 9:00 a.m., May 18, 2006 (Supp. 06-2).  
Exhibit E-5 expired under A.R.S. § 41-1056(J) at 22 A.A.R. 2054, effective May 31, 2016 (Supp. 16-3).

**Exhibit E-6. Expired****Historical Note**

New Exhibit E-6 made by final rulemaking at 12 A.A.R. 1916, effective 9:00 a.m., May 18, 2006 (Supp. 06-2).

Exhibit E-6 expired under A.R.S. § 41-1056(J) at 22 A.A.R. 2054, effective May 31, 2016 (Supp. 16-3).

**Exhibit F-1. Expired****Historical Note**

New Exhibit F-1 made by final rulemaking at 12 A.A.R. 1916, effective 9:00 a.m., May 18, 2006 (Supp. 06-2).  
Exhibit F-1 expired under A.R.S. § 41-1056(J) at 22 A.A.R. 2054, effective May 31, 2016 (Supp. 16-3).

**Exhibit F-2. Expired****Historical Note**

New Exhibit F-2 made by final rulemaking at 12 A.A.R. 1916, effective 9:00 a.m., May 18, 2006 (Supp. 06-2).  
Exhibit F-2 expired under A.R.S. § 41-1056(J) at 22 A.A.R. 2054, effective May 31, 2016 (Supp. 16-3).

**Exhibit F-3. Expired****Historical Note**

New Exhibit F-3 made by final rulemaking at 12 A.A.R. 1916, effective 9:00 a.m., May 18, 2006 (Supp. 06-2).  
Exhibit F-3 expired under A.R.S. § 41-1056(J) at 22 A.A.R. 2054, effective May 31, 2016 (Supp. 16-3).

**Exhibit F-4. Expired****Historical Note**

New Exhibit F-4 made by final rulemaking at 12 A.A.R. 1916, effective 9:00 a.m., May 18, 2006 (Supp. 06-2).  
Exhibit F-4 expired under A.R.S. § 41-1056(J) at 22 A.A.R. 2054, effective May 31, 2016 (Supp. 16-3).

**Exhibit F-5. Expired****Historical Note**

New Exhibit F-5 made by final rulemaking at 12 A.A.R. 1916, effective 9:00 a.m., May 18, 2006 (Supp. 06-2).  
Exhibit F-5 expired under A.R.S. § 41-1056(J) at 22 A.A.R. 2054, effective May 31, 2016 (Supp. 16-3).



## CHAPTER 10. DEPARTMENT OF PUBLIC SAFETY - ALCOHOL TESTING

## Exhibit G-1. Standard Operational Procedure, Intoxilyzer Model 8000

**OPERATIONAL CHECKLIST**  
**ARIZONA DEPARTMENT OF PUBLIC SAFETY**  
**STANDARD OPERATIONAL PROCEDURE**  
**INTOXILYZER MODEL 8000**  
**DUPLICATE BREATH TEST**

SUBJECT NAME \_\_\_\_\_ DATE \_\_\_\_\_

AGENCY \_\_\_\_\_ OPERATOR \_\_\_\_\_

INSTRUMENT SERIAL # \_\_\_\_\_ LOCATION \_\_\_\_\_

TEST RESULTS	0. _____ AC	TIME _____
	0. _____ AC	TIME _____
	0. _____ AC	TIME _____

Immediately preceding administration of the tests, subject underwent at least a 15-minute deprivation period:

From \_\_\_\_\_ to \_\_\_\_\_ by \_\_\_\_\_  
(Time) (Time) (Name)

( ) 1. Display reads "PUSH BUTTON TO START".

( ) 2. Push Start Test button.

( ) 3. Follow automated instructions on instrument display.

( ) 4. If test record reads "Successfully Completed Test Sequence" go to step 5

OR

If test record reads "Not a Successfully Completed Test Sequence", and subject will be tested again, remove test record and go to step 1

OR

If test record reads "Not a Successfully Completed Test Sequence", and subject will not be tested again, go to step 5

( ) 5. Remove test record.

Note: Duplicate breath tests shall be administered at intervals of not less than 5 minutes nor more than 10 minutes apart and the two consecutive tests shall agree within 0.020 alcohol concentration.

DPS Form Exh G-1 (Rev 05-1)

**Historical Note**

New Exhibit G-1 made by final rulemaking at 12 A.A.R. 1916, effective 9:00 a.m., May 18, 2006 (Supp. 06-2).

## Exhibit G-2. Standard Calibration Check Procedure, Intoxilyzer Model 8000

## THIS REPORT PREPARED PURSUANT TO DUTY IMPOSED BY A.A.C. R13-10-104(A)

ARIZONA DEPARTMENT OF PUBLIC SAFETY  
STANDARD QUALITY ASSURANCE PROCEDURES  
INTOXILYZER MODEL 8000  
STANDARD CALIBRATION CHECK PROCEDURE

QA SPECIALIST \_\_\_\_\_ AGENCY \_\_\_\_\_

DATE \_\_\_\_\_ TIME \_\_\_\_\_

INTOXILYZER SERIAL # \_\_\_\_\_ LOCATION \_\_\_\_\_

( ) 1. Ensure that gas tank is attached to instrument and contains a standard alcohol concentration solution \_\_\_\_\_ AC.

OR

Pour a standard alcohol concentration solution \_\_\_\_\_ AC, into a clean dry simulator and assemble the simulator. Ensure that a tight seal has been made. Turn on the simulator and allow temperature to reach  $34^{\circ}\text{C} \pm 0.2^{\circ}\text{C}$

( ) 2. Intoxilyzer 8000 display reads "PUSH BUTTON TO START"

( ) 3. Go to the "Control Testing Menu". Select "D" for dry control test or "W" for wet control test. After selection is made press ENTER.

( ) 4. Air blank completed.

( ) 5. Calibration check completed. Test results 0. \_\_\_\_\_ AC.

( ) 6. Air blank completed.

( ) 7. Remove printed record. Attach the record to the completed checklist.

SIGNATURE \_\_\_\_\_

DPS Form Exh G-2 (Rev 05-01)

**Historical Note**

New Exhibit G-2 made by final rulemaking at 12 A.A.R. 1916, effective 9:00 a.m., May 18, 2006 (Supp. 06-2).

**Exhibit G-3. Standard Calibration Check Procedure Intoxilyzer, Model 8000 (Option P)****THIS REPORT PREPARED PURSUANT TO DUTY IMPOSED BY A.A.C. R13-10-104(A)****ARIZONA DEPARTMENT OF PUBLIC SAFETY  
STANDARD QUALITY ASSURANCE PROCEDURES  
INTOXILYZER MODEL 8000****STANDARD CALIBRATION CHECK PROCEDURE  
(OPTION P)**

1. a. Ensure dry gas tank is attached to instrument and contains a standard alcohol concentration solution alcohol standard.  
OR  
b. Pour a standard alcohol concentration solution into a clean dry simulator and assemble the simulator.  
Ensure that a tight seal has been made. Turn on the simulator and allow temperature to reach  $34^{\circ}\text{C} \pm 0.2^{\circ}\text{C}$
2. Intoxilyzer 8000 display reads "PUSH BUTTON TO START"
3. Go to the "Control Testing Menu". Select "D" for dry control test or "W" for wet control test. After selection is made press ENTER.
4. Air blank completed.
5. Standard Calibration Check completed.
6. Air blank completed.

DPS Form Exh G-3 (Rev 05-01)

**Historical Note**

New Exhibit G-3 made by final rulemaking at 12 A.A.R. 1916, effective 9:00 a.m., May 18, 2006 (Supp. 06-2).

**Exhibit G-4. Standard Quality Assurance Procedure Intoxilyzer, Model 8000****THIS REPORT PREPARED PURSUANT TO DUTY IMPOSED BY A.A.C. R13-10-104(A)****ARIZONA DEPARTMENT OF PUBLIC SAFETY  
STANDARD QUALITY ASSURANCE PROCEDURES  
INTOXILYZER MODEL 8000  
STANDARD QUALITY ASSURANCE PROCEDURE**

QA SPECIALIST \_\_\_\_\_ AGENCY \_\_\_\_\_

DATE \_\_\_\_\_ TIME \_\_\_\_\_

INTOXILYZER SERIAL # \_\_\_\_\_ LOCATION \_\_\_\_\_

( ) 1. Display Reads "PUSH BUTTON TO START"

**DIAGNOSTIC TESTS**

( ) 1. Clock time check.

( ) 2. Date check.

**OPERATIONAL TESTS**

( ) 1. Alcohol-free subject test result 0. \_\_\_\_\_ AC.

( ) 2. Error recognition logic system functioning.

Not a Successfully Completed Test Sequence printed

( ) 3. Proper sample recognition system.

Not a Successfully Completed Test Sequence printed

Deficient sample printed.

( ) 4. Standard Calibration Check standard 0. \_\_\_\_\_ AC. Result 0. \_\_\_\_\_ AC.

Instrument is operating properly and accurately. YES \_\_\_\_\_ NO \_\_\_\_\_

COMMENTS \_\_\_\_\_

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

SIGNATURE \_\_\_\_\_

DPS Form Exh G-4 (Rev 05-01)

**Historical Note**

New Exhibit G-4 made by final rulemaking at 12 A.A.R. 1916, effective 9:00 a.m., May 18, 2006 (Supp. 06-2).

**Exhibit G-5. Standard Quality Assurance Procedure Intoxilyze, Model 8000 (Option P)****THIS REPORT PREPARED PURSUANT TO DUTY IMPOSED BY A.A.C. R13-10-104(A)  
ARIZONA DEPARTMENT OF PUBLIC SAFETY****STANDARD QUALITY ASSURANCE PROCEDURES  
INTOXILYZER MODEL 8000****STANDARD QUALITY ASSURANCE PROCEDURE  
(OPTION P)**

Display Reads "Push Button to Start"

**DIAGNOSTIC TESTS**

1. Clock time check.
2. Date check.

**OPERATIONAL TESTS**

1. Alcohol-free subject test result.
2. Error recognition logic system functioning.  
Not a Successfully Completed Test Sequence printed or recorded.
3. Proper sample recognition system.  
Not a Successfully Completed Test Sequence printed or recorded.  
Deficient sample printed or recorded.
4. Standard alcohol concentration solution.

DPS Form Exh G-5 (Rev 05-01)

**Historical Note**

New Exhibit G-5 made by final rulemaking at 12 A.A.R. 1916, effective 9:00 a.m., May 18, 2006 (Supp. 06-2).

## Exhibit G-6. Standard Operational and Quality Assurance Procedure, Intoxilyzer Model 8000

THIS REPORT PREPARED PURSUANT TO DUTY IMPOSED BY A.A.C. R13-10-104(A)

## ARIZONA DEPARTMENT OF PUBLIC SAFETY

STANDARD OPERATIONAL AND QUALITY ASSURANCE PROCEDURES  
INTOXILYZER MODEL 8000

## DUPLICATE BREATH TEST WITH CONCURRENT QUALITY ASSURANCE PROCEDURES

SUBJECT NAME \_\_\_\_\_ DATE \_\_\_\_\_

AGENCY \_\_\_\_\_ OPERATOR \_\_\_\_\_

INSTRUMENT SERIAL # \_\_\_\_\_ LOCATION \_\_\_\_\_

SUBJECT TESTS		DIAGNOSTIC CHECKS		CALIBRATION CHECKS
0. _____ AC	TIME _____	_____ PASS	_____ FAIL	0. _____ AC
0. _____ AC	TIME _____	_____ PASS	_____ FAIL	0. _____ AC
0. _____ AC	TIME _____	_____		

Immediately preceding administration of the tests, subject underwent at least a 15-minute deprivation period:

From \_\_\_\_\_ to \_\_\_\_\_ by \_\_\_\_\_  
(Time) (Time) (Name)

- ( ) 1. Display reads "PUSH BUTTON TO START".  
 ( ) 2. Push Start Test button.  
 ( ) 3. Follow automated instructions on instrument display.  
 ( ) 4. If test record reads "Successfully Completed Test Sequence" go to step 5

OR

If test record reads "Not a Successfully Completed Test Sequence", and subject will be tested again, remove test record and go to step 1

OR

If test record reads "Not a Successfully Completed Test Sequence", and subject will not be tested again, go to step 5

- ( ) 5. Remove test record.

Note: A successfully completed test sequence includes the following:

- At least a 15-minute deprivation period.
- Successful concurrent diagnostic checks
- Successful Concurrent Calibration Check Procedures bracketing the duplicate breath test
- Duplicate breath test administered at intervals of not less than 5 minutes nor more than 10 minutes apart and the two consecutive tests agreeing within 0.020 alcohol concentration.

DPS Form Exh G-6 (Rev 05-01)

## Historical Note

New Exhibit G-6 made by final rulemaking at 12 A.A.R. 1916, effective 9:00 a.m., May 18, 2006 (Supp. 06-2).

## Exhibit H-1. Standard Operational Procedure Alco Sensor RBT AZ

## OPERATIONAL CHECKLIST

## ARIZONA DEPARTMENT OF PUBLIC SAFETY

STANDARD OPERATIONAL PROCEDURE  
ALCO SENSOR RBT AZ

## DUPLICATE BREATH TEST

SUBJECT NAME \_\_\_\_\_ DATE \_\_\_\_\_

AGENCY \_\_\_\_\_ OPERATOR \_\_\_\_\_

LOCATION \_\_\_\_\_

RBT AZ SERIAL # \_\_\_\_\_ ALCO SENSOR AZ SERIAL # \_\_\_\_\_

TEST RESULTS	0. _____ AC	TIME _____
	0. _____ AC	TIME _____
	0. _____ AC	TIME _____

Immediately preceding administration of the tests, subject underwent at least a 15-minute deprivation period:

From \_\_\_\_\_ to \_\_\_\_\_ by \_\_\_\_\_  
(Time) (Time) (Name)

- ( ) 1. Depress RBT AZ ON button.
- ( ) 2. Depress zero set button, select subject or quick test.
- ( ) 3. Follow RBT AZ and AS AZ display instructions.
- ( ) 4. Enter case # &/or DL # if required.
- ( ) 5. Device temperature registers between 10° C and 40° C.
- ( ) 6.
  - a. If quick test, go to step 7.
  - b. If subject test, repeat steps 3 – 6 for duplicate test.
  - c. If the second subject test is not within 0.020 of the first test, repeat steps 3-6.
  - d. If the second subject test is within 0.020 of the first test, go to step 7.
  - e. If the third subject test, go to step 7.
- ( ) 7. Remove test record when printout is complete.
- ( ) 8. Turn off RBT AZ.

Note: Duplicate breath tests shall be administered at intervals of not less than 5 nor more than 10 minutes and the two consecutive tests shall agree within 0.020 alcohol concentration.

DPS Form Exh H-1 (Rev 05-01)

**Historical Note**

New Exhibit H-1 made by final rulemaking at 12 A.A.R. 1916, effective 9:00 a.m., May 18, 2006 (Supp. 06-2).

## Exhibit H-2. Standard Calibration Check Procedure Alco Sensor RBT AZ

THIS REPORT PREPARED PURSUANT TO DUTY IMPOSED BY A.A.C. R13-10-104(A)

ARIZONA DEPARTMENT OF PUBLIC SAFETY  
STANDARD QUALITY ASSURANCE PROCEDURES  
ALCO SENSOR RBT AZ  
STANDARD CALIBRATION CHECK PROCEDURE

AGENCY \_\_\_\_\_ DATE \_\_\_\_\_

QA SPECIALIST \_\_\_\_\_ LOCATION \_\_\_\_\_

RBT AZ SERIAL # \_\_\_\_\_ ALCO SENSOR AZ SERIAL # \_\_\_\_\_

- ( ) 1. Have a standard alcohol concentration solution ready.  
This may be a simulator (at  $34^{\circ}\text{C} \pm 0.2^{\circ}\text{C}$ ) or a dry gas alcohol standard. Standard value: 0. \_\_\_\_\_ AC.
- ( ) 2. Depress RBT AZ ON button.  
Depress Time button.  
Enter PIN #.  
Depress zero button.
- ( ) 3. Follow RBT AZ and AS AZ display instructions.
- ( ) 4. Device temperature registers between  $10^{\circ}\text{C}$  and  $40^{\circ}\text{C}$ .
- ( ) 5. When AS AZ display reads "CHEK", introduce standard for 7 seconds; depress the MANUAL button on the AS AZ at 5 seconds (while continuing to introduce the standard for another 2 seconds.)
- ( ) 6. Test results 0. \_\_\_\_\_ AC.
- ( ) 7. Remove test record when printout is complete.
- ( ) 8. Turn off RBT AZ.

COMMENTS \_\_\_\_\_

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

SIGNATURE \_\_\_\_\_

DPS Form Exh H-2 (Rev 05-01)

**Historical Note**

New Exhibit H-2 made by final rulemaking at 12 A.A.R. 1916, effective 9:00 a.m., May 18, 2006 (Supp. 06-2).



## Exhibit H-3. Standard Quality Assurance Procedure Alco Sensor RBT AZ

## THIS REPORT PREPARED PURSUANT TO DUTY IMPOSED BY A.A.C. R13-10-104(A)

ARIZONA DEPARTMENT OF PUBLIC SAFETY  
STANDARD QUALITY ASSURANCE PROCEDURES  
ALCO SENSOR RBT AZ  
STANDARD QUALITY ASSURANCE PROCEDURE

AGENCY \_\_\_\_\_ DATE \_\_\_\_\_

QA SPECIALIST \_\_\_\_\_ LOCATION \_\_\_\_\_

RBT AZ SERIAL # \_\_\_\_\_ ALCO-SENSOR AZ SERIAL # \_\_\_\_\_

- ( ) 1. Have a standard alcohol concentration solution ready.  
This may be a simulator (at  $34^{\circ}\text{C} \pm 0.2^{\circ}\text{C}$ ) or a dry gas alcohol standard. Standard value: 0. \_\_\_\_\_ AC.
- ( ) 2. Depress RBT AZ ON button.  
Depress Time button.  
Enter PIN #.  
Depress zero button.
- ( ) 3. Follow RBT AZ and AS AZ display instructions.
- ( ) 4. Device temperature registers between  $10^{\circ}\text{C}$  and  $40^{\circ}\text{C}$ .
- ( ) 5. When AS AZ display reads "CHEK", introduce standard for 7 seconds; depress the MANUAL button on the AS AZ at 5 seconds (while continuing to introduce the standard for another 2 seconds.)
- ( ) 6. Test results 0. \_\_\_\_\_ AC.
- ( ) 7. Remove test record when printout is complete.
- ( ) 8. Turn off RBT AZ.
- ( ) 1. Date and time correct.
- ( ) 2. Alcohol-free subject test result 0. \_\_\_\_\_ AC.
- ( ) 3. Proper sample recognition system.
- ( ) 4. Fuel cell response time for a standard solution.  
Standard value: \_\_\_\_\_ AC. Time \_\_\_\_\_ sec.
- ( ) 5. Controls, displays, and printer worked correctly during the above quality assurance procedures.

COMMENTS \_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

SIGNATURE \_\_\_\_\_

DPS Form Exh H-3 (Rev 05-01)

**Historical Note**

New Exhibit H-3 made by final rulemaking at 12 A.A.R. 1916, effective 9:00 a.m., May 18, 2006 (Supp. 06-2).

## Exhibit H-4. Standard Calibration Procedure Alco Sensor RBT AZ

THIS REPORT PREPARED PURSUANT TO DUTY IMPOSED BY A.A.C. R13-10-104(A)

ARIZONA DEPARTMENT OF PUBLIC SAFETY  
STANDARD QUALITY ASSURANCE PROCEDURES  
ALCO SENSOR RBT AZ

## CALIBRATION

AGENCY \_\_\_\_\_ DATE \_\_\_\_\_

QA SPECIALIST \_\_\_\_\_ LOCATION \_\_\_\_\_

RBT AZ SERIAL # \_\_\_\_\_ ALCO-SENSOR AZ SERIAL # \_\_\_\_\_

- ( ) 1. Have a standard alcohol concentration solution ready.  
This may be a simulator (at  $34^{\circ}\text{C} \pm 0.2^{\circ}\text{C}$ ) or a dry gas alcohol standard. Standard value: 0. \_\_\_\_\_ AC.
- ( ) 2. Depress RBT AZ ON button.
- ( ) 3. Depress Time button, enter PIN #, depress #1 button.
- ( ) 4. Follow RBT AZ and AS AZ display instructions.
- ( ) 5. Device temperature registers between  $23^{\circ}\text{C}$  and  $27^{\circ}\text{C}$ .
- ( ) 6. After a blank reading of 0.000 is displayed and the standard value is displayed, depress F3.
- ( ) 7. When AS AZ display flashes "CAL", introduce standard for 7 seconds; depress the MANUAL button on the AS AZ at 5 seconds (while continuing to introduce the standard for another 2 seconds.)
- ( ) 8. Remove test record when printout is complete.
- ( ) 9. Run a calibration check on the Standard Calibration Check Procedure.  
Test results: \_\_\_\_\_ AC.

COMMENTS \_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

SIGNATURE \_\_\_\_\_

DPS Form Exh H-4 (Rev 05-01)

**Historical Note**

New Exhibit H-4 made by final rulemaking at 12 A.A.R. 1916, effective 9:00 a.m., May 18, 2006 (Supp. 06-2).

**Exhibit I-1. Operational Checklist Standard Operational Procedure, Arizona Department of Public Safety, Intoxilyzer Model 9000, Duplicate Breath Test**

**OPERATIONAL CHECKLIST  
STANDARD OPERATIONAL PROCEDURE  
ARIZONA DEPARTMENT OF PUBLIC SAFETY  
INTOXILYZER MODEL 9000  
DUPLICATE BREATH TEST**

SUBJECT NAME \_\_\_\_\_ DATE \_\_\_\_\_

AGENCY \_\_\_\_\_ OPERATOR &amp; BADGE \_\_\_\_\_

INTOXILYZER SERIAL # \_\_\_\_\_ DEPRIVATION BY \_\_\_\_\_

- ☐ 1. Ensure proper deprivation period
- ☐ 2. Push the start button on the screen
- ☐ 3. Follow automated prompts on the instrument display

Note: Duplicate breath tests shall be administered at intervals of not less than 5 minutes nor more than 10 minutes apart and the two consecutive tests shall agree within 0.020 alcohol concentration.

COMMENTS:

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SIGNATURE \_\_\_\_\_

DPS Form Exh I-1 (Iss 19-01)

**Historical Note**

Exhibit I-1 made by final rulemaking at 26 A.A.R. 723, effective June 1, 2020 (Supp. 20-2).

**Exhibit I-2. Arizona Department of Public Safety, Intoxilyzer Model 9000, Periodic Maintenance, Standard Calibration Check and Standard Quality Assurance Procedure****THIS REPORT PREPARED PURSUANT TO DUTY IMPOSED BY A.A.C. R13-10-104(A)****ARIZONA DEPARTMENT OF PUBLIC SAFETY  
INTOXILYZER MODEL 9000****PERIODIC MAINTENANCE, STANDARD CALIBRATION CHECK AND  
STANDARD QUALITY ASSURANCE PROCEDURE**

QA SPECIALIST \_\_\_\_\_ AGENCY \_\_\_\_\_

DATE \_\_\_\_\_ TIME \_\_\_\_\_

INTOXILYZER SERIAL # \_\_\_\_\_

- ☐
1. Ensure that gas tank is attached and contains a standard alcohol concentration \_\_\_\_\_ AC.

**DIAGNOSTIC TESTS**

- ☐
1. Clock time check
- 
- ☐
2. Date check

**OPERATIONAL TESTS**

- ☐
1. Deficient Subject Test (Proper Sample Recognition):
- 
- Deficient Sample printed
- 
- ☐
2. Alcohol-free Subject Test (Proper Sample Recognition):
- 
0. \_\_\_\_\_ AC
- 
- ☐
3. Mouth Alcohol Subject Test (Proper Sample Recognition):
- 
- Invalid Sample – Begin new deprivation period printed
- 
- ☐
4. Radio Frequency Interference Test (Error Recognition):
- 
- RFI Detect printed
- 
- ☐
5. Standard Calibration Check:
- 
0. \_\_\_\_\_ AC
- 
- ☐
6. Air Blanks Completed
- 
- ☐
7. Timer Reset

Not a Successfully Completed Test Sequence will be printed.

Instrument is operating properly and accurately. YES \_\_\_\_\_ NO \_\_\_\_\_

COMMENTS:

---

---

---

SIGNATURE \_\_\_\_\_

DPS Form Exh I-2 (Iss 19-01)

**Historical Note**

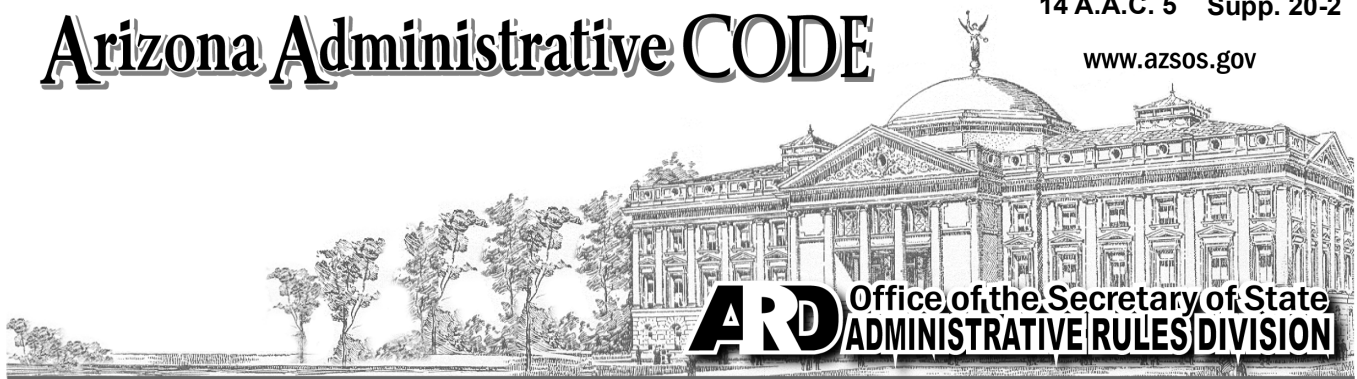
Exhibit I-2 made by final rulemaking at 26 A.A.R. 723, effective June 1, 2020 (Supp. 20-2).

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# Arizona Administrative CODE

14 A.A.C. 5 Supp. 20-2

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## TITLE 14. PUBLIC SERVICE CORPORATIONS; CORPORATIONS AND ASSOCIATIONS; SECURITIES REGULATION CHAPTER 5. CORPORATION COMMISSION - TRANSPORTATION

The table of contents on the first page contains quick links to the referenced page numbers in this Chapter. Refer to the notes at the end of a Section to learn about the history of a rule as it was published in the *Arizona Administrative Register*.

Sections, Parts, Exhibits, Tables or Appendices codified in this supplement. The list provided contains quick links to the updated rules.

This Chapter contains rule Sections that were filed to be codified in the *Arizona Administrative Code* between the dates of April 1, 2020 through June 30, 2020 (Supp. 20-2).

<a href="#">R14-5-202.</a>	<a href="#">Construction and Safety Standards for Gas, LNG, and Hazardous Liquid Pipeline Systems .....</a>	<a href="#">R14-5-204.</a>	<a href="#">Annual Reports .....</a>	<a href="#">29</a>
	<a href="#">25</a>			

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### The release of this Chapter in Supp. 20-2 replaces Supp. 19-1, 1-34 pages

Please note that the Chapter you are about to replace may have rules still in effect after the publication date of this supplement. Therefore, all superseded material should be retained in a separate binder and archived for future reference.



## Administrative Rules Division

The Arizona Secretary of State electronically publishes each A.A.C. Chapter with a digital certificate. The certificate-based signature displays the date and time the document was signed and can be validated in Adobe Acrobat Reader.

**TITLE 14. PUBLIC SERVICE CORPORATIONS; CORPORATIONS AND ASSOCIATIONS;  
SECURITIES REGULATION  
CHAPTER 5. CORPORATION COMMISSION - TRANSPORTATION**

*Editor's Note: The Office of the Secretary of State publishes all Code Chapters on white paper (Supp. 02-2).*

*Editor's Note: The Corporation Commission has determined that rules in this Chapter are exempt from the Attorney General certification provisions of the Arizona Administrative Procedure Act (A.R.S. § 41-1041) by a court order (State ex. rel. Corbin v. Arizona Corporation Commission, 174 Ariz. 216 848 P.2d 301 (App. 1992)). This exemption means that the rule was not certified by the Attorney General. Because this Chapter was filed under a rulemaking exemption, as determined by the Corporation Commission, other than a statutory exemption, the Chapter is printed on green paper.*

*New Article 2 consisting of Sections R14-5-201 through R14-5-205 adopted effective October 23, 1987.*

*Former Article 1 consisting of Sections R14-5-01 through R14-5-103, Article 2 consisting of Sections R14-5-201 through R14-5-203, Article 3 consisting of Sections R14-5-301 through R14-5-324 repealed effective September 30, 1982.*

*Former Article 4 consisting of Sections R14-5-401 through R14-5-403, R14-5-405 through R14-5-407 renumbered as Article 1, Sections R14-5-101 through R14-5-106 effective September 30, 1982.*

*Former Section R14-5-408 repealed effective September 30, 1982.*

*New Section R14-5-107 adopted effective September 30, 1982.*

*Former Section R14-5-409 renumbered as R14-5-108 effective September 30, 1982.*

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## ARTICLE 1. RAILROADS

*Editor's Note: The Arizona Corporation Commission has determined that the following Section is exempt from the Attorney General certification provisions of the Arizona Administrative Procedure Act (A.R.S. § 41-1041) by a court order (State ex. rel. Corbin v. Arizona Corporation Commission, 174 Ariz. 216 848 P.2d 301 (App. 1992)).*

**R14-5-101. Definitions**

As used in this Article:

1. "Car stop" means a device installed or constructed at the end of a spur track to prevent railroad cars from going off the rails.
2. "Commission" means the Corporation Commission.
3. "Configuration of a public railroad-highway grade crossing" means the physical characteristics of the crossing, including, but not limited to, size and type of warning devices, path of the roadway over the railroad track or tracks, warning signs, pavement markings, and roadway crossing surface.
4. "Constructive placement" means cars cannot be delivered to the designated private siding because of the inability of the consignee to receive them. The cars are placed in a sliding, another private track, or interchange track near the consignee's facility until such time as they can be delivered to the consignee.
5. "Event recorder" means a device located in the locomotive that records information reflecting the operation of the train, including on speed, elapsed time, direction of travel, load (amps), automatic brakes, dynamic brakes, and throttle settings.
6. "Hazardous materials" means any hazardous substance as defined by A.R.S. § 49-201(16)(a), (b), (c), (e), and (f).
7. "Highway authority" means the county, municipal, or other local board or body exercising jurisdiction over highways under the laws of this state.
8. "House track" means a track adjacent to or entering a freight house, used for the primary purpose of receiving or delivering freight.
9. "Industrial track" means a track or portion of track over which a railroad operates but which the railroad does not own or maintain either the rails, ties, or roadbed; or a track or portion of track which is devoted to the purpose of the user, either by lease or written agreement, in which case the lease or written agreement shall be considered as equivalent to ownership.
10. "Ladder track" means a track connecting successively the body of tracks of a train yard.
11. "Locomotive" means a self-propelled vehicle running on rails and generating or converting energy into motion for the primary purpose of hauling rail cars.
12. "Overhead clearance" means the vertical distance from the level of the top of the highest rail to a structure or obstruction above.
13. "Person" means any individual, firm, joint venture, partnership, corporation, association, municipality, governmental unit, department, or agency and shall include any trustee, receiver, assignee, or personal representative thereof.
14. "Private grade crossing" means any crossing where a legal agreement exists between a private property owner and a railroad company for the exclusive use of the landowner and the landowner's invitee.
15. "Public grade crossing" means any crossing, used by the general public, for which a legal agreement between a

private property owner and a railroad company does not exist.

16. "Rail gage" means the distance between the heads of the rails, measured at right angles to the rails in a plane 5/8 of an inch below the top of the railhead. Standard gage is 4 feet, 8 1/2 inches.
17. "Railroad" means every railway, other than a street railway, operated for public transportation of persons or property.
18. "Reconstruction" means the use of more than 50% of the material necessary to replace an entire structure or facility, or more than 50% of the current value of an entire installation.
19. "Side clearance" means the shortest distance from the centerline of track to a structure or obstruction at the side of the track.
20. "Spur track" means a stub track of indefinite length diverging from a main track or other track.
21. "Team track" means a track subject to general use by the public for the loading or unloading of freight cars.
22. "Unauthorized grade crossing" means any grade crossing that is not a public grade crossing or a private grade crossing or has not been issued an AAR/DOT crossing inventory.

**Historical Note**

Former General Order R-1; Former Section R14-5-401 renumbered as Section R14-5-101 effective September 30, 1982 (Supp. 82-5). Former Section R14-5-101 renumbered to R14-5-104, new Section R14-5-101 adopted effective May 28, 1992 (Supp. 92-2). Amended effective May 31, 1996 under a court-ordered exemption as determined by the Arizona Corporation Commission (Supp. 96-2).

**R14-5-102. Adoption of Federal Regulations**

- A. In the furtherance of its constitutional and statutory duty to promulgate and enforce safety regulations for public service corporations, the Commission adopts and approves as its own, subject to changes noted in subsection (E) below, 49 CFR 210, 213, 215, 216, 217, 218, 219, 220, 221, 223, 225, 228, 229, 230, 231, 232, 233, and 236, as amended and revised through October 1, 1989, which are incorporated by reference, are on file in the Office of the Secretary of State, and copies available from the United States Government Printing Office, P.O. Box 371975M, Pittsburgh, Pennsylvania 15250-7975, all being regulations of the Federal Railroad Administration, United States Department of Transportation, Railroad Safety regulations.
- B. The Commission also adopts and approves as its own, 49 CFR 171 through 174, as amended and revised through November 1, 1989, incorporated herein by reference and on file with the Office of Secretary of State; 49 CFR 178 and 179, as amended and revised through November 1, 1989, incorporated herein by reference, on file with the Office of Secretary of State, and copies available from the United States Government Printing Office, P.O. Box 371975M, Pittsburgh, Pennsylvania 15250-7975, all being part of the Research and Special Programs Administration, United States Department of Transportation, Hazardous Materials regulations as they apply to the shipment of hazardous materials by rail.
- C. The regulations adopted in subsections (A) and (B) of this Section shall apply to all standard gage rail operations within Arizona. All terms defined in the adopted regulations shall apply unless redefined in R14-5-101.
- D. A copy of the Federal Safety Standards is attached to the Article and is hereby made a part thereof as if set forth in full.



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(This copy is not printed in this volume but is available in the offices of the Arizona Corporation Commission and the Secretary of State.)

**E.** The above-mentioned Parts of 49 CFR are changed, amended, or revised as follows:

1. Substitute "Arizona Corporation Commission" (ACC) where "United States Department of Transportation" (DOT), "Federal Railroad Administration" (FRA), "Federal Railroad Administrator", "Administrator" or "Research and Special Programs Administration" appear.
2. Substitute "Railroad Safety Section, Arizona Corporation Commission, at its office in Phoenix, Arizona" where addresses for the United States Department of Transportation, Federal Railroad Administration, Federal Railroad Administrator, Office of Chief Counsel, or Research and Special Programs Administration appear.
3. Copies of all reports and forms required to be filed with the Federal Railroad Administration by Parts referred to in subsection (A) and the Research and Special Programs Administration by Parts referred to in subsection (B) of this Section shall be filed with the Railroad Safety Section, Arizona Corporation Commission, at its office in Phoenix, Arizona, within the same time limits required by the Federal Railroad Administration, and the Research and Special Programs Administration. Information pertaining only to that portion of the railroad's operations within the State of Arizona need be submitted.

**F.** If the Commission finds that a waiver of compliance or an exemption from any Section of the aforementioned Parts is in the public interest and is consistent with railroad safety, the Commission may grant the waiver or exemption subject to any conditions it deems necessary.

**Historical Note**

Former General Order R-2; Former Section R14-5-402 renumbered as Section R14-5-102 effective September 30, 1982 (Supp. 82-5). Former Section R14-5-102 repealed, new R14-5-102 renumbered from R14-5-107 and amended effective May 28, 1992 (Supp. 92-2).

**R14-5-103. Unauthorized Passengers**

Railroads operating within this State shall prohibit and prevent unauthorized persons from traveling in or upon the cars and equipment of their trains.

**Historical Note**

Former General Order R-3; Former Section R14-5-403 renumbered as Section R14-5-103 effective September 30, 1982 (Supp. 82-5).

*Editor's Note: The Arizona Corporation Commission has determined that the following Section is exempt from the Attorney General certification provisions of the Arizona Administrative Procedure Act (A.R.S. § 41-1041) by a court order (State ex. rel. Corbin v. Arizona Corporation Commission, 174 Ariz. 216 848 P.2d 301 (App. 1992)).*

**R14-5-104. Railroad-highway Crossings**

**A.** The following rules shall apply in the construction, reconstruction, improvement, and maintenance of all public railroad-highway grade crossings within the state of Arizona. This Section is intended to be consistent with the provisions of the Manual on Uniform Traffic Control Devices, as adopted by the Department of Transportation.

1. No construction project taking place at or near a public railroad-highway grade crossing shall diminish the safety normally provided to a motorist approaching the crossing by the existing warning devices.

2. No temporary change in the configuration of a public railroad-highway grade crossing, for the purpose of facilitating a construction project at or near the crossing, may be made by any person without first notifying the owner of the railroad track and the owner of the trains or other track equipment operating over such track in writing. The letter notifying the track owner and train/track equipment owner shall describe the date, place, and type of changes to be made. Such letter shall be written and signed by the responsible person for the project and shall constitute an affirmation that all temporary traffic control measures to be implemented due to the project shall be made in accordance with this rule and the Manual on Uniform Traffic Control Devices (MUTCD) Parts VI and 8A-5. Notice shall be sent by registered mail, return receipt requested, to the business address of the owner of the railroad track and the owner of trains or the track equipment operating over such track, or to the statutory agent at its known place of business, not less than 10 days prior to the commencement of the construction project.

**B.** Warning signals.

1. Railroad crossbucks.
  - a. A railroad crossbuck shall be installed on the right-hand side of the public roadway on each approach to every crossing to warn motorists approaching from each direction, except at crossings where automatic control devices are in use in conformance with Appendix 8.
  - b. If there are two or more tracks, the number of tracks shall be indicated on an auxiliary sign of inverted "T" shape mounted below the crossbuck, (See in conformance with Appendix 8).
  - c. Crossbucks shall be located at not less than 15 feet from the centerline of the nearest track, and shall be in a position to be visible to motorists.
  - d. Crossbucks shall be a reflectorized white "X" (48" X 9" panels drilled for a 90-degree mounting) with the words "RAILROAD CROSSING" in black letters.
  - e. The distance that shall be assumed to separate tracks before additional crossbucks are considered necessary is 100 feet.
2. Automatically controlled crossing signals.
  - a. At railroad-highway grade crossings where studies indicate the need for warning beyond that provided by crossbucks, the Commission may order that automatically controlled crossing signals be installed.
  - b. Emergency stand-by power shall be provided for the operation of all automatically controlled crossing signals.
  - c. Automatically controlled crossing signals shall be arranged to provide not less than 20 seconds warning for motorists.
  - d. Signals shall operate until the rear of the last train using the crossing has cleared the crossing.
  - e. Traffic signals located within 200 feet of railroad crossing signals shall be preempted by the railroad crossing signals.
  - f. Where means are provided for cutting-out the automatically controlled warning devices during intervals when trains are making regular operating stops or performing switching operations on approach circuits, controls shall be arranged as follows:
    - i. Controls shall be so designed as to provide operation of warning devices before a train reaches the crossing.

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- ii. Automatic control of warning devices actuated by approaching trains (other than the train that has stopped or is performing switching operations) shall take precedence over any cut-out feature.
- g. Where manual supervisory control of warning devices is provided in addition to automatically controlled signals, the following shall govern:
  - i. Automatic control, when actuated by approaching trains other than the train for which manual control has been made effective, shall take precedence over manual control;
  - ii. Means shall be provided to restore the controls to automatic operation;
  - iii. Means shall be provided to prevent manual operation by unauthorized persons.
- 3. Flashing light signals.
  - a. Lamp units (center of lens), shall be located at not less than 8 feet, 4 inches, nor more than 10 feet, 4 inches above the crown of the roadway.
  - b. Signal lights shall shine in both directions along the roadway, and shall be mounted horizontally, 2 feet, 6 inches to centers.
  - c. Lamp units shall be arranged in pairs, back to back, except on one-way streets or other roadways where highway traffic approaches from one direction only.
  - d. Lamp units shall be equipped with mountings to provide ready adjustments in all directions with positive locking for such adjustments.
  - e. Lamp units shall be provided with hoods of not less than 12 inches in length and with backgrounds 20 inches in diameter. Hoods and backgrounds shall be in black, except that when backlights are omitted, the back of the lamp unit and background shall be aluminum-colored so that the signal will not be mistaken for a dark signal.
  - f. Lamp units installed after the effective date of this Section shall have lenses or roundels, red in color, not less than 12 inches in diameter for both front and rear indications. Lamp units in use prior to the adoption of this Section shall be made to meet this requirement when the automatic warning devices are upgraded, improved, or reconstructed.
  - g. The beam spread shall be not less than 3 degrees each side of the axial beam under normal conditions. Throughout the beam spread, the intensity of the beam shall not be less than 50% of the intensity at the axis.
  - h. Lights shall flash alternately at a minimum rate of 45 flashes per minute and a maximum rate of 65 flashes per minute.
  - i. The effective range of flashing lights equipped with 10 volt, 10 watt lamps, or equivalent, burning at rated voltages, shall be not less than 1,000 feet under bright sunlight conditions with the sun at or near its zenith.
- 4. Highway traffic control signals shall not be used on main-line railroad crossings in lieu of flashing light signals. However, at industrial track crossings and other places where train movements are 10 miles per hour or less, highway traffic control signals may be used in lieu of conventional flashing light signals.
- 5. Bell warning signals. At least one automatic gong-type bell shall be used with each flashing light signal except on median strip installations.
- 6. Automatic gate arm signals.
  - a. Signals consisting of a combination of flashing lights, bells, and automatic gate shall, when indicating the approach or presence of trains, present towards the highway the appearance of horizontally flashing red lights and of a horizontal arm or arms extending over the traveled roadway a sufficient distance to cover the lane or lanes used by highway traffic approaching the crossing.
  - b. Automatic gate arms, when not indicating the approach or presence of trains, shall not obstruct or interfere with highway traffic, except as provided in subsection (B)(6)(d).
  - c. Automatic gate arms shall be mounted on posts or housing containing the arm-operating mechanism.
  - d. The design of the gate-opening mechanism shall be such as to ensure proper operation during unfavorable weather conditions. In case of power failure, the gate arm shall assume the horizontal position across the roadway.
  - e. The mechanism shall be so designed that if the arms, while being raised or lowered, strike or foul an object they will readily stop, and on removal of the obstruction shall assume the position corresponding to the control mechanism.
  - f. Each gate arm extending over the roadway shall have three red lights, with lenses not less than 7 inches in diameter, shining in both directions along the roadway, so positioned as to ensure as far as possible, that no vehicle or vehicles standing in the limits of the traffic lane or lanes approaching the crossing can obscure all three lights from the view of the drivers of the following vehicles. The light nearest the tip of each arm shall burn steadily, and the other two lights on each arm shall flash alternately in unison with the flashing lights on the roadside signal mast.
  - g. The gate arm shall, on new installations, be striped with 16 inch alternate diagonal reflectorized or fluorescent stripes of red and white.
  - h. Circuits for operation of signals shall be so arranged that the flashing lights, gate arm lights, and bell will start to operate at not less than 20 seconds before the arrival of the fastest train at the crossing. All lights shall operate at all times when the gate arm is in a position to obstruct highway traffic. The bell shall sound a warning from the time the signal lights start to operate at least until the gate arm has descended to within 10 degrees of the horizontal position.
  - i. Gate arms shall start their downward motion at not less than three seconds after the signal lights start to operate. Gate arms shall reach the full horizontal position before the arrival of the fastest train operated over the crossing and shall remain in that position until the rear of the train has cleared the crossing.
  - j. The bottom of the gate arms when in the horizontal position shall be not less than 3 feet nor more than 4 feet above the crown of the roadway.
  - k. Gate arms shall operate uniformly, smoothly, and complete all movement without slap or rebound, and be securely held when in the raised position.
- 7. Maintenance.
  - a. Metal parts shall be aluminum or painted aluminum, except as provided in subsection (B)(3)(e).
  - b. All materials and workmanship shall meet or exceed current industry standards in every respect, and

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every warning signal and sign in all details shall be constructed, installed, and maintained in a satisfactory manner.

- c. The railroad shall provide for the maintenance of all grade crossing warning signs and signals. To this end, the railroad shall:

- i. Provide for alternate operations of automatically controlled warning signals during periods of failure, either manually or otherwise, as soon as possible after the failure has occurred;
- ii. Have skilled maintenance personnel available without undue delay for all emergency calls, including lamp failures;
- iii. Provide proper maintenance for all components;
- iv. Maintain the appearance of the installation in a satisfactory manner, with particular emphasis on painting and cleaning of optical systems;
- v. Inspect warning signals at a frequency of not less than once every 45 days. A written record of inspection shall be retained at the railroad's office within Arizona.
- vi. Provide standby equipment at a central location to minimize the interruption of signal operations due to equipment failure or damage.

8. Whistle posts.

- a. Whistle posts bearing the letter "X" or "W" shall be located in advance of each public crossing at grade to warn locomotive engineers of the presence of the highway grade crossing, and allow them sufficient time to sound the warning whistle.
- b. A person in charge of a railroad locomotive shall, before crossing any traveled public way, cause the bell to ring or a whistle, siren, or other sounding device to sound at a distance of at least 1/4 mile from a crossing and until it is reached.

C. Additional requirements.

- 1. When necessary to shove a railroad car or cars over a public grade crossing not having automatically controlled crossing signals, employees shall flag the crossing.
- 2. When, during normal train operations at night, it becomes necessary to block a public grade crossing with standing railroad cars, and the crossing does not have automatically controlled crossing signals, flares, or fusees, shall immediately be placed in the center of the roadway on both sides of the track at not less than 10 feet from the railroad car or cars to warn motorists that the crossing is occupied.
- 3. Detached railroad cars containing explosive or hazardous materials shall not be left standing on any grade crossing at any time.
- 4. Before moving onto any public railroad-highway grade crossing, operators of any on-track equipment, including high-rail vehicles, shall ensure that the automatic warning devices are activated or the crossing protected by a flagman. Public grade crossings without automatic warning devices shall be flagged by a flagman.
- 5. It shall be unlawful for railroad employees to "drop" or "kick" any railroad car or cars containing hazardous materials across a grade crossing in any circumstances or any other railroad car or cars across a grade crossing unless the crossing is flagged by a flagman or traffic is restricted by automatic gate arms.
- 6. Grade crossing maintenance and repair shall be conducted as follows:

- a. Whenever a highway intersects a railroad track at common grade, the appropriate highway authority shall maintain and keep in repair the roadway approaches to within 2 feet of the outside of either rail, and the railroad shall maintain the planking or other materials between the rails and for 2 feet on the outside thereof.
  - b. At crossing involving more than one track, maintenance by the railroad shall include that portion of the crossing:
    - i. Between the tracks not exceeding 20 feet from the center of the tracks, and
    - ii. Two feet on the outside of each of the two outside (field site) rails.
  - c. Unless the Commission otherwise authorizes, public grade crossings hereafter constructed shall be not less than 24 feet in effective roadway width measured at right angles with the centerline of the roadway.
  - d. Turnouts, switches, and frogs or bolted rail joints shall be so placed or relocated as to avoid placement in the paved area of a crossing.
  - e. Materials for permanent repairs on any component of a railroad-highway grade crossing surface shall be of the same type and quality or of equal quality to those which are being repaired or replaced.
  - f. Temporary repairs shall be made until the arrival of materials necessary for permanent repairs. Temporary repair shall be made within five working days of the date that the railroad is notified of the defect by the Commission. Permanent repairs shall be completed within 90 days from the date of notification.
  - g. The railroad shall coordinate with the highway authority any road closures and reopenings caused by the maintenance and repair of grade crossing.
  - h. The railroad shall stencil the AAR/DOT inventory number on all railroad-highway crossings.
7. Blockage of public grade crossing shall be limited as follows:
- a. Except as provided in subsections (C)(7)(c) and (d), no railroad shall cause a public grade crossing to be blocked by railroad equipment in excess of 10 continuous minutes.
  - b. Each period of crossing blockage shall be followed by an interval of time sufficient to allow the passage of waiting traffic.
  - c. The limitations set forth in subsection (C)(7)(a) do not apply to:
    - i. Any train continuously moving in the same direction during the entire time it occupies the crossing; and
    - ii. Blockage caused by wrecks, derailments, acts of nature, mechanical failure, or other emergency conditions.
  - d. The Commission, after hearing, may grant variances from the limitations set forth in subsection (C)(7)(a), upon proper application by the railroad or appropriate highway authority.
8. A crew member of a train blocking a public crossing shall immediately take all reasonable steps, consistent with the safe operation of such train, to clear the crossing upon receiving information from a peace officer, as defined in A.R.S. Title 13, member of any fire department or operator of an emergency vehicle, as defined in A.R.S. § 28-101.1, that emergency circumstances require the clearing of the crossing.

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9. The railroad shall coordinate road closures and reopenings during emergency blockages with the appropriate highway authority.
10. When authorization for preliminary engineering and estimate or any federal-aid funding crossing improvement projects is submitted to the railroad, it shall be completed by the railroad and returned to the Department of Transportation within 60 days.
11. The railroad shall notify the Commission, in writing, within 10 days of both the commencement and completion of the project. The railroad shall tender a statement to the Commission reflecting the Commission's portion of such charges pursuant to A.R.S. § 40-337.02, within 60 days of completion of the project.
12. Federal-aid crossing improvement projects shall be completed within 15 months from the date of the Commission Order.
13. The Commission may approve an exception to any of the requirements of this Section. Such exceptions may be made upon the Commission's own initiative or upon written request from an interested party. Written requests shall contain a statement of the circumstances involved, the nature of the exception desired, and the reasons justifying such an exception. An exception shall be limited to the particular situation described in the written requests.

**Historical Note**

Former General Order R-5; Former Section R14-5-405 renumbered as Section R14-5-104 effective September 30, 1982 (Supp. 82-5). Amended subsection (H) effective April 16, 1986 (Supp. 86-2). Former Section R14-5-104 repealed, new Section R14-5-104 renumbered from R14-5-101 and amended effective May 28, 1992 (Supp. 92-2). Amended effective May 31, 1996 under a court-ordered exemption as determined by the Arizona Corporation Commission (Supp. 96-2).

**R14-5-105. Railroad Accident/Incident Reports; Investigation****A. Reports by telephone.**

1. Railroads shall give the Commission immediate telephone notification of the following classes of accidents/incidents:
  - a. Accidents resulting in death;
  - b. Accidents resulting in injury requiring immediate hospitalization;
  - c. Accidents resulting in damage to railroad property in excess of the amount for which the Federal Railroad Administration requires an accident report to be filed;
  - d. Accidents or incidents in which any hazardous materials are involved;
  - e. All public railroad-highway grade crossing accidents;
  - f. All accidents/incidents involving rail passenger operations.
2. The immediate telephone notification shall include but not be limited to the following:
  - a. Name of person making the telephonic report;
  - b. Name of railroad or railroads involved;
  - c. Location of accident/incident;
  - d. Number of fatalities;
  - e. Number of injuries;
  - f. Number of derailed cars;
  - g. Generic name or names of the hazardous materials involved, including the name, address, and the telephone number of the shipper.

- B. Federal reports of accidents/incidents -- Railroads shall submit to the Commission copies of all accident/incident reports and supplements filed with the Federal Railroad Administration and the Hazardous Materials Regulation Board for accidents/incidents occurring in Arizona. Said reports shall be submitted to the Commission within the time specified for submitting to the Federal Railroad Administration. Said reports shall include:

1. FRA F 6180.54 -- Rail Equipment Accident/Incident Report;
2. FRA F 6180.55 -- Railroad Injury and Illness Summary;
3. FRA F 6180.55a -- Railroad Injury and Illness (Continuation Sheet);
4. FRA F 6180.56 -- Annual Railroad Report of Man-Hours by State;
5. FRA F 6180.57 -- Rail-Highway Grade Crossing Accident/Incident Report;
6. FRA F 6180.45 -- Annual Summary Report of Railroad Injury and Illness;
7. DOT F 5800.1 -- Hazardous Materials Incident Report.

**C. Investigations by the Commission.**

1. Commission investigators shall investigate accidents, may inspect railroad records, accounts, books, memoranda, correspondence, and other documents, and may examine all lands, buildings, and equipment of railroads. Commission investigators may obtain all relevant information concerning accidents under investigation, make inquiries of persons having knowledge of the facts, conduct interviews, and attend, as observers, hearings or formal investigations by railroads into the causes of accidents. When necessary to carry out an investigation, the Commission may authorize the issuance of subpoenas to require the production of records and the giving of testimony.
2. Whenever necessary, the Commission will schedule a public hearing on an accident.
3. Incomplete or inaccurate reports will be investigated by the Commission. Incomplete or inaccurate reporting practices may be grounds for a public hearing into the matter.
4. Late reports shall be accompanied by a letter of explanation. Late reports may be grounds for a public hearing into the matter.
- D. All railroads operating wholly or partially within the state of Arizona shall give the Commission immediate telephone notification of accidents/incidents as prescribed herein. All accidents/incidents not reported in accordance with the provisions of this Section shall be investigated by the Commission.

**Historical Note**

Former General Order R-6; Former Section R14-5-406 renumbered as Section R14-5-105 effective September 30, 1982 (Supp. 82-5). Amended subsections (A), (B), (D), and (F) effective April 16, 1986 (Supp. 86-2). Amended effective May 28, 1992 (Supp. 92-2).

**R14-5-106. Minimum Standards for Cabooses**

- A. Each railroad operating wholly or partially within the state of Arizona shall hereafter install and maintain minimum standards on cabooses in accordance with this Section.
- B. No caboose shall be used in service unless it complies with subsections (C) through (R) of this Section.
- C. Construction: Cabooses shall be of either the cupola or bay window type. Cabooses of metal construction shall have wooden or insulated metal floors. A cupola shall not extend inward toward the centerline of the car more than 3 inches from either side of the caboose.

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- D. Trucks: Trucks shall provide riding qualities at least equal to those of freight type trucks modified with elliptic or additional coil springs or other means of equal or greater efficiency and shall be equipped with steel wheels.
- E. Draft gears: Draft gears shall have a minimum travel of 2 1/2 inches and a minimum capacity of 18,000 foot pounds. Draft gears shall be of rubber or a combination of friction and rubber types, or shall have other means of providing equal shock control.
- F. Lighting: An adjustable, shielded electric light, or lights, shall be provided for the direct illumination of the caboose desk. A ceiling or wall light, or lights, operable from separate switches shall be provided to otherwise illuminate the caboose interior. The area of the drinking water and lavatory facilities shall be illuminated. The caboose marker, or markers, shall be electrically lighted.
- G. Heating: A heating facility shall be maintained and shall be capable of providing a temperature of at least 70 degrees Fahrenheit in a standard caboose.
- H. Seats and cushions: Seats and cushions shall be provided with a shock absorbent material initially at least 3 inches in thickness, and backrests shall be of sufficient height to protect the neck and head from injuries. Seats in cupolas shall be of the pullman type and those in bays shall be of the passenger reversible type. The top of said seats shall not be lower than 11 inches nor higher than 9 inches beneath the cupola or bay window sills and no more than 18 inches above the floor or footrest. The backrests shall incline backward to not less than 3 inches nor more than 5 inches from the perpendicular. Subject to the approval of the Commission, seats of different design or materials may be used when such design or materials provide equal or better protection or comfort than those enumerated in this Section.
- I. Bunks: Each caboose shall have at least one bunk of not less than 2 feet in width and not less than 6 feet in length which shall be provided with a cushion of the same dimensions made of shock absorbent material initially of at least 3 inches in thickness.
- J. Wind deflector: Each cupola side window shall be equipped with a wind deflector.
- K. Weatherstripping: Weatherstripping or weatherproof sash shall be installed and maintained at all windows and doors to protect against weather and the seepage of dirt or dust.
- L. Window shades: With the exception of windows in bays and cupolas, windows shall be equipped with shades.
- M. Stanchions: Stanchions, grab handles, or bars shall be installed at entrances and exits and at other locations within convenient reach of employees moving about the caboose while a train is in motion.
- N. Drinking water: Caboose drinking water facilities shall be installed and maintained so as to provide fresh and pure drinking water. Such water facilities shall include individual bottled water containers placed in an ice chest. When ice is used for water cooling purposes, the containers shall be so arranged that the drinking water will not come in contact with the ice. Containers used for storing or dispensing potable water shall be kept clean at all times and shall be subjected to effective bactericidal treatment as often as may be necessary to prevent the contamination of the water so stored and dispensed.
- O. Lavatory facilities: Caboose lavatory facilities for washing shall be provided at a location where the use thereof will not result in contamination of the drinking water dispensing system. All cabooses shall have operative toilets which are illuminated, are kept clean and free of noxious odors at all times, and are subjected to effective bactericidal treatment as often as may be necessary.
- P. Fire extinguisher: Cabooses used in road service shall be equipped with an effective means of extinguishing minor fires. Such extinguishing agents shall be placed in a readily accessible location and shall be effectively maintained.
- Q. First-aid kit: Each caboose shall carry, in a visible and readily accessible place, a plainly marked first-aid kit which shall be so constructed that it and its entire contents are readily removable. The kit shall consist of materials, approved by the railroad's consulting physician, in a weatherproof container with individually sealed packages for each type item. The contents shall be inspected weekly to ensure that expended items are replaced.
- R. Maintenance and supplies: Cabooses shall be supplied with fresh water, paper towels, toilet tissue, sanitary drinking cups, fuel, ice as needed, hand soap or other cleaning agents in appropriate dispensers and such other equipment as may be required for service.
- S. Conditions arising after departure from terminal: In the event of a failure of required equipment or standards of maintenance occurs in a caboose after it has commenced a move in service, the railroad operating that caboose shall not be deemed in violation of this Section if said failure of equipment or standards of maintenance is corrected at the first point at which maintenance supplies are available, or, in the case of repairs, the first point at which materials and repair facilities are available and repairs can reasonably be made.
- T. Exemption: If, in any particular case, an exemption from any of the requirements of this Section is deemed necessary by a carrier concerned, the Commission will consider the application of such carrier for such exemption when accompanied by a full statement of the conditions existing and the reason why such exemption is needed. Any exemption so granted will be limited to the particular case covered by the application.

**Historical Note**

Former General Order R-7; Former Section R14-5-407 renumbered as Section R14-5-106 effective September 30, 1982 (Supp. 82-5). Correction in heading effective April 16, 1986 (Supp. 86-2). Amended effective May 28, 1992 (Supp. 92-2).

**R14-5-107. Minimum Standards for Locomotives**

- A. Each railroad operating wholly or partially within the state of Arizona shall hereafter install and maintain minimum standards on locomotives in accordance with this Section.
- B. All of the following requirements shall be met:
  1. Locomotives used in or through the state of Arizona shall be equipped with an effective means of extinguishing minor fires. Such extinguishing agents shall be placed in a readily accessible location and shall be effectively maintained.
  2. Each locomotive shall carry, in a visible and readily accessible place, a plainly marked first-aid kit which shall be so constructed that it and its entire contents are readily removable. The kit shall consist of materials, approved by the railroad's consulting physician, in a weatherproof container with individually sealed packages for each type item. The contents shall be inspected weekly to ensure that expended items are replaced.
  3. Each train operated in or through the state of Arizona at a speed in excess of 30 miles per hour shall have at least one locomotive equipped with an operating event recorder. Such event recorders shall be inspected at least once every 90 days and maintained in a fully operative condition.
  4. All locomotives shall have operative toilets which are illuminated, are kept clean and free of noxious odors at

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all times, and are subjected to effective bactericidal treatment as often as may be necessary.

5. Drinking water facilities shall be installed and maintained so as to provide fresh and pure drinking water. Such water facilities shall include individual bottled water containers placed in an ice chest. When ice is used for water cooling purposes, the containers shall be so arranged that the drinking water shall not come in contact with the ice. Containers used for storing or dispensing drinking water shall be kept clean at all times and shall be subjected to effective bactericidal treatment as often as may be necessary to prevent the contamination of the water so stored and dispensed.
  6. Locomotives shall be supplied with fresh water, paper towels, toilet tissue, sanitary drinking cups, ice as needed, and such other equipment as may be required for service.
- C. A locomotive operating in a controlling position shall have an operating two-way radio that is on a frequency for the railroad being operated on and is capable of contacting the train dispatcher or other responsible railroad personnel.
- D. If, in any particular case, an exemption from any of the requirements of this Section is deemed necessary by a carrier, the Commission shall consider the application for such exemption as needed. Any exemption so granted shall be limited to the particular case covered by the application.

**Historical Note**

Adopted effective September 30, 1982 (Supp. 82-5).  
Amended subsections (A) and (B) effective April 16, 1986 (Supp. 86-2). Former Section R14-5-107 renumbered to R14-5-102, new Section R14-5-107 adopted effective May 28, 1992 (Supp. 92-2).

**R14-5-108. Inspection of property**

For the purpose of insuring compliance with safety rules and regulations, the Commission, or any authorized inspector or agent thereof, may, at any time, stop, board, ride, investigate, or inspect any train, locomotive, car, caboose, or any other rolling stock or equipment used by a railroad in the operation of their business.

**Historical Note**

Former General Order R-9; Former Section R14-5-409 renumbered as Section R14-5-108 effective September 30, 1982 (Supp. 82-5).

**R14-5-109. Industrial Track Standards**

- A. This Section shall be applicable to all industrial track construction, reconstruction, and repair commencing after the effective date of this Section.
1. The industry and the railroad contractor shall be responsible for notifying the Commission in writing prior to the construction, reconstruction, or alteration of industrial track, structures, or facilities adjacent thereto.
  2. The proposed design plans of any construction, reconstruction, or alteration of industrial track shall be submitted to the Commission, Railroad Safety Section, Phoenix, Arizona, prior to any construction, reconstruction, or alteration of industrial track.
- B. The following construction standards shall apply for all industrial track:
1. Profile:
    - a. Maximum grade of any proposed track, as shown on any plan, shall be 2% and shall not be exceeded. At all locations, excessive grades and frequent changes of grade shall be avoided. Where grade line changes, appropriate vertical curves shall be installed.
    - b. In cut sections, grade line shall be uniform throughout the cut to facilitate proper drainage. Grades in

cuts shall not be less than 3/10% and not more than 1%.

2. Subgrade:
  - a. Where soil condition, drainage conditions or amount of traffic justify, the upper portion of the subgrade shall be designed to provide adequate support. Methods of increasing support shall be to provide select material to an adequate supporting depth over the existing subgrade or subgrade stabilization.
  - b. The depth of any proposed material shall be specified by the design plans.
  - c. The upper portion of any subgrade to be stabilized shall be stabilized by thoroughly mixing suitable chemical additives such as cement, fly ash, or lime with the soil before compaction.
  - d. Each layer shall be fully compacted by approved mechanical compacting equipment before the next layer is placed. A fully compacted layer shall have a dry density of at least 95% of the maximum dry density.
  - e. Type of soil and soil conditions shall be indicated on any proposed plans along with typical sections showing rail, tie ballast, subballast, and any other appurtenances.
3. Drainage:
  - a. Each drainage or other water-carrying facility under or immediately adjacent to the roadbed shall be maintained and kept free of obstruction to accommodate expected water flow for the area concerned.
  - b. Every effort shall be made to keep the tracks, roadbed, and walkways properly drained at all times.
4. Ballast:
  - a. Ballast material shall conform to the recommended specifications contained in the American Railroad Engineering Association "Manual for Railway Engineering" (AREA Manual), as amended and revised through July 31, 1990, incorporated herein by reference, on file with the office of the Secretary of State, and copies available from the American Railroad Engineering Association, 50 F Street NW, Washington, D.C. 20001. The gradation of a ballast material shall be a prime consideration in track performance of ballast materials. Ballast material used in industrial tracks shall be not less than 3/4 of an inch to 1 1/2 inches, pursuant to AREA No. 4 gradation in the AREA Manual.
  - b. Ballast material may be crushed rock, slag, or equally stable material that will provide uniform support to the ties, will drain properly, and is not chemically reactive. The material used for ballast shall not short track signals. Quarried stone or slag produced in a crushing-screening plant shall be preferred when it satisfies all of the following specifications:
    - i. A shrinkage factor of 12% to 15% in volume differential from loose to compacted state.
    - ii. Processed ballast shall be composed of hard, strong, and durable particles free from excessive amounts of deleterious substances.
    - iii. Deleterious substances shall not be present in processed ballast in excess of the following amounts:
      - (1) Soft and friable pieces--5%;
      - (2) Material finer than No. 200 sieve--1%;
      - (3) Clay lumps--1/2%.

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- iv. Percentage of wear of processed ballast, tested in the Los Angeles machine, shall not be greater than 40%.
- v. Soundness of processed ballast for use in regions where freezing temperatures are expected shall be such that when tested in the sodium sulfate soundness test, the weighted average loss shall be not in excess of 7% after five cycles.
- vi. Compacted weight of ballast shall be not less than 70 pounds per cubic foot for blast furnace-slag and 90 pounds per cubic foot for all other slags and crushed rock products.
- vii. Flat or elongated particles, particles with length three times greater than average thickness, shall not exceed 5% by weight in the ballast.
- c. Prior to installation, the supplier shall provide the railroad or industrial track owner with certified test results of ballast quality and grading.
- d. Care shall be used to ensure even distribution of ballast in the track. A minimum ballast depth of 8 inches below the ties shall be acceptable as a subballast base. Ballast shall be inserted under ties in convenient lifts but under not less than two lifts. Proper cross level, line and grade shall be attained on the final lift in accordance with currently accepted practice.
- e. Top of track ballast shall be dressed parallel with top of rails to a depth of 1 inch below top of tie extending 6 inches beyond end of tie. Ballast shall be thoroughly tamped for each tie end to 15 inches inside of rail. Centers shall be filled but not tamped. All work of track laying and surfacing shall be of the highest quality in accordance with currently accepted practice.
- f. Each owner of the track to which the ballast standards apply shall maintain proper track cross level, surface, and alignment prescribed as follows:
  - i. The runoff in any 31 feet of rail at the end of a rise may be not more than 3 1/2 inches.
  - ii. The deviation from uniform profile on either rail at the mid-ordinate of a 62-foot chord may be not more than 3 inches.
  - iii. Deviation from designated elevation on spirals may be not more than 1 3/4 inches.
  - iv. Variation in cross level on spirals in any 31 feet may be not more than 2 inches.
  - v. Deviation from zero cross level at any point on tangent or from designated elevation on curves between spirals may be not more than 3 inches.
  - vi. The difference in cross level between any two points less than 62 feet apart on tangents and curves between spirals may be not more than 3 inches.
  - vii. Alignment may not deviate from mid-ordinate of a 62-foot chord more than 3 inches.
- 5. The material, preservative treatment, quality control, inspection, and miscellaneous requirements for timber crossties and switch ties shall conform with the recommendations of Chapter 3, "Ties and Wood Preservation" of the AREA Manual and all of the following:
  - a. Crossties shall be either hardwood or softwood in accordance with the requirements of this Section.
  - b. Wooden crossties shall be new and manufactured from the following kinds of wood: Douglas fir, red oak, white oak, cypress, southern and western pine, elm, hickory, gum, or hemlock.
  - c. All wooden ties shall be made from sound, straight live timber and shall be free from any defects that may impair their strength and durability, such as bark, decay, splits, shakes, large or numerous holes or knots, pitch seams, pitch rings, grain with slant greater than 1 in 15, or other imperfections.
  - d. All crossties shall be a minimum of 8 feet in length. Ties shall measure 6 inches thick by 8 inches wide on top, AREA No. 6 grade. If a 6-inch wide base rail is used, 7-inch by 9-inch ties shall be required. All crossties shall be branded with the seller's symbol to indicate line end.
  - e. Crossties shall be spaced a maximum of 24 inches center to center. Each 39 feet of track shall be supported by a minimum of 19 crossties. The center of the ties shall coincide with the centerline of the track and the ties shall be laid at right angles to the rail with the wide-face up.
  - f. Hardwood ties shall be used on all curves of 2 degrees and over. Softwood ties shall be permitted on other curves and tangents.
  - g. Ties shall be inspected at suitable and convenient places satisfactory to the railroad or industry owner. Inspection shall include a reasonably close examination of the top, bottom, sides, and ends of each tie. All ties shall be judged independently using the following standards:
    - i. Decay shall be the disintegration of the wood substance due to the actions of wood destroying fungi. "Blue Stain" is decay and shall be permissible in all wood.
    - ii. A large hole shall be more than 1/2 inch in diameter and 3 inches deep within, or more than 1/4 the width of the surface on which it appears and 3 inches deep outside, the sections of the tie between 20 inches and 40 inches from its middle. Numerous holes shall be any number equaling a large hole in damaging effect. Such holes may be caused in manufacture or otherwise.
    - iii. Within the rail bearing areas, a large knot shall be one having an average diameter more than 1/3 the width of the surface on which it appears; but such a knot shall be allowed if it is located outside the rail-bearing areas. Numerous knots shall be any number equaling a large knot in damaging effect.
    - iv. A shake shall be a separation along the grain, most of which occurs between the rings of annual growth.
    - v. A split shall be a separation of the wood extending from one surface to an opposite or adjacent surface. In unseasoned crossties, a split no more than 1/8 of an inch wide or 4 inches long shall be acceptable. In a seasoned crosstie, a split no more than 1/4 of an inch wide or longer than the width of the face across which it occurs shall be acceptable. In seasoned crossties, a split exceeding the limit shall be acceptable provided split limitations and anti-splitting devices are approved by the buyer and properly applied.

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- vi. Except in woods with interlocking grain, a slant in grain in excess of 1 inch in 15 inches shall be rejected.
- vii. In manufacture:
  - (1) A tie shall be considered straight:
    - (a) When a straight line along the top from the middle of one end to the middle of the other end is entirely within the tie; and
    - (b) When a straight line along a side from the middle of one end to the middle of the other end is anywhere more than 2 inches from the top and the bottom of the tie.
  - (2) The top and bottom of a tie shall be considered parallel if any difference in the thicknesses at the sides or ends does not exceed 1/8 of an inch.
- viii. The lengths, thicknesses, and widths specified shall be minimum for the standard sizes. Ties over 1 inch longer, thicker, or wider than the standard size ordered shall be rejected.
- ix. A bark seam or pocket shall be a patch of bark partially or wholly enclosed in the wood. Bark seams shall be allowed provided they are not more than 2 inches below the surface or 10 inches long.
- x. Ties with continuous checks appearing on one face only, whose depth in a fully seasoned tie is greater than 1/4 the thickness and longer than 1/2 the length shall be rejected.
- h. The maximum distance between non-defective timber crossties shall be 70 inches, center of tie to center of tie.
- i. A timber crosstie shall be considered defective when it is all of the following:
  - i. Broken through;
  - ii. Split or otherwise impaired to the extent that it will not hold spikes or will allow ballast to work through;
  - iii. So deteriorated that the tie-plate can move laterally more than 1/2 of an inch relative to the crossties;
  - iv. Cut by the tie-plate through more than 40% of its thickness; and
  - v. Not spiked as required by this Section.
- j. Industry track shall have at least one non-defective crosstie whose centerline is within 18 inches of the rail joint location.
- k. Used crossties, although not recommended, may be used subject to prior approval from the Commission.
- l. Treated tie plugs of proper size shall be used to fill holes tightly and driven into old spike holes of used ties. Approved granular tie plug material may be used in lieu of treated tie plugs.
- 6. Switch ties:
  - a. Switch ties shall be new and shall be hardwood in accordance with the requirements of this Section. Switch ties shall be located as shown on the turnout plans.
  - b. All switch ties shall be 7 inches thick by 9 inches wide in cross section. Switch tie length shall be as indicated on the turnout plans in 1 foot increments.
  - c. All switch ties shall be sawed top, bottom and sides, cut square at the ends, have top and bottom parallel, and have bark entirely removed.
- 7. Tie plates:
  - a. Tie plates shall be placed under each rail at every tie. The tie plates shall be placed with the shoulder squarely against the rail.
  - b. No crooked tie plates shall be permitted. Each tie plate shall be of proper design to fit the rail section being used.
- 8. Rail:
  - a. All rail used in industrial track construction shall weigh a minimum of 90 pounds per yard. The majority of rails used shall be a minimum of 30 feet in length, with no more than 20% of varying lengths down to 24 feet, except as required in switches.
  - b. Rail shall be laid with joints staggered so that joints on one side will not be more than 4 feet from center of the opposite rail. The best running side of the relay railhead shall form the gage side of the rail as laid.
  - c. Rails shall be new or equal to No. 2 relay rail or No. 3 relay rail as per the AREA Manual recommendations for rail grading classifications. Overflow on one or both sides shall be less than 1/4 of an inch. Base shall be solid and free of visual defects with only minor pitting. Relay rail shall be considered to be used material.
  - d. The bottom of rail, tie plate, and top surface of tie shall be clean and smooth to provide for full bearing for rails and tie plates.
  - e. The use of a torch for cutting track rail, except for field welds or for burning bolt holes shall be prohibited. A rail saw or rail chisel properly and expertly used for cutting and a hand or power rail drill for boring holes shall be employed. All chips and burrs shall be removed and all drilled holes shall be peened. The bolt hole shall conform to the standard plans.
  - f. Angle bars of approved design shall be properly fitted against the rail and properly bolted. Each joint shall be bolted with at least two bolts through each rail end. Joint bars cracked or broken through between the middle two bolts shall be replaced. Compromise and insulated joint bars of proper design shall be used where rail size and conditions dictate. Track bolts, of proper size, fitted with approved spring washers, shall be fully tightened to proper tension.
- 9. Spiking:
  - a. Each rail will be spiked with two spikes per tie plate on tangent track, staggered with inside spikes to the east or north, outside spikes to the west or south.
  - b. Spikes shall be 5/8 of an inch wide by 6 inches long.
  - c. Track spikes shall be started and driven vertically with face shank in contact with the rail so that the face of the spike shall have full hold on rail base. Damage to tie timber fiber shall be minimized.
  - d. Spikes shall not be struck after head is down to snug contact with the railbase. Care shall be taken not to overdrive spikes and rail shall not be gouged or struck with spike maul or other tool.
  - e. In the construction of road crossings and turnouts, line spikes and hold down or anchor spikes shall also be used throughout the crossing and turnout closure rails. Hold down or anchor spikes shall be used on curves of 5 degrees or more.
- 10. Gage:



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- a. Gage is measured between the heads of the rails at right angles to the rails in a plane 5/8 of an inch below the top of the railhead.
  - b. In new industrial construction the rails shall be gaged to 4 feet 8 1/2 inches.
  - c. Rail gage shall be maintained at not less than 4 feet 8 inches, nor more than 4 feet 9 3/4 inches for both curved and tangent track.
11. Rail anchors:
- a. 16 anchors per 39 feet of track shall be used, and 4 nonconsecutive ties shall be box-anchored per rail.
  - b. Anchors shall be used throughout the turnout area. The same tie shall be box-anchored across.
  - c. Anchors shall not be placed on joint ties or ties adjacent to joint ties.
  - d. Additional anchors shall be applied where longitudinal rail movement needs to be effectively controlled.
12. Gage rods:
- a. Gage rods may be used on curves where it is difficult to maintain gage.
  - b. On curves between 7 degrees and 10 degrees, 4 gage rods per 39-foot panel shall be installed and on curves between 10 degrees and 12 degrees, 5 gage rods per 39-foot panels shall be installed.
13. Switches:
- a. Each stock rail shall be securely seated in switch plates, but care shall be taken to avoid canting the rail by overtightening the rail braces.
  - b. Each switch point shall fit its stock rail properly, with the switch stand in either of its closed positions to allow wheels to pass the switch point. Lateral and vertical movement of a stock rail in the switch plates or of a switch plate on a tie shall not adversely affect the fit of the switch point to the stock rail.
  - c. Each switch shall be maintained so that the outer edge of the wheel tread cannot contact the gage side of the stock rail.
  - d. The heel of each switch rail shall be secure and the bolts in each heel shall be kept tight.
  - e. Each switch stand and connecting rod shall be securely fastened and operable without excessive lost motion.
  - f. Unusually chipped or worn switch points shall be repaired or replaced. Metal flow shall be removed to ensure proper closure.
  - g. The railroad shall be responsible for the installation and maintenance of switches connecting industrial track to railroad track facilities.
  - h. Owners of industrial switches shall be responsible for the installation and maintenance of their switches.
  - i. "Run-through" or damaged switches shall be repaired immediately.
14. Derails:
- a. Derails shall be installed where grade or other conditions indicate the need.
  - b. Derails shall be installed so that derailed cars will not foul or damage adjacent track or railroad structures.
  - c. Derail signs shall be clearly visible.
  - d. When in a locked position, the derail shall be free of lost motion which will allow it to be operated without removing the lock.
15. Car stops or bumping posts:
- a. Car stops or bumping posts shall be installed at the end of all industry spur tracks.
  - b. Car stops or bumping posts may be of any design that will adequately stop a car without damaging the car, such as, "wheelstops", "drawbar stop", or "earth-tie stop".

**Historical Note**

Adopted effective May 28, 1992 (Supp. 92-2).

**R14-5-110. Walkway and Clearance Standards**

- A.** The following shall be the standards for all walkways.
- 1. Walkways shall be provided adjacent to tracks in all areas where railroad or industrial employees are required to perform trackside duties.
  - 2. Walkways shall be:
    - a. A uniform regular surface with a gradual slope not to exceed 1 inch rise in 8 inches;
    - b. Kept clean and free of weeds, debris and other materials or equipment that might tend to interfere with the footing of railroad or industrial employees performing trackside duties; and
    - c. Constructed and maintained to ensure proper drainage and prevent pooling of water, oil, or other liquids.
  - 3. In areas where heavy foot traffic exists, such as train yards and manually operated switches, the uniform surface material used shall be no larger than 3/8 inch fines.
  - 4. Applicable walkway measurement and clearance standards contained in Appendices 1 through 6 shall be met.
  - 5. The center of tracks shall be kept clean and free from all foreign materials that tend to build up between rails causing poor footing and a deterioration of track components.
  - 6. Walkway standards shall not apply to any of the following:
    - a. Tracks in streets or tunnels, existing bridges, grade separation structures, railroad-highway crossings, existing trestles, cattle guards, and tracks adjacent to walks, abutments, platforms, pillars, and structures where minimum widths are otherwise provided;
    - b. Tracks within cities, towns, populated or congested areas where there is insufficient width of right-of-way, except that standards shall apply to the full width of right-of-way available; and
    - c. Tracks during periods of damage or obstruction due to heavy rain or snow, derailments, rock and earth slides and other abnormal periods. Walkways shall be brought back into compliance with this Section within 30 days after the damage or obstruction occurred.
- B.** The following shall be the clearance standards:
- 1. Minimum overhead and side clearances as prescribed in this Section may be decreased to the extent defined by the half circumference of a circle having a radius of 8 feet, 6 inches and tangent to a horizontal line 22 feet above the top of rail at a point directly above the centerline of track, except that for tunnels and through bridges, such radius may be 8 feet. The requirements contained in Appendix 7 also shall be met.
  - 2. Minimum overhead clearance above the top of rail shall be 22 feet except as follows:
    - a. Clearance may be reduced to 18 feet if the track terminates inside a building and all cars, locomotives, or other equipment are brought to a stop before entering the building.
    - b. Clearance shall conform to the requirements specified in the National Electrical Safety Code (ANSI C2-1990) pertaining to the installation and maintenance of electrical supply and communication lines,

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- published by the Institute of Electrical and Electronic Engineers, Incorporated (approved on June 26, 1989), incorporated herein by reference, on file with the Office of the Secretary of State, and copies available from 345 East 47th Street, New York, N.Y., 10017.
- c. Overhead clearances authorized in this subsection are applicable to tracks on which rail cars having a height of 15 feet 6 inches or less are transported. If rail cars of a height greater than 15 feet 6 inches are transported or proposed to be transported, minimum overhead clearance shall be increased by the amount of not less than such additional height, provided that such cars are exempt from this subsection when the top running boards have been removed, ladders and hand brakes lowered, car painted, stenciled, and otherwise modified in compliance with provisions of 49 CFR 231, as amended and revised through October 1, 1989, incorporated herein by reference, on file with the Office of the Secretary of State, and copies available from the United States Government Printing Office, P.O. Box 371975M, Pittsburgh, Pennsylvania 15250-7975.
  - d. Rotary dumpers used in the unloading of open top cars shall be exempt from the provisions of this Section.
3. Minimum side clearance from centerline to tangent standard gage track to obstruction shall be 8 feet 6 inches except as follows:
    - a. For platforms:
      - i. Platforms 8 inches or less above the top of rail shall be 4 feet 8 inches from centerline of track.
      - ii. Platforms 4 feet or less above the top of rail shall be 7 feet 3 inches from centerline of track.
      - iii. Stepped platforms combining two or more of the platform clearances described in subdivisions (i) and (ii) of this subsection shall not be permitted.
      - iv. Existing platforms may be extended at existing clearance, provided that such clearance, unless otherwise permitted by this Section, shall not be less than 6 feet 6 inches from the centerline of track.
    - b. Mail cranes shall be exempt from the provisions of this Section.
    - c. All poles shall be a minimum of 8 feet 6 inches from the centerline of track, except that 10 feet shall be recommended where possible.
    - d. Minimum clearance for through bridges supporting track and tunnels shall be 8 feet from the centerline of track.
    - e. Minimum clearance for handrails on bridges with walkways shall be 7 feet 6 inches from the centerline of track, except that the railroad may require clearances in excess of this minimum when the railroad deems it necessary.
    - f. Water barrels and refuge platforms shall be 4 feet above the top of rail and 8 feet distant laterally from the centerline of track.
    - g. For block signals and switch stands:
      - i. Block signals and switch stands shall be 3 feet or less above the top of rail and located between tracks. Where not practicable to provide clearances otherwise prescribed in this Section, they shall be a minimum of 6 feet from the centerline of track.
      - ii. All other block signals and switch stands shall be a minimum of 8 feet 6 inches from the centerline of track.
    - h. Water columns and oil columns shall be a minimum of 8 feet from the centerline of track.
    - i. Cattle guard fencing shall be a minimum of 6 feet 9 inches from centerline of track; except that existing cattle guards less than 6 feet 9 inches from the centerline of track may be maintained at existing clearance if such clearance does not extend beyond a line extending diagonally upward from a point level with the top of rail and 5 feet 10 inches distant laterally from the centerline of track to a point 4 feet above top of rail and 8 feet distant laterally from the centerline of track.
    - j. Log rollways may be constructed and maintained with impaired clearances when adjacent to tracks operated exclusively for logging purposes.
    - k. Clearances into shops and buildings where freight cars are spotted for repairs shall be a minimum of 7 feet 8 inches from the centerline of track.
    - l. For fences and gates:
      - i. The minimum distance between a fence and the centerline of track shall be not less than 8 feet 6 inches, except that where conditions permit, 10 feet shall be required.
      - ii. Fences topped with barbed wire shall have vertical arms or the arms shall be turned outward away from track, if necessary to maintain minimum clearances as prescribed herein.
      - iii. Gates shall be secure and shall be maintained in a condition that will allow for easy opening by one person. Gates, in the open position, shall be at least 8 feet 6 inches from the centerline of track.
      - iv. Mechanical means shall be provided to prevent gates from swinging closed while switching operations are being performed.
    - m. All minimum side clearances prescribed herein are for tangent track. All structures adjacent to curved track shall have a minimum side clearance 1 foot greater than the equivalent minimum side clearance for tangent track. Where space is limited, the minimum side clearance for structures adjacent to track of not over 12 degrees curvature shall be the same as for tangent track, but if over 12 degrees curvature, 1/4 of an inch shall be added to the equivalent minimum side clearance for tangent track for each degree of the curve. Where track contains superelevation, minimum side clearances shall be increased as necessary to give the equivalent clearances based on tangent track.
    - n. Minimum side clearances authorized in this subsection are applicable to tracks on which freight cars having a maximum overall width not greater than 10 feet 10 inches are transported. On tracks over which freight cars of greater width are transported, such minimum side clearance shall be increased by not less than 1/2 of such additional width.
  4. The minimum distance between the centerlines of parallel standard gage railroad tracks, which are used or proposed to be used for transporting freight cars, shall be 14 feet, except as follows:
    - a. The centerline of any standard gage track, except a main track, parallel and adjacent to a main track,

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- shall be at least 15 feet from the centerline of main track.
- b. The centerline of any standard gage ladder track, constructed parallel to any other track, shall have a clearance of not less than 20 feet from the centerline of other track.
  - c. Minimum clearance between the centerline of parallel house or industry tracks shall be 13 feet, except that railroads may require clearances in excess of this minimum when conditions so warrant.
  - d. Minimum-clearance between centerlines of two parallel team tracks shall be 13 feet, except that railroads may require clearances in excess of this minimum.
  - e. Minimum clearances prescribed herein are applicable only to tracks on which freight cars having a minimum overall width of 10 feet 10 inches are transported. On track over which freight cars of greater width are transported, minimum distance shall be increased by an amount equal to 1/2 such additional width.
  - f. Existing tracks may be maintained, reconstructed, or extended at centers in existence as of the effective date of the Section.
5. For track occupying or adjacent to public roadways:
    - a. Requirements for track occupying a public roadway shall be considered individually by the Commission.
    - b. Track adjacent to a public roadway shall have a minimum clearance of 10 feet from the centerline of track to the face of curb or edge of roadway. Railroad maintenance roads shall be exempt from the provisions of this subsection.
  6. For roadway structures over or under railroad track:
    - a. Overhead roadway structures shall be a minimum of 23 feet above top of rail, except that overhead clearances greater than 23 feet may be approved when justified on the basis of railroad electrification.
    - b. Roadway structures beneath railroad track shall have a minimum clearance of 15 feet above the surface of the roadway or, if additional clearance is required, as determined by the Commission after public hearing.
  7. The general clearance requirements shall be:
    - a. No merchandise, materials, equipment, or other articles shall be placed either on the ground or on a platform adjacent to any track at a distance less than 8 feet 6 inches from the centerline of track. A suitable line or other marker shall be maintained on all platforms at a distance of 8 feet 6 inches from the centerline of track to indicate minimum clearance for the articles.
    - b. Nothing herein shall be considered as preventing the movement of special work equipment or cars, except that such operations shall be conducted in a safe manner.
  8. For impaired clearance signs:
    - a. Impaired clearance signs shall be of sufficient size to accommodate any wording prescribed by the Commission. The letters of said wording shall be at least 2 1/2 inches in height with a 1/2 of an inch black stroke on a fluorescent white background. In the event the Commission does not specify said wording, railroads may use their own wording for such warning signs.
    - b. Impaired clearance signs shall be located at no less than 8 feet 6 inches from the centerline of track, shall be in a position to be clearly visible to approaching train crews.
- C. All railroads operating wholly or partially within the state of Arizona shall comply with the requirements of this Section in all construction, reconstruction, or modification of track or railroad facilities performed subsequent to the effective date of this Section.
  - D. Existing track, walkways, or railroad facilities may be maintained at existing clearances, except that such track, walkways, or railroad facilities shall not jeopardize the safety of railroad employees, industrial employees, or the general public.
  - E. Except as provided for in subsection (B)(4)(f) of this Section, all applications for exemption from any of the requirements of this Section shall be approved by the Commission prior to construction, reconstruction, or modification of track or railroad facilities adjacent thereto. An application for exemption shall:
    1. Be submitted to the Railroad Safety Section, Arizona Corporation Commission;
    2. Contain the full name and address of the applicant and the nature of the applicant's business;
    3. Set forth the reason and the extent for which relief is sought;
    4. Include sufficient information to support and justify the exemption; and,
    5. If necessary, include engineering drawings to further clarify the application.

**Historical Note**

Adopted effective May 28, 1992 (Supp. 92-2).

**R14-5-111. Crew Requirements**

- A. Railroads operating within Arizona shall maintain a minimum of two operating employees in the control compartment of the lead locomotive unit of a train.
- B. Compliance with subsection (A) of this Section shall not be required during switching operations, while moving cars for inspection purposes, or while performing setouts in conjunction with road service.

**Historical Note**

Adopted effective May 28, 1992 (Supp. 92-2).

**R14-5-112. Reserved****R14-5-113. Hazardous Materials**

- A. All railroad operations which engage in the loading of railroad freight cars for the purpose of transporting hazardous materials by rail in and through Arizona shall be governed by all of the following:
  1. The material to be transported shall be authorized for transportation in freight cars. The freight car selected shall be compatible with the lading and be authorized for the commodity by the United States Department of Transportation. All fittings, tank, and safety appurtenances shall be in proper condition for the safe transportation of the product.
  2. Loading operations shall be performed only by persons properly instructed in loading hazardous materials and made responsible for careful compliance with 49 CFR 174.67, as amended and revised through November 1, 1989, incorporated herein by reference, on file with the Office of the Secretary of State and copies available from the United States Government Printing Office, P.O. Box 371975M, Pittsburgh, Pennsylvania 15250-7975.
  3. Hand brakes shall be set and wheels blocked on all cars to be loaded.
  4. Caution signs shall be so placed on the track or cars to give necessary warning to persons approaching the cars from the open end of a siding and shall be left in place

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- until after the cars are unloaded or loaded and disconnected from the loading or unloading connection. The signs shall be of metal or other comparable material, at least 12 inches high by 15 inches wide in size, and bear the words, "STOP--Freight Car Connected", or "STOP--Men at Work", the word "STOP" being in letters at least 4 inches high and other words in letters at least 2 inches high. The letters shall be white on a blue background.
5. Loading connections shall be securely attached to inlet pipes and other fittings before any discharge valves are opened.
  6. Freight cars shall not be allowed to stand with connections attached after loading is completed. Throughout the entire period of loading, and while the car is connected to the loading device, the car shall be attended by the loader.
  7. If necessary to discontinue loading a freight car for any reason, all loading connections shall be disconnected. All valves first shall be tightly closed, and the closures of all other openings securely applied.
  8. As soon as a freight car is completely loaded, all valves shall be made tight, the loading connections shall be removed, and all other closures made tight, except that heater coil inlet and outlet pipes shall be left open for drainage. The manhole cover shall be re-applied by the use of a bar or wrench, the outlet valve reducer and outlet valve cap replaced by the use of a wrench having a handle at least 36 inches long, and the outlet valve cap plug, end plug, and all other closures of openings and of their protective housings shall be closed by the use of a suitable tool.
  9. Railroad defect cards shall not be removed.
  10. If oil or gasoline has been spilled on the ground around connections, it shall be covered with fresh dry sand or dirt.
  11. All tools and implements used in connection with loading shall be kept free of oil, dirt, and grit.
- B. Placarding shall be as follows:**
1. When lading requiring placarding in compliance with provisions of 49 CFR 172.500(c), as amended and revised through November 1, 1989, incorporated herein by reference, on file with the Office of the Secretary of State, and copies available from the United States Government Printing Office, P.O. Box 371975M, Pittsburgh, Pennsylvania 15250-7975, is loaded in a freight car, it shall be the responsibility of the person loading the freight car to affix the prescribed number and type of placards to the freight car.
  2. The freight car shall be equipped with at least 4 metal placard holders which are suitable for service.
  3. Placards affixed to hazardous materials freight cars shall be in a condition so that the format, legibility, color, and visibility are not substantially reduced due to damage, deterioration, or obscurement by dirt or other matter.
- C. The accumulation of static electricity during the loading or unloading of freight cars with flammable liquids or flammable compressed gases shall be prevented by providing a means of grounding the freight car body to a suitable location using a grounding device capable of conducting static electricity away from the freight car and the loading or unloading appliances and appurtenances.**
- D. For rail bonds and insulated joints:**
1. Rail shall be adequately bonded at each joint upon which railroad equipment may stand while flammable liquids or flammable gases are being transferred.
  2. Insulated rail joints shall be installed to electrically separate the loading or unloading track section from all other track rails.
    - a. Insulated rail joints shall be applied only to rail having sawed ends.
    - b. Insulated rail joints shall not be applied to rails covered with scale, dirt, or other foreign matter; to rails with battered ends; or when the opening between rail ends is greater than 3/8 of an inch.
  3. An emergency transfer of flammable liquids or flammable gases that must be performed in conjunction with a hazardous material incident shall be exempt from Rail Bonding and Insulated Joint requirements, provided other means, such as ground rods, are utilized to ground the containers and transfer appliances.
- E. A derail shall be used to prevent the intrusion into an area where freight cars are being loaded or unloaded with a hazardous material. This device shall be kept in "derailing" position and locked with an effective locking device while freight cars are connected for loading or unloading. The key for the lock used to immobilize the derailing device shall be maintained in the care of the person who is in charge of the freight cars being loaded or unloaded.**
- F. Placarded freight cars which contain hazardous materials shall not be left to stand in populated areas for the purpose of constructive placement where the freight car is not under the direct supervision, observation, or control of the railroad carrier.**
- G. Rail carriers shall be prohibited from allowing freight or freight cars carrying hazardous materials to be constructively placed or otherwise withheld from their destination at other than an Environmental Protection Agency-approved transfer facility. For the purposes of this subsection, "transfer facility" shall mean any transportation-related facility including loading docks, parking areas, and other similar areas where shipments of hazardous materials are held during the normal course of transportation.**
- H. All railroad operations that engage in the unloading of railroad freight cars for the purpose of transporting hazardous materials by rail in and through Arizona shall be governed by 49 CFR 174.67, as amended and revised through October 1, 1989, incorporated herein by reference, on file with the Office of the Secretary of State, and copies available from the United States Government Printing Office, P.O. Box 371975M, Pittsburgh, Pennsylvania 15250-7975, all being regulations of the Federal Railroad Administration, United States Department of Transportation, Railroad Safety regulations.**

**Historical Note**

Adopted effective May 28, 1992 (Supp. 92-2).

**R14-5-114. End-of-train Device**

Any railroad carrier subject to the provisions of 49 CFR 221, amended and revised through October 1, 1989, incorporated herein by reference, on file with the Office of the Secretary of State, and copies available from the United States Government Printing Office, P.O. Box 371975M, Pittsburgh, Pennsylvania 15250-7975, operating trains outside of yard limits without an occupied caboose at the rear of the train shall have an operable end-of-train device capable of activating the train's emergency air brake system electronically from the control panel of the locomotive controlling the train.

**Historical Note**

Adopted effective May 28, 1992 (Supp. 92-2).

**R14-5-115. Train Composition**

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All carriers operating within the state of Arizona shall strictly adhere to their respective instructions relative to "train makeup" or "special car handling instructions" as promulgated in the current timetable or other operating department special instructions.

**Historical Note**

Adopted effective May 28, 1992 (Supp. 92-2).

**R14-5-116. Civil Penalty**

- A.** Any person, firm or corporation violating any provision of this Article or Order adopted pursuant to this Article pertaining to railroad safety and the transportation of hazardous materials by rail shall be subject to a civil penalty not to exceed \$2,000 for each violation with each day constituting a separate violation. In no event shall the maximum civil penalty exceed \$200,000 for any related series of violations. The penalties described in this subsection shall not apply to R14-5-102.
- B.** Any civil penalty pertaining to railroad and rail hazardous materials transportation safety may be compromised by the

Commission. In determining the amount of the penalty, or the amount agreed upon in compromise, the appropriateness of the penalty to the size of the business of the person, firm or corporation charged, the gravity of the violation and the good faith of the person, firm, or corporation charged in attempting to achieve compliance, after notification of a violation, shall be considered by the Commission. The amount of the penalty, when finally determined, or the amount agreed upon in compromise, may be deducted from any sums owed by the state of Arizona to the person, firm, or corporation charged or may be recovered in a civil action in the Superior Court of the state of Arizona.

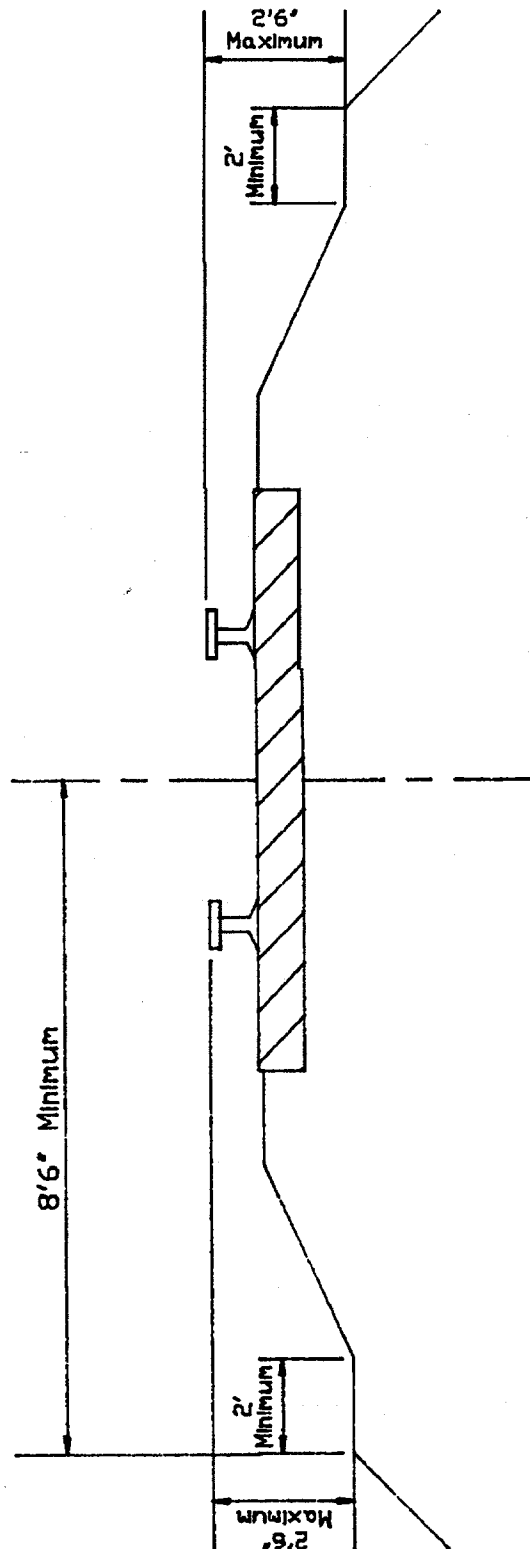
- C.** The Commission may avail itself of any other authority or remedies available under the Constitution of Arizona and the Arizona Revised Statutes to effect the purpose of this Article.

**Historical Note**

Adopted effective May 28, 1992 (Supp. 92-2).

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## Appendix 1. Walkways Along Main Tracks Along Short Line &amp; Branch Line - One Track



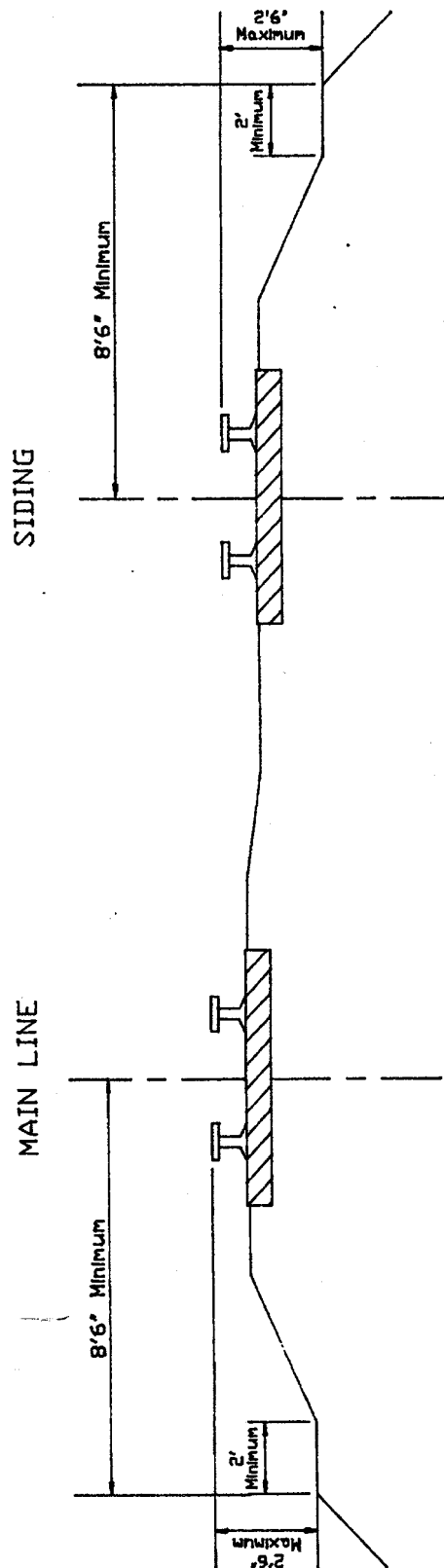
Walkways Along Main Tracks  
Along Short Line & Branch Line

## Historical Note

Adopted effective May 28, 1992 (Supp. 92-2).

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## Appendix 2. Walkways Along Main Tracks Along Short Line &amp; Branch Line - Two Tracks



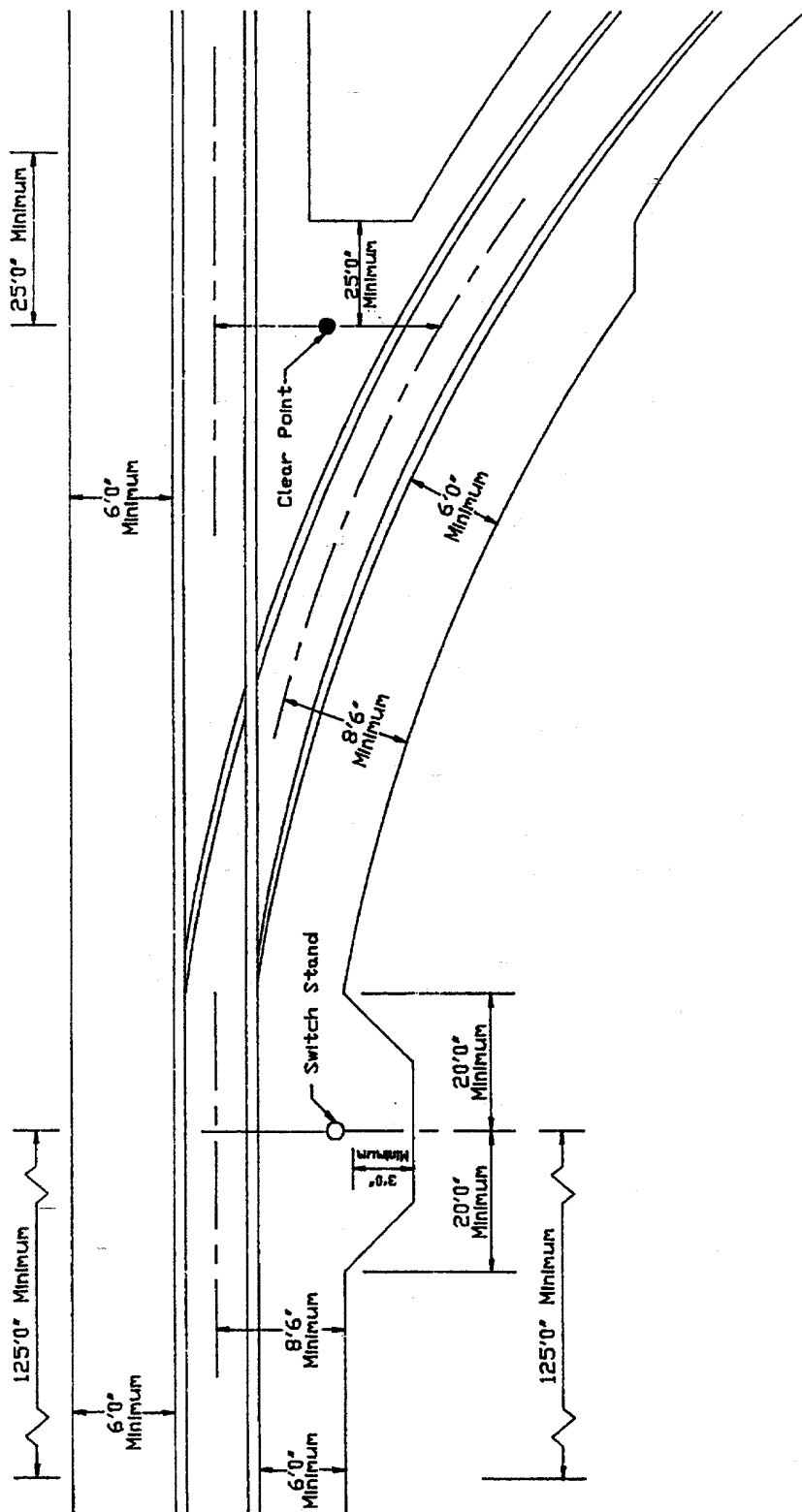
Walkways Along Main Tracks  
Along Short Line & Branch Line

## Historical Note

Adopted effective May 28, 1992 (Supp. 92-2).

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## Appendix 3. Walkways at Main Line Switches Entering Yards and Serving Industry Tracks Except as Provided in Standard No. 4 - Walkways to be Level with Ties



Walkways at Main Line Switches Entering Yards  
and Serving Industry Tracks Except as Provided  
in Standard No. 4 - Walkways to be Level with Ties

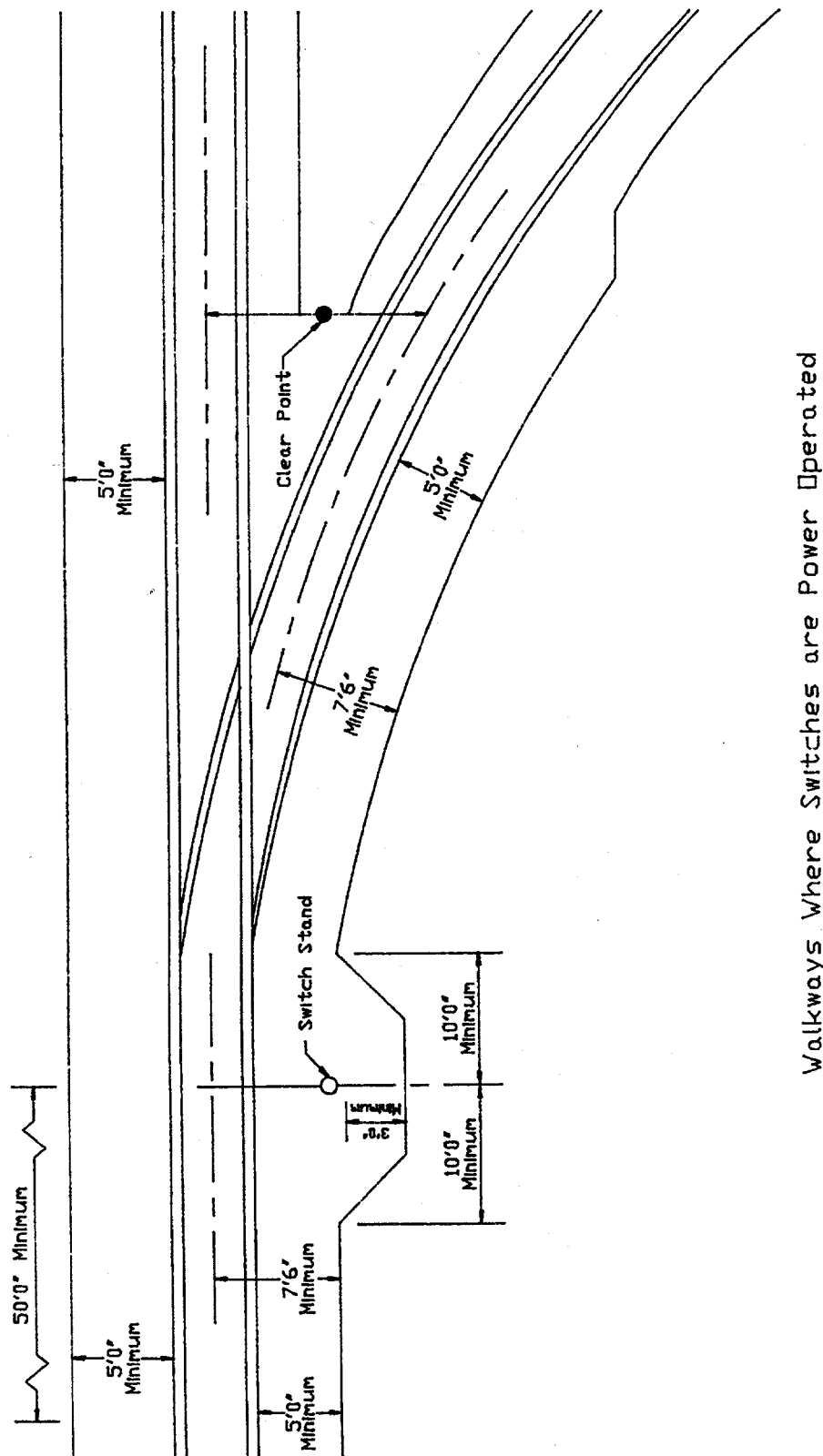
## Historical Note

Adopted effective May 28, 1992 (Supp. 92-2).



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## Appendix 4. Walkways Where Switches are Power Operated



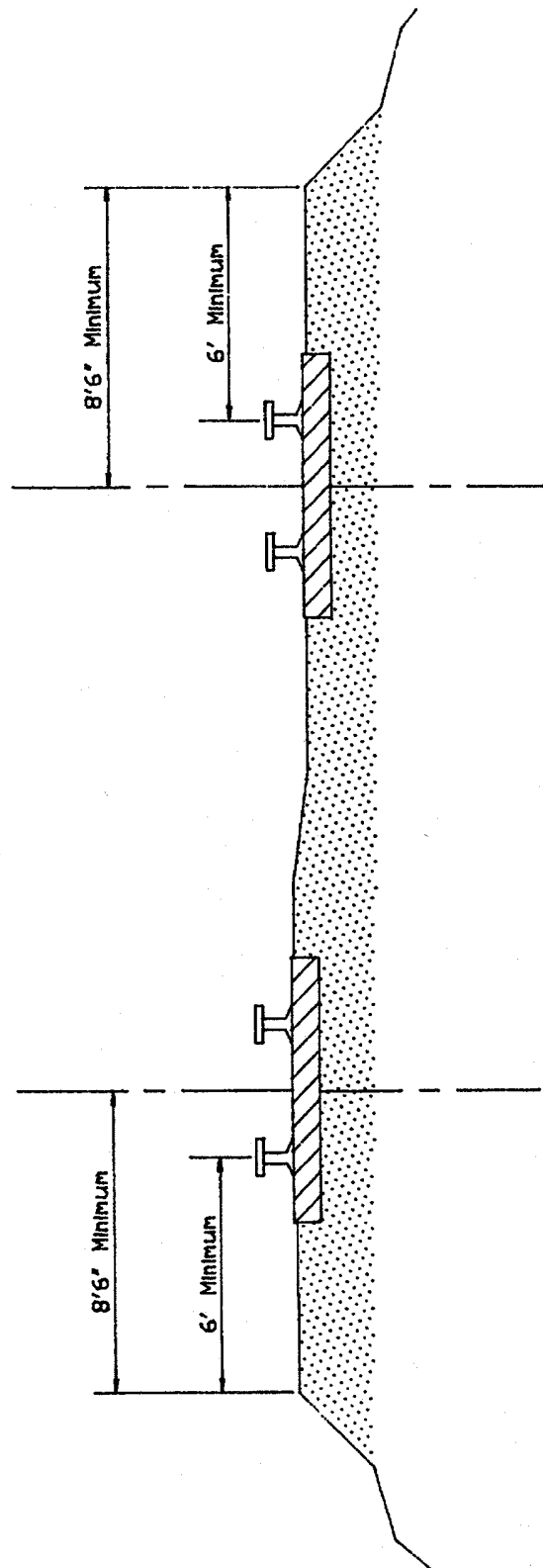
Walkways Where Switches are Power Operated

## Historical Note

Adopted effective May 28, 1992 (Supp. 92-2).

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## Appendix 5. Walkways in Yards and Points Where Industrial Switching is Performed But Not Less Than 50 Feet in Advance of Switch



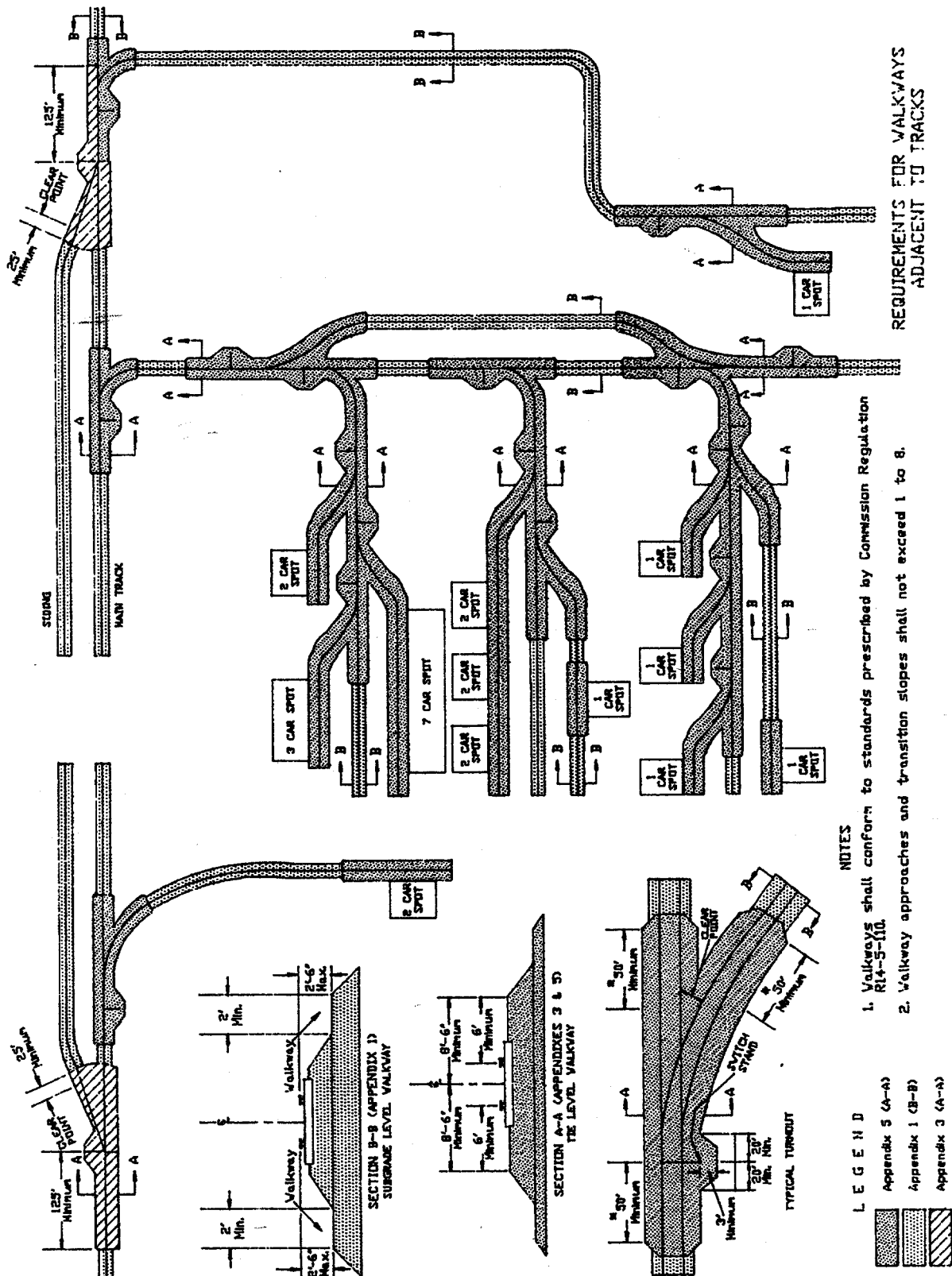
Walkways in Yards and Points Where Industrial  
Switching is Performed, But Not Less Than  
50 Feet in Advance of Switch

**Historical Note**

Adopted effective May 28, 1992 (Supp. 92-2).

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## Appendix 6. Requirements for Walkways Adjacent to Tracks



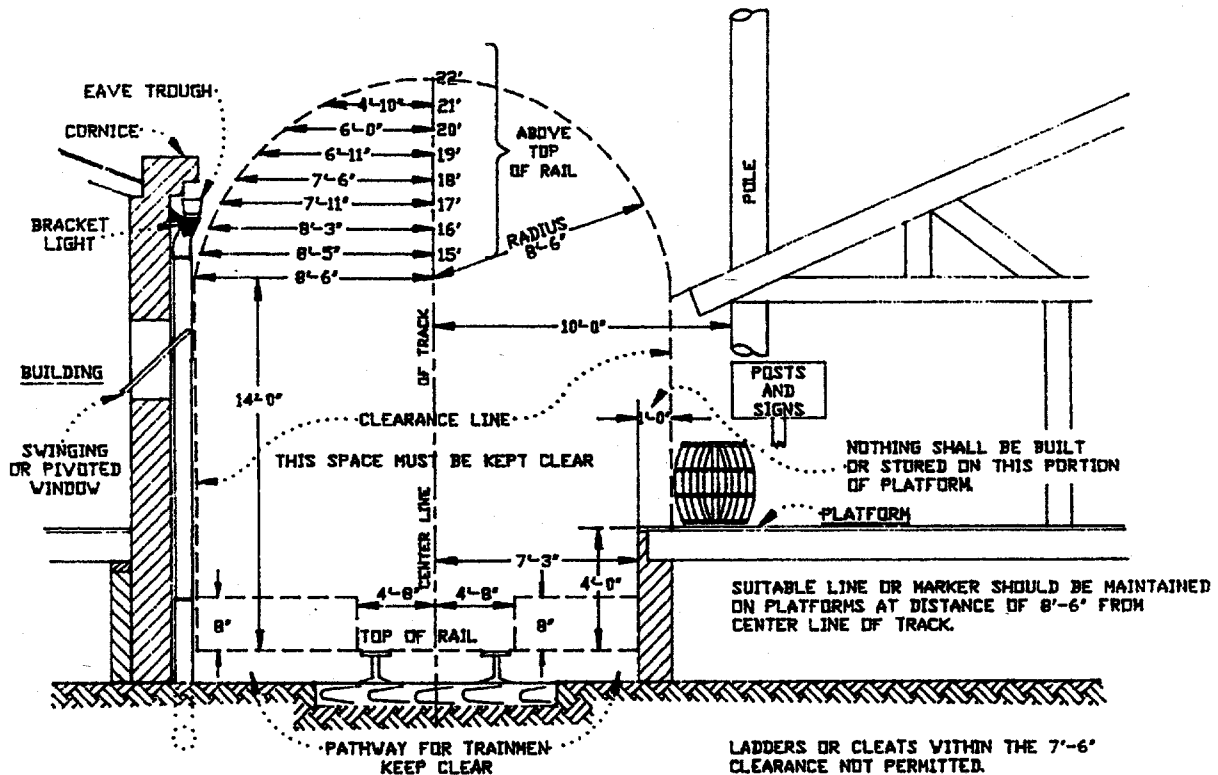
## Historical Note

Adopted effective May 28, 1992 (Supp. 92-2).

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## Appendix 7. Typical Clearance of Structures from Railroad Tracks

**TYPICAL  
CLEARANCE OF STRUCTURES FROM RAILROAD TRACKS  
AS PRESCRIBED BY  
ARIZONA CORPORATION COMMISSION  
ADMINISTRATIVE REGULATION R14-5-110  
FOR NEW WORK AND RECONSTRUCTION OF EXISTING FACILITIES ADJACENT  
TO STANDARD GAUGE RAILROAD TRACKS TRANSPORTING FREIGHT CARS.**



## NOTES

**OVERHEAD WIRE CLEARANCES SHALL CONFORM TO COMMISSION'S REGULATION R14-5-110.**

POSTS, POLES, SIGNS AND SIMILAR FACILITIES MAY HAVE MINIMUM CLEARANCE OF 8'-6" BUT CLEARANCE OF 10'-0" IS RECOMMENDED WHERE PRACTICABLE.

ALL SIDE CLEARANCE DIMENSIONS ARE FOR TANGENT TRACK. IN GENERAL, SIDE CLEARANCE FOR CURVE TRACK TO BE 1'-0" GREATER THAN THAT FOR TANGENT TRACK.

**WHEN TRACK IS USED PRINCIPALLY FOR LOADING OR UNLOADING REFRIGERATOR CARS, PLATFORM HEIGHT OF 4'-6" ABOVE TOP OF RAIL MAY BE MAINTAINED PROVIDED THAT MINIMUM SIDE CLEARANCE TO CENTER LINE OF TRACK SHALL BE 8'-0".**

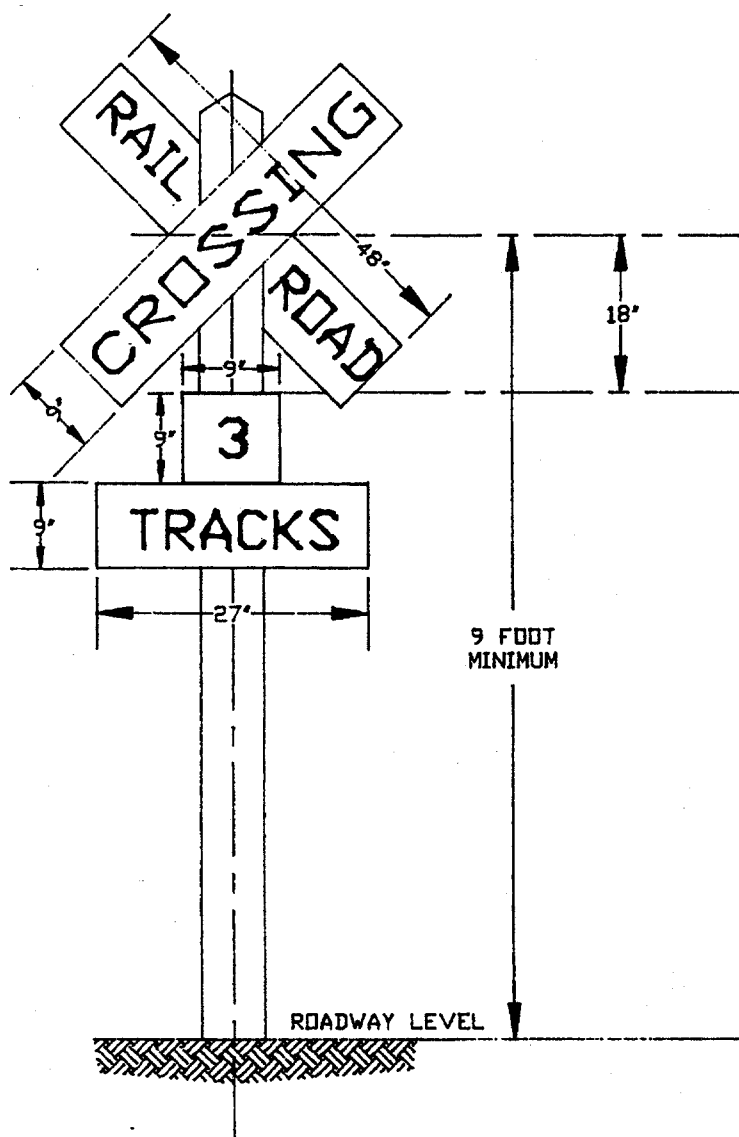
**PLATFORMS 4'-0" OR LESS IN HEIGHT WITH MINIMUM CLEARANCE OF 7'3" MAY BE EXTENDED AT EXISTING CLEARANCES IF SUCH EXTENSION IS NOT IN CONNECTION WITH RECONSTRUCTION OF ORIGINAL PLATFORM.**

### Historical Note

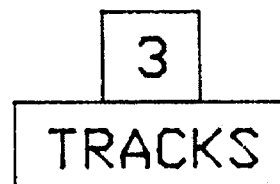
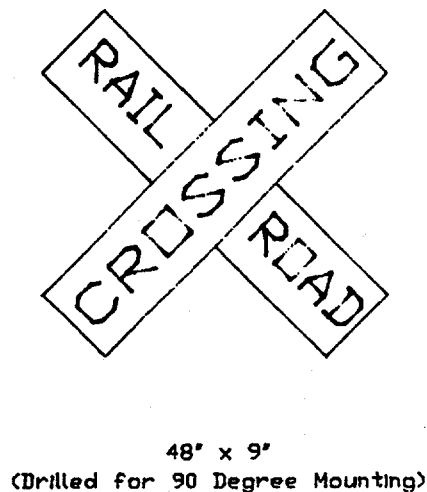
Adopted effective May 28, 1992 (Supp. 92-2).

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## Appendix 8. Highway Crossing Sign



HIGHWAY CROSSING SIGN



9' x 9'  
27' x 9'

## Historical Note

Adopted effective May 28, 1992 (Supp. 92-2).

## CHAPTER 5. CORPORATION COMMISSION - TRANSPORTATION

## ARTICLE 2. PIPELINE SAFETY

**R14-5-201. Definitions**

As used in this Article:

1. "Building" means any structure intended for supporting or sheltering any occupancy.
2. "Commission" means the Arizona Corporation Commission.
3. "Discontinuation of service" means an interruption in service expected to exceed four hours, occurring after an operator tests a service line or meter set assembly and determines that additional actions are necessary to restore service because of a leak or hazardous operating condition.
4. "DOT" means the U.S. Department of Transportation.
5. "Evacuation" means denying entry into or the organized clearing of a building or buildings, involving:
  - a. One hundred or more individuals from any number of buildings;
  - b. All of the individuals present from five or more buildings;
  - c. All of the individuals present from five or more businesses within a single building such as a strip mall; or
  - d. A nonresidential building known or discovered to be occupied by individuals who are confined, are of impaired mobility, or would be difficult to evacuate because of their age or physical or mental condition or capabilities, such as a hospital, prison, school, daycare facility, retirement facility, or assisted living facility.
6. "Gas" means natural gas, flammable gas, or toxic or corrosive gas and includes LPG and LNG that is vaporized.
7. "Hazardous liquid" means:
  - a. Petroleum,
  - b. A petroleum product, or
  - c. Anhydrous ammonia.
8. "Independent laboratory" means a laboratory that is not owned or operated by the operator and that has no affiliation with the operator through ownership, familial relationship, or contractual or other relationship that results in the laboratory being controlled by or under common control with the operator.
9. "Intrastate pipeline" means all pipeline facilities included in the definition of "pipeline system" that are used by a provider to transport gas, LNG, or a hazardous liquid within Arizona and that are not used to transport gas, LNG, or a hazardous liquid in interstate or foreign commerce. This includes, without limitation, any equipment, facility, building, or other property used or intended for use in transporting gas, LNG, or a hazardous liquid.
10. "Liquefied natural gas" means natural gas or synthetic gas having as its major constituent methane (CH<sub>4</sub>) that has been changed to a liquid.
11. "LNG" means liquefied natural gas.
12. "LNG facility" means those portions of a pipeline system that are used for transporting or storing LNG or for LNG conversion.
13. "LPG" means liquefied petroleum gas.
14. "MAOP" means maximum allowable operating pressure, the maximum pressure at which a gas or LPG pipeline or segment of pipeline may be operated.
15. "Master meter system" means physical facilities for distributing gas within a definable area where the operator purchases metered gas from a provider to provide gas service to two or more buildings other than at a single family residence.
16. "Office of Pipeline Safety" means the Commission personnel assigned to perform the Commission's day-to-day activities under A.R.S. Title 40, Chapter 2, Article 10, who are headquartered at 1300 W. Washington Street, Suite 220 Phoenix, AZ 85007 and whose contact information is available at <http://www.azcc.gov/Divisions/Safety>.
17. "Operator" means a person that owns or operates a pipeline system or master meter system.
18. "OPS" means "Office of Pipeline Safety," as defined herein.
19. "Outage" means an unplanned and unscheduled discontinuation of service:
  - a. Concurrently to 250 or more residential customer accounts or to 10 or more commercial customer accounts; or
  - b. To a nonresidential building known or discovered to be occupied by individuals who are confined, are of impaired mobility, or would be difficult to evacuate or relocate because of age or physical or mental condition or capabilities, such as a hospital, prison, school, daycare facility, retirement facility, or assisted living facility.
20. "Person" means any individual, firm, joint venture, partnership, corporation, association, cooperative association, joint stock association, trustee, receiver, assignee, or personal representative, or the state or any political subdivision of the state.
21. "PHMSA" means the U.S. Department of Transportation Pipeline and Hazardous Materials Safety Administration.
22. "Pipeline system" means all parts of the physical facilities of a public service corporation or provider through which gas, LPG, LNG, or a hazardous liquid moves in transportation, including but not limited to pipes, compressor units, metering stations, regulator stations, delivery stations, holders, fabricated assemblies, and other equipment, buildings, and property so used.
23. "Provider" means any intrastate gas pipeline operator, public service corporation, or municipality that provides natural gas or LPG service to a master meter customer.
24. "PSIG" means pounds per square inch gauge.
25. "Public service corporation" has the same meaning as in Article 15, § 2 of the Arizona Constitution.
26. "Sandy type soil" means sand no larger than "coarse" as defined by the American Society for Testing and Materials, ASTM D-2487-83, Standard Practice for Classification of Soils for Engineering Purposes (1983), including no future editions or amendments, which is incorporated by reference; on file with the Office of Pipeline Safety; and published by and available from ASTM International, 100 Barr Harbor Drive, P.O. Box C700, West Conshohocken, PA, 19428-2959.
27. "Sour gas" means natural gas that contains the corrosive sulfur-bearing compound hydrogen sulfide (H<sub>2</sub>S) in a concentration that exceeds a minimum threshold of 0.25 grain of hydrogen sulfide per 100 cubic feet (5.8 milligrams/m<sup>3</sup>) under standard operating conditions (4 parts per million).
28. "Sour oil" means crude oil containing the impurity sulfur in a concentration greater than 0.5 percent.
29. "State" means the state of Arizona and all lands within its boundaries.
30. "Structure" means something that is built or constructed, or any piece of work artificially composed of parts joined together in some definite manner.

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31. "Transport" or "transportation" of gas, LNG, or a hazardous liquid means the gathering, transmission, distribution, or storage of gas, LNG, or a hazardous liquid using a pipeline system within the state.
32. "Unknown failure" means an occurrence in which a portion of a pipeline system fails, and:
  - a. The cause cannot be attributed to any observable corrosion, third-party damage, natural or other outside force, construction or material defect, equipment malfunction, or incorrect operations; or
  - b. The operator and the Office of Pipeline Safety disagree as to the cause.

**Historical Note**

Adopted effective October 23, 1987 (Supp. 87-4).

Amended Paragraph (5) effective February 3, 1989 (Supp. 89-1). Amended effective July 25, 1994, under a court-ordered exemption as determined by the Arizona Corporation Commission (Supp. 94-3). Amended by exempt rulemaking at 5 A.A.R. 3693, effective September 17, 1999 (Supp. 99-3). Amended by final rulemaking at 8 A.A.R. 2382, effective May 10, 2002 (Supp. 02-2). Amended by final rulemaking at 20 A.A.R. 75, effective December 16, 2013 (Supp. 13-4). Amended by final rulemaking at 25 A.A.R. 151, effective January 9, 2019 (Supp. 19-1).

**R14-5-202. Construction and Safety Standards for Gas, LNG, and Hazardous Liquid Pipeline Systems**

- A. Applicability: This Section applies to the construction, reconstruction, repair, operation, and maintenance of each intrastate gas, LNG, or hazardous liquid pipeline system, pursuant to A.R.S. § 40-441.
- B. Subject to the definitional changes in R14-5-201 and the modifications noted in this Section, the Commission adopts, incorporates, and approves as its own 49 CFR 40; 191; 192, except (I)(A)(2) and (3) of Appendix D to Part 192; 193; 195, except 195.1(b)(2), (3), and (4); and 199 (October 1, 2018), including no future editions or amendments, which are incorporated by reference; on file with the Office of Pipeline Safety; and published by and available from the U.S. Government Printing Office, 710 North Capital Street N.W., Washington DC 20401, and at <http://www.gpo.gov/fdsys/>. For purposes of 49 CFR 192, "Business District" means an area where the public congregate for economic, industrial, religious, educational, health, or recreational purposes and two or more buildings used for these purposes are located within 100 yards of each other.
- C. The above mentioned incorporated Parts of 49 CFR, except 49 CFR 191; 49 CFR 192.727(g)(1), 192.913(b)(1)(vii), 192.943(a), 192.949(a)-(b), and 192.951; 49 CFR 193 Subpart A; and 49 CFR 195 Subparts A and B, are revised as follows:
  1. Substitute "Commission" where "Administrator," "Pipeline and Hazardous Materials Administration," "Office of Pipeline Safety," or "OPS" appears; and
  2. Substitute "Office of Pipeline Safety, Arizona Corporation Commission, at its office in Phoenix, Arizona" where the address for the "Information Resources Manager, Office of Pipeline Safety, Pipeline and Hazardous Materials Safety Administration, U.S. Department of Transportation" appears.
- D. An operator of an intrastate pipeline shall file with the Commission an Operation and Maintenance Plan, including an emergency plan, at least 30 days before placing a pipeline system into operation. Any changes in an existing Operation and Maintenance Plan shall be filed within 30 days after the effective date of the change.
- E. An operator of an intrastate pipeline transporting sour gas or sour oil shall comply with the following industry standards addressing facilities handling hydrogen sulfide (H<sub>2</sub>S), which are incorporated by reference, including no future editions or amendments:
  1. NACE Standard MR0175-99, Standard Materials Requirements-Sulfide Stress Cracking Resistant Metallic Material for Oilfield Equipment (1999 Revision), on file with the Office of Pipeline Safety and published by and available from the NACE International, 1440 S. Creek Dr., Houston, TX 77084-4906; and
  2. API RP55: Recommended Practice for Conducting Oil and Gas Producing and Gas Processing Plant Operations Involving Hydrogen Sulfide (2nd Edition 1995), on file with the Office of Pipeline Safety and published by and available from the American Petroleum Institute, 1200 L Street, NW, Washington, DC 20005-4070 and at <http://www.techstreet.com/>.
- F. An operator of an intrastate pipeline transporting LNG, hazardous liquid, or gas shall not construct any part of a hazardous liquid, LNG, or gas pipeline system under a building. If a building encroaches over a pipeline system, the operator may require the property owner to remove the building from over the pipeline or to reimburse the operator the cost associated with relocating the pipeline system. The operator shall determine, within 90 days after discovering the encroachment, whether the encroachment can be resolved within 180 days. If the operator determines that the encroachment cannot be resolved within 180 days, the operator shall, within 90 days of discovery, submit to the Office of Pipeline Safety a written plan to resolve the encroachment within a period longer than 180 days. The Office of Pipeline Safety may then extend the 180-day requirement in order to allow the property owner and the operator to implement the written plan to resolve the encroachment. If the operator does not submit a written plan, and the encroachment is not resolved within 180 days of discovery, the operator shall discontinue service to the pipeline system. This modifies 49 CFR 192.361 and 195.210.
- G. An operator of an intrastate distribution pipeline transporting gas shall not construct any part of a pipeline system less than 8 inches away from any other underground structure. If the 8-inch clearance cannot be maintained, a sleeve, casing, or shielding shall be used. This modifies 49 CFR 192.361.
- H. An operator of an intrastate pipeline transporting gas that has regulators, meters, or regulation meter sets that have been out of service for 36 months shall disconnect the pipeline from all sources and supplies of gas or hazardous liquids, purge the gas or hazardous liquids from the pipeline being disconnected, and cap all ends within six months after the 36 months have passed. This modifies 49 CFR 192.727.
- I. An operator of an intrastate pipeline shall not install or operate a gas regulator that might release gas within 3 feet of a source of ignition, an opening into a building, an air intake into a building, or any electrical source that is not intrinsically safe. The 3 foot clearance from a source of ignition shall be measured from the vent or source of release (discharge port), not from the physical location of the meter set assembly. This subsection does not apply to building permits issued and subdivisions platted before October 1, 2000. If an encroachment into the required 3 foot clearance is caused by an action of the property owner, an occupant, or a provider after the effective date of this rule, the operator may require the property owner to resolve the encroachment or to reimburse the operator the cost associated with relocating the pipeline system. The operator shall determine, within 90 days after discovering the encroachment, whether the encroachment can be resolved



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within 180 days. If the operator determines that the encroachment cannot be resolved within 180 days, the operator shall, within 90 days of discovery, submit to the Office of Pipeline Safety a written plan to resolve the encroachment within a period longer than 180 days. The Office of Pipeline Safety may then extend the 180-day requirement in order to allow the property owner and the operator to implement the written plan to resolve the encroachment. If the operator does not submit a written plan, and the encroachment is not resolved within 180 days of discovery, the operator shall discontinue service to the affected pipeline system. This modifies 49 CFR 192.357 and 192.361.

- J. An operator of an intrastate pipeline transporting LNG, gas, or a hazardous liquid shall use a cathodic protection system designed to protect the metallic pipeline in its entirety, in accordance with 49 CFR 192, Subpart I, as incorporated by reference in subsection (B). Sections (I)(A)(2) and (3) of Appendix D to Part 192 shall not be utilized. This modifies 49 CFR 192.463(a), 193.2629, and 195.571.
- K. An operator of an intrastate pipeline transporting hazardous liquid or gas shall not install Acrylonitrile-Butadiene-Styrene (ABS) or aluminum pipe in a pipeline system. This modifies 49 CFR 192.53 and 192.59.
- L. An operator of an intrastate pipeline transporting hazardous liquid or gas shall not install plastic pipe aboveground unless the plastic pipeline is protected by a metal casing, or equivalent, and the installation is approved by the Office of Pipeline Safety. An operator may use a temporary aboveground plastic pipeline bypass for up to 60 days, provided that the plastic pipeline is protected and is under the direct supervision of the operator at all times. This modifies 49 CFR 192.321 and 195.254.
- M. An operator of an intrastate pipeline transporting hazardous liquid or gas that constructs a pipeline system or any portion thereof using plastic pipe shall install, at a minimum, a 14-gauge coated or corrosion resistant, electrically conductive wire as a means of locating the pipe while it is underground. Tracer wire shall not be wrapped around the plastic pipe. Tracer wire may be taped, or attached to the pipe in another manner, provided that the adhesive or attachment is not detrimental to the integrity of the pipe wall. This modifies 49 CFR 192.321 and 195.246.
- N. An operator of an intrastate pipeline transporting gas or hazardous liquid that constructs an underground pipeline system using plastic pipe shall bury the installed pipe with at least 6 inches of sandy type soil, free of any rock or debris, surrounding the pipe for bedding and shading, unless the pipe is otherwise protected as approved by the Office of Pipeline Safety. Steel pipe shall be installed with at least 6 inches of sandy type soil, free of any debris or materials injurious to the pipe coating, surrounding the pipe for bedding and shading, unless the pipe is otherwise protected as approved by the Office of Pipeline Safety. This modifies 49 CFR 192.321, 192.361, and 195.246.
- O. An operator of an intrastate pipeline transporting gas that constructs an underground pipeline system using plastic pipe shall install the pipe with sufficient slack to allow for thermal expansion and contraction. In addition, all plastic pipe and fittings for use in an area with service temperatures above 100° F shall be tested and marked CD, CE, CF, or CG as required by ASTM D2513 (1995), including no future editions or amendments, which is incorporated by reference, on file with the Office of Pipeline Safety, and published by and available from ASTM International, 100 Barr Harbor Dr., P.O. Box C700, W. Conshohocken, PA 19428-2959 and through <http://www.astm.org>. This modifies 49 CFR 192.63.
- P. An operator of an intrastate pipeline system transporting hazardous liquid or gas shall qualify welding procedures and shall ensure that welding of steel pipelines is performed in accordance with API Standard 1104, as incorporated by reference in 49 CFR 192.7, by welders qualified pursuant to API Standard 1104, except that welders qualified as delineated in 49 CFR 192, Appendix C may be used for low stress level pipe. This modifies 49 CFR 192.225, 192.227, 195.214, and 195.222.
- Q. An operator of an intrastate pipeline transporting gas shall survey and grade all detected leakage according to the standards provided below, which modify 49 CFR 192.706 and 192.723:
  1. In the case of all gas except LPG, leakage surveys and grading shall be performed pursuant to the standards set by ASME Guide for Gas Transmission and Distribution Pipeline System, Guide Material, Appendix G-11-1983, including no future editions or amendments, which is incorporated by reference; on file with the Office of Pipeline Safety; published by and available from ASME, Two Park Avenue, New York, NY 10016-5990; and modified by omitting 4.4(c) and by replacing "should" with "shall" each time it appears.
  2. In the case of LPG, leakage surveys and grading shall be performed pursuant to the standards set by ASME Guide for Gas Transmission and Distribution Pipeline System, Guide Material, Appendix G-11A-1983, including no future editions or amendments, which is incorporated by reference; on file with the Office of Pipeline Safety; published by and available from ASME, Two Park Avenue, New York, NY 10016-5990; and modified by replacing "should" with "shall" each time it appears.
  3. Leakage survey records shall identify in some manner each pipeline surveyed and shall be maintained to demonstrate that each required leakage survey has been conducted. This modifies 49 CFR 192.706 and 192.723.
- R. An operator of an intrastate transmission pipeline transporting gas shall conduct a leakage survey at least twice each calendar year, at an interval not exceeding 7 1/2 months, independent of class location, and shall repair each underground leak classified as grade two or three either upon discovery or within one year after discovery. This modifies 49 CFR 192.706 and 192.711.
- S. An operator of an intrastate transmission pipeline transporting gas and operating at or above 20 percent of Specified Minimum Yield Strength shall ensure that nondestructive testing is completed for each weld performed on newly installed, replaced, or repaired pipeline or an appurtenance. The nondestructive testing shall be completed before the newly welded area of the pipeline or appurtenance is used for service. This modifies 49 CFR 192.241.
- T. An operator of an LNG facility shall ensure that nondestructive testing is completed for each weld performed on newly installed, replaced, or repaired pipeline or an appurtenance. This modifies 49 CFR 193.2303.
- U. In the event of an unknown failure of a gas, LNG, or hazardous liquid pipeline, resulting in the operator's being required to provide a telephonic or written report under R14-5-203 (B) or (C) and in the operator's removing a portion of the failed pipeline, the following shall occur:
  1. The operator shall retain the portion of failed pipeline that was removed;
  2. The operator shall telephonically notify the Office of Pipeline Safety of the removal within two hours after the removal is completed, providing the following information:
    - a. Identity of the failed pipeline,
    - b. Description and location of the failure,



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- c. Date and time of the removal,
  - d. Length or quantity of the removed portion,
  - e. Storage location of the removed portion, and
  - f. Any additional information about the failure or the removal of the portion of the failed pipeline that is requested by the Office of Pipeline Safety;
3. Within 48 hours after receiving telephonic notification pursuant to subsection (U)(2), the Office of Pipeline Safety shall:
- a. Determine, based on the information provided by the operator and the availability, adequacy, and reliability of any pipeline testing laboratory operated by the operator, whether it is necessary to have the removed portion of pipeline tested at an independent laboratory; and
  - b. Telephonically notify the operator either:
    - i. That the operator must have the removed portion of pipeline tested, in accordance with Office of Pipeline Safety directions, by an independent laboratory selected by the Office of Pipeline Safety as provided in subsection (U)(5), to determine the cause or causes of the failure; or
    - ii. That the operator is not required to have the removed portion of pipeline tested by an independent laboratory and instead must conduct testing in its own pipeline testing laboratory, after which the operator may discard the removed portion of pipeline;
4. After providing telephonic notice as provided in subsection (U)(3)(b), the Office of Pipeline Safety shall confirm its notification in writing;
5. If the Office of Pipeline Safety directs testing by an independent laboratory:
- a. The Office of Pipeline Safety shall:
    - i. Determine, as provided in subsection (U)(6), the independent laboratory that will do the testing and the period of time within which the testing is to be completed;
    - ii. Determine, based on the available information concerning the failure, the number and types of tests to be performed on the removed pipeline; and
    - iii. Notify the operator of its determinations; and
  - b. The operator shall:
    - i. Contact the selected independent laboratory to arrange the scheduling of the required tests;
    - ii. Notify the Office of Pipeline Safety, at least 20 days before the date of the tests, of the date and time scheduled for the laboratory tests;
    - iii. At the request of the Office of Pipeline Safety, ensure that a representative of the Office of Pipeline Safety is permitted to observe any or all of the tests;
    - iv. Ensure that the original test results are provided to the Office of Pipeline Safety by the independent laboratory within 30 days after the tests are completed; and
    - v. Pay for the independent laboratory testing; and
6. In determining an independent laboratory to perform testing required under subsection (U), the Office of Pipeline Safety shall:
- a. Submit to at least three different independent laboratories written requests for bids to conduct the testing;
  - b. Consider each responding independent laboratory's qualifications to perform the testing, as demonstrated by:
    - i. Past experience in performing the required test or tests according to ASTM International standards, and
    - ii. Any recognition that a laboratory may have received from a national or international laboratory accreditation body, such as through a certification or accreditation process;
  - c. Wait to select an independent laboratory until one of the following occurs:
    - i. The Office of Pipeline Safety has received written bids from at least three different independent laboratories, or
    - ii. Thirty days have passed since the date of the request for bids; and
  - d. Select the independent laboratory that offers the optimum balance between cost and demonstrated ability to perform the required test or tests. This modifies 49 CFR 192.617, 193.2515, and 195.402.
- V. An operator shall ensure that all repair work performed on an existing intrastate pipeline transporting LNG, hazardous liquid, or gas complies with this Article.
- W. The Commission may waive compliance with any of the requirements of this Section upon a finding that such a waiver is in the interest of public and pipeline safety.
- X. To ensure compliance with the provisions of this Article, the Commission or an authorized representative thereof may enter the premises of an operator of an intrastate pipeline to inspect and investigate the property, books, papers, electronic files, business methods, and affairs that pertain to the pipeline system operation.

**Historical Note**

Adopted effective October 23, 1987 (Supp. 87-4).  
 Amended subsections (B), (I) and (J) effective February 3, 1989 (Supp. 89-1). Amended effective December 18, 1991 (Supp. 91-4). Amended effective July 25, 1994, under a court-ordered exemption as determined by the Arizona Corporation Commission (Supp. 94-3).  
 Amended effective August 30, 1996, under a court-ordered exemption as determined by the Arizona Corporation Commission (Supp. 96-3). Amended effective September 26, 1997, under a court-ordered exemption as determined by the Arizona Corporation Commission (Supp. 97-3). Amended by exempt rulemaking at 5 A.A.R. 3693, effective September 17, 1999 (Supp. 99-3). Amended by final rulemaking at 8 A.A.R. 2382, effective May 10, 2002 (Supp. 02-2). Amended by final rulemaking at 9 A.A.R. 3496, effective September 15, 2003 (Supp. 03-3). Amended by final rulemaking at 11 A.A.R. 1253, effective March 3, 2005 (Supp. 05-1). Amended by final rulemaking at 13 A.A.R. 4533, effective January 25, 2008 (Supp. 07-4). Amended by final rulemaking at 18 A.A.R. 126, effective December 28, 2011 (Supp. 11-4). Amended by final rulemaking at 20 A.A.R. 75, effective December 16, 2013 (Supp. 13-4). Section R14-5-202 amended by emergency rulemaking at 22 A.A.R. 5, effective December 15, 2015 for 180 days (Supp. 15-4). Emergency renewed at 22 A.A.R. 1637, effective June 7, 2016 for 180 days (Supp. 16-2). Section amended by final rulemaking at 22 A.A.R. 2869, effective September 14, 2016 (Supp. 16-4). Amended by final rulemaking at 25 A.A.R. 151, effective January 9, 2019 (Supp. 19-1). . Amended by final rulemaking at 26 A.A.R. 1024, effective

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tive July 4, 2020 (Supp. 20-2).

**R14-5-203. Pipeline Incident Reports**

**A.** Applicability. This Section applies to all intrastate pipeline systems.

**B.** Required incident reports by telephone:

1. An operator of an intrastate pipeline transporting LNG or gas shall immediately notify by telephone the Office of Pipeline Safety, at 602-262-5601 during normal working hours or at 602-252-4449 at all other times, upon discovering the occurrence of any of the following related to the operator's intrastate pipeline system:

- a. Release of gas or LNG from a pipeline or LNG facility, when any of the following results:
  - i. Death or personal injury requiring hospitalization;
  - ii. Injury to any individual resulting in loss of consciousness;
  - iii. An explosion or fire not intentionally set by the operator;
  - iv. Property damage estimated in excess of \$5,000, including the value of the gas lost; or
  - v. Unintentional release of gas from a transmission pipeline;
- b. Emergency transmission pipeline shutdown;
- c. News media inquiry;
- d. Overpressure of a pipeline system where a pipeline operating at less than 12 PSIG exceeds MAOP by 50%, where a pipeline operating between 12 PSIG and 60 PSIG exceeds MAOP by 6 PSIG, or where a pipeline operating over 60 PSIG exceeds MAOP plus 10%;
- e. Permanent or temporary discontinuance of service to a master meter system or when assisting with the isolation of any portion of a master meter system due to failure of a leak test;
- f. Emergency shutdown of any LNG facility;
- g. An evacuation; or
- h. An outage.

2. An operator of an intrastate pipeline transporting hazardous liquid shall immediately notify by telephone the Office of Pipeline Safety, at 602-262-5601 during normal working hours or at 602-252-4449 at all other times, upon discovering a failure in a pipeline system resulting in the occurrence of any of the following:

- a. Injury to an individual that results in one or more of the following:
  - i. Death or personal injury requiring medical treatment;
  - ii. Loss of consciousness; or
  - iii. Inability of the individual to leave the scene of the incident unassisted;
- b. An explosion or fire not intentionally set by the operator;
- c. Property damage estimated in excess of \$5,000;
- d. Pollution of any land or stream, river, lake, reservoir, or other body of water that violates applicable environmental quality or water quality standards, causes a discoloration of the water surface or adjoining shoreline, or deposits sludge or emulsion beneath the water surface or upon the adjoining shoreline;
- e. News media inquiry;
- f. Release of 5 gallons (19 liters) or more of hazardous liquid or carbon dioxide, except that no report is required for a release of less than 5 barrels (0.8 cubic meters) resulting from a pipeline maintenance activity if the release is:

- i. Not otherwise reportable under this Section;
  - ii. Not one described in 49 CFR 195.52(a)(4), as incorporated by reference in R14-5-202 and available from the Office of Pipeline Safety;
  - iii. Confined to the operator's property or the pipeline right-of-way; and
  - iv. Cleaned up promptly; or
  - g. Any release of hazardous liquid or carbon dioxide that was significant in the judgment of the operator even though it did not meet any of the criteria in subsections (B)(2)(a) through (f).
3. A telephonic incident report shall include the following information:
    - a. Name of the pipeline system operator,
    - b. Name of the reporting party,
    - c. Job title of the reporting party,
    - d. Telephone number of the reporting party,
    - e. Location of the incident,
    - f. Time of the incident, and
    - g. Description of any fatalities and injuries.

**C.** Required written incident reports:

1. An operator of an intrastate pipeline transporting LNG or gas shall file a written incident report when an incident involving a pipeline occurs resulting in any of the following:
  - a. Release of gas or LNG from a pipeline or LNG facility, when any of the following results:
    - i. Death or personal injury requiring hospitalization;
    - ii. Loss of consciousness;
    - iii. An explosion or fire not intentionally set by the operator;
    - iv. Property damage estimated in excess of \$25,000, including the value of all released gas; or
    - v. Unintentional release of gas from a transmission pipeline;
  - b. An incident involving an evacuation, outage, or property damage and resulting in expenses including the value of any released gas and of restoring service or evacuation estimated in excess of \$25,000;
  - c. Emergency transmission pipeline shutdown;
  - d. Overpressure of a pipeline system where a pipeline operating at less than 12 PSIG exceeds MAOP by 50%, where a pipeline operating between 12 PSIG and 60 PSIG exceeds MAOP by 6 PSIG, or where a pipeline operating over 60 PSIG exceeds MAOP plus 10%; or
  - e. Emergency shutdown of any LNG facility.
2. A written incident report concerning a gas pipeline system shall be completed using the following, as applicable, which are incorporated by reference; on file with the Office of Pipeline Safety; and published by and available from PHMSA at East Building, Second Floor, 1200 New Jersey Ave., SE, Washington, DC 20590, and at <http://www.phmsa.dot.gov/pipeline/library/forms>:
  - a. Form PHMSA F 7100.1: Incident Report – Gas Distribution System (October 2014), including no future editions or amendments;
  - b. Form PHMSA F 7100.2: Incident Report – Natural and Other Gas Transmission and Gathering Pipeline Systems (October 2014), including no future editions or amendments; or
  - c. Form PHMSA F 7100.3: Incident Report – Liquefied Natural Gas (LNG) Facilities (October 2014), including no future editions or amendments.

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3. An operator of an intrastate pipeline transporting hazardous liquid shall file a written incident report completed using Form PHMSA F 7000-1: Accident Report – Hazardous Liquid Pipeline Systems (July 2014), including no future editions or amendments, which is incorporated by reference, on file with the Office of Pipeline Safety, and published by and available from PHMSA as set forth in subsection (C)(2), any time the operator would have been required to make a notification as required under R14-5-203(B)(2).
  4. A written incident report required by this Section shall be filed with the Office of Pipeline Safety within the time specified below:
    - a. For an LNG or gas - incident, within 20 days after detection; and
    - b. For a hazardous liquid incident, within 15 days after detection.
  5. An operator shall either file a copy of each DOT required written incident report electronically with PHMSA at <https://portal.phmsa.dot.gov/pipeline> or submit a written request for an alternative reporting method to the Information Resource Manager, Office of Pipeline Safety, Pipeline and Hazardous Materials Safety Administration, PHP-20, 1200 New Jersey Avenue, SE, Washington, DC 20590, under 49 CFR 195.58, as incorporated by reference in R14-5-202.
  6. After an incident involving shutdown or partial shutdown of a master meter system, an operator of a gas pipeline system shall request and obtain a clearance from the Office of Pipeline Safety before turning on or reinstating service to the master meter system or portion of the master meter system that was shut down.
1. Form PHMSA F 7000-1.1: Annual Report for Calendar Year 20\_\_ Hazardous Liquid Pipeline Systems (2019), including no future editions or amendments, which shall be completed in accordance with the PHMSA instructions for the form;
  2. Form PHMSA F 7100.1-1: Annual Report for Calendar Year 20\_\_ Gas Distribution System (October 2018), including no future editions or amendments, which shall be completed in accordance with the PHMSA instructions for the form;
  3. Form PHMSA F 7100.2-1: Annual Report for Calendar Year 20\_\_ Natural and Other Gas Transmission and Gathering Pipeline Systems (October 2014), including no future editions or amendments, which shall be completed in accordance with the PHMSA instructions for the form; or
  4. Form PHMSA F 7100.3-1: Annual Report for Calendar Year 20\_\_ Liquefied Natural Gas (LNG) Facilities (August 2017), including no future editions or amendments, which shall be completed in accordance with the PHMSA instructions for the form.
- B.** An operator of an intrastate pipeline shall submit a copy of each required annual report by March 15, for the previous calendar year, to PHMSA at <https://portal.phmsa.dot.gov/pipeline>.

**Historical Note**

Adopted effective October 23, 1987 (Supp. 87-4).  
 Amended effective December 18, 1991 (Supp. 91-4).  
 Amended effective September 26, 1997, under a court-ordered exemption as determined by the Arizona Corporation Commission (Supp. 97-3). Amended by exempt rulemaking at 5 A.A.R. 3693, effective September 17, 1999 (Supp. 99-3). Amended by final rulemaking at 8 A.A.R. 2382, effective May 10, 2002 (Supp. 02-2). Amended by final rulemaking at 9 A.A.R. 3496, effective September 15, 2003 (Supp. 03-3). Amended by final rulemaking at 11 A.A.R. 1253, effective March 3, 2005 (Supp. 05-1). Amended by final rulemaking at 13 A.A.R. 4533, effective January 25, 2008 (Supp. 07-4). Amended by final rulemaking at 18 A.A.R. 126, effective December 28, 2011 (Supp. 11-4). Amended by final rulemaking at 20 A.A.R. 75, effective December 16, 2013 (Supp. 13-4). Section R14-5-204 amended by emergency rulemaking at 22 A.A.R. 5, effective December 15, 2015 for 180 days (Supp. 15-4). Emergency renewed at 22 A.A.R. 1637, effective June 7, 2016 for 180 days (Supp. 16-2). Section amended by final rulemaking at 22 A.A.R. 2869, effective September 14, 2016 (Supp. 16-4).

Adopted effective October 23, 1987 (Supp. 87-4).  
 Amended effective December 18, 1991 (Supp. 91-4).  
 Amended by exempt rulemaking at 5 A.A.R. 3693, effective September 17, 1999 (Supp. 99-3). Amended by final rulemaking at 8 A.A.R. 2382, effective May 10, 2002 (Supp. 02-2). Amended by final rulemaking at 9 A.A.R. 3496, effective September 15, 2003 (Supp. 03-3). Amended by final rulemaking at 11 A.A.R. 1253, effective March 3, 2005 (Supp. 05-1). Amended by final rulemaking at 13 A.A.R. 4533, effective January 25, 2008 (Supp. 07-4). Amended by final rulemaking at 18 A.A.R. 126, effective December 28, 2011 (Supp. 11-4). Amended by final rulemaking at 20 A.A.R. 75, effective December 16, 2013 (Supp. 13-4). Section R14-5-204 amended by emergency rulemaking at 22 A.A.R. 5, effective December 15, 2015 for 180 days (Supp. 15-4). Emergency renewed at 22 A.A.R. 1637, effective June 7, 2016 for 180 days (Supp. 16-2). Section amended by final rulemaking at 22 A.A.R. 2869, effective September 14, 2016 (Supp. 16-4).

**R14-5-204. Annual Reports**

- A.** An operator of an intrastate pipeline shall file with the Office of Pipeline Safety, not later than March 15, for the preceding calendar year, an annual report completed using one of the following, as applicable, which are incorporated by reference; on file with the Office of Pipeline Safety; and published by and available from PHMSA as provided in R14-5-203(C)(2):

**R14-5-205. Commission Investigations**

- A.** The Office of Pipeline Safety shall investigate the cause of each reportable incident, accident, or event resulting in a death or an injury requiring hospitalization and may investigate other incidents, accidents, or events.
- B.** While investigating an incident, accident, or event, the Commission or an authorized agent of the Commission may:
1. Inspect all plant and facilities of a pipeline system and all other property of a pipeline system operator;
  2. Inspect the books, papers, business methods, and affairs of a pipeline system operator;
  3. Make inquiries regarding and interview persons having knowledge of facts surrounding an incident or accident;
  4. Attend, as an observer, all hearings and formal investigations concerning a pipeline system operator;

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5. Schedule and conduct a public hearing into the incident or accident; and
6. Issue subpoenas to compel the production of records and the taking of testimony.

**Historical Note**

Adopted effective October 23, 1987 (Supp. 87-4). Amended subsections (B) and (G) effective February 3, 1989 (Supp. 89-1). Amended effective December 18, 1991 (Supp. 91-4). Amended effective July 25, 1994, under a court-ordered exemption as determined by the Arizona Corporation Commission (Supp. 94-3). Amended effective August 30, 1996, under a court-ordered exemption as determined by the Arizona Corporation Commission (Supp. 96-3). Amended effective September 26, 1997, under a court-ordered exemption as determined by the Arizona Corporation Commission (Supp. 97-3). Amended by exempt rulemaking at 5 A.A.R. 3693, effective September 17, 1999 (Supp. 99-3). Amended by final rulemaking at 8 A.A.R. 2382, effective May 10, 2002 (Supp. 02-2). Amended by final rulemaking at 9 A.A.R. 3496, effective September 15, 2003 (Supp. 03-3). Amended by final rulemaking at 11 A.A.R. 1253, effective March 3, 2005 (Supp. 05-1). Amended by final rulemaking at 13 A.A.R. 4533, effective January 25, 2008 (Supp. 07-4). Amended by final rulemaking at 18 A.A.R. 126, effective December 28, 2011 (Supp. 11-4). Section R14-5-205 renumbered to R14-5-207; new Section R14-5-205 made by final rulemaking at 20 A.A.R. 75, effective December 16, 2013 (Supp. 13-4). Section R14-5-205 amended by emergency rulemaking at 22 A.A.R. 5, effective December 15, 2015 for 180 days (Supp. 15-4). Emergency renewed at 22 A.A.R. 1637, effective June 7, 2016 for 180 days (Supp. 16-2). Section amended by final rulemaking at 22 A.A.R. 2869, effective September 14, 2016 (Supp. 16-4).

**R14-5-206. Employee Drug and Alcohol Testing Requirements**

An operator of an intrastate pipeline facility transporting gas or a hazardous liquid or of an intrastate LNG facility shall ensure that drug and alcohol testing of its workers is performed in compliance with 49 CFR 199, as incorporated by reference in R14-5-202.

**Historical Note**

Section R14-5-206 made by final rulemaking at 20 A.A.R. 75, effective December 16, 2013 (Supp. 13-4).

**R14-5-207. Master Meter System Operators**

- A. Applicability: This Section applies to the construction, reconstruction, repair, emergency procedures, operation, and maintenance of all master meter systems.
- B. An operator of a master meter system shall comply with this Section as a condition of receiving service from a provider. Noncompliance with this Section by an operator of a master meter system constitutes grounds for termination of service by the provider when informed in writing by the Office of Pipeline Safety. In case of an emergency, the Office of Pipeline Safety may give the provider oral instructions to terminate service, with written confirmation to be furnished within 24 hours.
- C. Each operator of a master meter system shall comply with all applicable requirements of 49 CFR 192, as incorporated by reference in R14-5-202.
- D. An operator of a master meter system shall:
  1. Establish an Operation and Maintenance Plan, including an emergency plan; and

2. At all times, maintain a copy of the Operation and Maintenance Plan at the master meter system location.
- E. An operator of a master meter system shall:
    1. Ensure that no part of a gas pipeline system is constructed under a building and that no building is placed over any portion of a gas pipeline system; and
    2. Upon discovering that a building is located over a portion of a gas pipeline system, complete one of the following within 180 days:
      - a. Remove the building from over the pipeline,
      - b. Relocate the pipeline, or
      - c. Discontinue service to the portion of the pipeline system located under the building.
  - F. An operator of a master meter system shall not install Acrylonitrile-Butadiene-Styrene (ABS) or aluminum pipe in the master meter system.
  - G. An operator of a master meter system that constructs a pipeline or any portion thereof using plastic pipe shall install, at a minimum, a 14-gauge coated or corrosion resistant, electrically conductive wire as a means of locating the pipe while it is underground. Tracer wire shall not be wrapped around the plastic pipe. Tracer wire may be taped or attached to the pipe in another manner, provided that the adhesive or attachment is not detrimental to the integrity of the pipe wall.
  - H. An operator of a master meter system that constructs an underground pipeline using plastic pipe shall bury the installed pipe with at least 6 inches of sandy type soil, free of any rock or debris, surrounding the pipe for bedding and shading, unless the pipe is otherwise protected as approved by the Office of Pipeline Safety. Steel pipe shall be installed with at least 6 inches of sandy type soil, free of any debris or materials injurious to the pipe coating, surrounding the pipe for bedding and shading, unless the pipe is otherwise protected as approved by the Office of Pipeline Safety.
  - I. An operator of a master meter system that constructs an underground pipeline using plastic pipe shall install the pipe with sufficient slack to allow for thermal expansion and contraction. In addition, all plastic pipe and fittings for use in an area with service temperatures above 100° F shall be marked CD, CE, CF, or CG as required by ASTM D2513 (1995), incorporated by reference in R14-5-202 and available from the Office of Pipeline Safety.
  - J. An operator of a master meter system shall qualify welding procedures and shall ensure that welding of steel pipelines is performed in accordance with API Standard 1104, as incorporated by reference in 49 CFR 192.7 and R14-5-202, by welders qualified pursuant to API Standard 1104.
  - K. An operator of a master meter system shall ensure that all repair work performed on an existing master meter system complies with this Article.
  - L. An operator of a master meter system shall:
    1. Ensure that each underground steel pipeline is protected against external corrosion with an external protective coating meeting the requirements of 49 CFR 192.461;
    2. When installing a new underground steel pipeline system, before placing the new pipeline system into service, provide a cathodic protection system designed to protect the new pipeline system in its entirety;
    3. When repairing, partially replacing, or relocating an existing underground steel pipeline system, within 45 days after completing the repair, replacement, or relocation, provide a cathodic protection system designed to protect the pipeline system; and
    4. Ensure that each cathodic protection system has a voltage of at least negative 0.85 volts direct current (-0.85Vdc) as

## CHAPTER 5. CORPORATION COMMISSION - TRANSPORTATION

measured using a saturated copper-copper sulfate half cell.

- M.** An operator of a master meter system shall ensure that no portion of an underground gas system is installed less than 8 inches away from any other underground structure.
- N.** At least 30 days before commencing construction of any pipeline, an operator of a master meter system shall file with the Office of Pipeline Safety a Notice of Construction that includes at least the following information:
  - 1. The dates projected for commencing and completing construction,
  - 2. The size and type of pipe to be used,
  - 3. The location of construction, and
  - 4. The MAOP for the new pipeline.
- O.** An operator of a master meter system shall:
  - 1. Perform leakage surveys at intervals not exceeding 15 months, but at least once each calendar year, using leak detection procedures approved by the Office of Pipeline Safety;
  - 2. Except for LPG, perform each leakage survey in accordance with ASME Guide for Gas Transmission and Distribution Pipeline System, Guide Material, Appendix G-11-1983, other than 4.4(c), as incorporated by reference in R14-5-202(Q);
  - 3. For LPG, perform each leakage survey in accordance with ASME Guide for Gas Transmission and Distribution Pipeline System, Guide Material, Appendix G-11A-1983, as incorporated by reference in R14-5-202(Q); and
  - 4. Repair each grade 1 leak immediately upon discovery, each grade 2 leak within 30 days of discovery, and each grade 3 leak within one year of discovery.
- P.** In the event of an unknown failure of a gas pipeline resulting in a master meter system operator's being required to provide a report under subsection (Q) and in the operator's removing a portion of the failed pipeline, the following shall occur:
  - 1. The operator shall retain the portion of failed pipeline that was removed;
  - 2. The operator shall telephonically notify the Office of Pipeline Safety of the removal within two hours after the removal is completed, providing the following information:
    - a. Identity of the failed pipeline,
    - b. Description and location of the failure,
    - c. Date and time of the removal,
    - d. Length or quantity of the removed portion,
    - e. Storage location of the removed portion, and
    - f. Any additional information about the failure or the removal of the portion of the failed pipeline that is requested by the Office of Pipeline Safety;
  - 3. Within 48 hours after receiving telephonic notification pursuant to subsection (Q)(2), the Office of Pipeline Safety shall:
    - a. Determine, based on the information provided by the operator and the availability, adequacy, and reliability of any pipeline testing laboratory operated by the operator, whether it is necessary to have the removed portion of pipeline tested at an independent laboratory; and
    - b. Telephonically notify the operator either:
      - i. That the operator must have the removed portion of pipeline tested, in accordance with Office of Pipeline Safety directions, by an independent laboratory selected by the Office of Pipeline Safety as provided in subsection (P)(6), to determine the cause or causes of the failure; or
      - ii. That the operator is not required to have the removed portion of pipeline tested by an independent laboratory and instead must conduct testing in its own pipeline testing laboratory, after which the operator may discard the removed portion of pipeline;
- 4. After providing telephonic notice as provided in subsection (P)(3)(b), the Office of Pipeline Safety shall confirm its notification in writing;
- 5. If the Office of Pipeline Safety directs testing by an independent laboratory:
  - a. The Office of Pipeline Safety shall:
    - i. Determine, as provided in subsection (P)(6), the independent laboratory that will do the testing and the period of time within which the testing is to be completed;
    - ii. Determine, based on the available information concerning the failure, the number and types of tests to be performed on the removed pipeline; and
    - iii. Notify the operator of its determinations;
  - b. The operator shall:
    - i. Contact the selected independent laboratory to arrange the scheduling of the required tests;
    - ii. Notify the Office of Pipeline Safety, at least 20 days before the date of the tests, of the date and time scheduled for the laboratory tests;
    - iii. At the request of the Office of Pipeline Safety, ensure that a representative of the Office of Pipeline Safety is permitted to observe any or all of the tests;
    - iv. Ensure that the original test results are provided to the Office of Pipeline Safety by the independent laboratory within 30 days after the tests are completed; and
    - v. Pay for the independent laboratory testing; and
- 6. In determining an independent laboratory to perform testing required under subsection (P), the Office of Pipeline Safety shall:
  - a. Submit to at least three different independent laboratories written requests for bids to conduct the testing;
  - b. Consider each responding laboratory's qualifications to perform the testing, as demonstrated by:
    - i. Past experience in performing the required test or tests according to ASTM International standards; and
    - ii. Any recognition that a laboratory may have received from a national or international laboratory accreditation body, such as through a certification or accreditation process;
  - c. Wait to select an independent laboratory until:
    - i. The Office of Pipeline Safety has received written bids from at least three different independent laboratories; or
    - ii. Thirty days have passed since the date of the request for bids, whichever comes sooner; and
  - d. Select the independent laboratory that offers the optimum balance between cost and demonstrated ability to perform the required test or tests.
- Q.** An operator of a master meter system shall:
  - 1. Telephonically notify the Office of Pipeline Safety, at 602-262-5601 during normal working hours or at 602-252-4449 at all other times, at the earliest practicable moment following discovery of any of the following related to the operator's master meter system:

## CHAPTER 5. CORPORATION COMMISSION - TRANSPORTATION

- a. An event involving a release of gas from a pipeline, along with any of the following:
    - i. A death or personal injury requiring hospitalization;
    - ii. Injury to any individual resulting in the individual's loss of consciousness;
    - iii. Estimated property damage, including the value of all released gas, in excess of \$5,000;
    - iv. Unintentional estimated gas loss of 3 million cubic feet or more;
    - v. An explosion or fire not intentionally set by the operator;
    - vi. A news media inquiry;
    - vii. An evacuation; or
    - viii. An outage;
  - b. An event involving overpressure of a pipeline system where a pipeline operating at less than 12 PSIG exceeds MAOP by 50%, where a pipeline operating between 12 PSIG and 60 PSIG exceeds MAOP by 6 PSIG, or where a pipeline operating over 60 PSIG exceeds MAOP plus 10%;
  - c. An event involving permanent or temporary discontinuance of service to a master meter system or any portion of a master meter system due to a failure of a leak test or for any purpose other than to perform routine maintenance; or
  - d. An event that is significant, in the judgment of the operator, even though it does not meet any of the criteria listed in subsections (Q)(1)(a) through (c);
2. Include the following information in a telephonic report under subsection (Q)(1):
    - a. The names of the operator and the person making the report;
    - b. The job title of the person making the report;
    - c. The telephone numbers of the operator and the person making the report;
    - d. A description of the type and location of the event;
    - e. The time of the event;
    - f. The number of fatalities and personal injuries, if any; and
    - g. All other significant facts that are known by the operator and are relevant to the cause of the event or the extent of the damages; and
  3. Not later than April 15 of each year, submit to the Office of Pipeline Safety an annual report for the prior calendar year, completed on Commission Form MM-04: "Annual Report for Calendar Year 20\_\_\_\_, Small Operators of Gas Distribution System," which is included herein as Exhibit A.
- R.** The Commission may waive compliance with any of the requirements of this Section upon a finding that such a waiver is in the interest of public and pipeline safety.
  - S.** To ensure compliance with all applicable provisions of this Article, the Commission or an authorized representative thereof may enter the premises of an operator of a master meter system to inspect and investigate the property, books, papers, electronic files, business methods, and affairs that pertain to the operation of the master meter system.

**Historical Note**

New Section R14-5-207 renumbered from Section R14-5-205 and amended by final rulemaking at 20 A.A.R. 75, effective December 16, 2013 (Supp. 13-4). Section R14-5-207 amended by emergency rulemaking at 22 A.A.R. 5, effective December 15, 2015 for 180 days (Supp. 15-4). Emergency renewed at 22 A.A.R. 1637, effective June 7, 2016 for 180 days (Supp. 16-2). Section amended by final rulemaking at 22 A.A.R. 2869, effective September 14, 2016 (Supp. 16-4).

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Exhibit A. Form MM-04

WILL NOT  
BE  
DELIVERED  
WITHOUT  
PROPER  
POSTAGE

ARIZONA CORPORATION COMMISSION  
OFFICE OF PIPELINE SAFETY – GAS SAFETY PROGRAM  
2200 NORTH CENTRAL AVENUE, SUITE #300  
PHOENIX, ARIZONA 85004

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## CHAPTER 5. CORPORATION COMMISSION - TRANSPORTATION

## Exhibit A. Form MM-04

ARIZONA CORPORATION COMMISSION PIPELINE SAFETY TO BE FILED FOR EACH CALENDAR YEAR, DUE BETWEEN JANUARY 1 AND APRIL 15 OF THE FOLLOWING CALENDAR YEAR <b>ANNUAL REPORT FOR CALENDAR YEAR _____</b> <b>SMALL OPERATORS OF GAS DISTRIBUTION SYSTEM</b>			
<b><u>FACILITY INFORMATION</u></b>		<b><u>OPERATOR/OWNER</u></b>	
NAME OF FACILITY _____		NAME _____	
ADDRESS OF FACILITY _____		ADDRESS _____	
CITY _____	COUNTY _____	CITY _____	
STATE _____	ZIP CODE _____	STATE _____	ZIP CODE _____
FACILITY E-MAIL ADDRESS _____		OPERATOR E-MAIL ADDRESS _____	
AREA CODE _____	TELEPHONE _____	AREA CODE _____	TELEPHONE _____
<b>FACILITY TYPE:</b> MHP _____ APT/CONDO _____ SCHOOL _____ BUSINESS _____ # OF BLDG _____			
<b>SYSTEM INFORMATION</b>		<b>FEET OF PIPE</b>	
<b>UNDERGROUND STEEL PIPE</b>			
<b>ABOVEGROUND STEEL PIPE</b>			
<b>UNDERGROUND PE PLASTIC PIPE</b>			
<b>UNDERGROUND PVC PLASTIC PIPE</b>			
<b>TOTAL FEET OF PIPE IN SYSTEM</b>			
<b>NOTE:</b> (if you have any comments or concerns, please note in this box)		<b>FOR UNDERGROUND STEEL SYSTEMS</b> <b>DATE OF LAST C/P CHECK IN CAL. YR.</b> _____ / _____ / _____ <small>(If no tests were conducted in _____, please write "None Conducted")</small>	
<b>DATE OF LEAK SURVEY CONDUCTED IN CAL. YR.</b> _____ / _____ / _____ <small>(If no tests were conducted in _____, please write "None Conducted")</small>		<b>TOTAL LEAKS IN SYSTEM DURING LAST CAL. YEAR</b> _____	
<b>CAUSE:</b> CORROSION _____ THIRD PARTY DAMAGE _____ CONSTRUCTION DEFECT _____ MATERIAL DEFECT _____ OTHER _____ NUMBER OF KNOWN LEAKS AT END OF YEAR _____		_____	
PREPARED BY (TYPE OR PRINT) _____		AREA CODE _____ TELEPHONE _____	
NAME AND TITLE PERSON SIGNING _____		AUTHORIZED SIGNATURE _____	

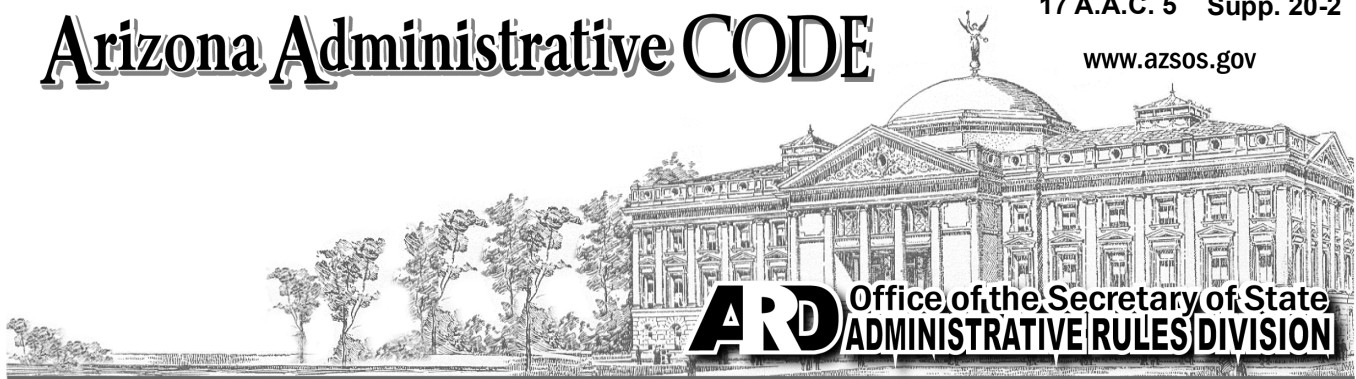
MAIL TO: 2200 N. Central Ave., Suite #300, Phoenix, Arizona 85004  
 FAX TO: (602) 262-5620 – OR EMAIL TO: [safety@azcc.gov](mailto:safety@azcc.gov)

MM-04

**Historical Note**

Exhibit A made by final rulemaking at 20 A.A.R. 75, effective December 16, 2013 (Supp. 13-4).





## TITLE 17. TRANSPORTATION

### CHAPTER 5. DEPARTMENT OF TRANSPORTATION - COMMERCIAL PROGRAMS

The table of contents on the first page contains quick links to the referenced page numbers in this Chapter. Refer to the notes at the end of a Section to learn about the history of a rule as it was published in the *Arizona Administrative Register*.

Sections, Parts, Exhibits, Tables or Appendices codified in this supplement. The list provided contains quick links to the updated rules.

This Chapter contains rule Sections that were filed to be codified in the Arizona Administrative Code between the dates of April 1, 2020 through June 30, 2020.

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#### Questions about these rules? Contact:

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**The release of this Chapter in Supp. 20-2 replaces Supp. 19-4, 1-47 pages**

Please note that the Chapter you are about to replace may have rules still in effect after the publication date of this supplement. Therefore, all superseded material should be retained in a separate binder and archived for future reference.



## Administrative Rules Division

The Arizona Secretary of State electronically publishes each A.A.C. Chapter with a digital certificate. The certificate-based signature displays the date and time the document was signed and can be validated in Adobe Acrobat Reader.

**TITLE 17. TRANSPORTATION****CHAPTER 5. DEPARTMENT OF TRANSPORTATION - COMMERCIAL PROGRAMS**

*Editor's Note: The Department was given an exemption to the provisions in the Arizona Administrative Procedure Act to make rules under Laws 2015, Ch. 235, § 14. Refer to the historical notes in Article 9 for more information (Supp. 15-3).*

*Editor's Note: The Department was given an exemption to the provisions in the Arizona Administrative Procedure Act to make or amend rules under Laws 2013, Ch. 129, § 27. Refer to the historical notes in Article 3 for more information (Supp. 15-2).*

*Editor's Note: 17 A.A.C. 5 was created from Sections recodified from 17 A.A.C. 4 at 7 A.A.R. 3483, effective July 20, 2001 (Supp. 01-3).*

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*Editor's Note: The heading to Article 6 was corrected in this Table of Contents in Supp. 19-4 as amended by final exempt rulemaking at 24 A.A.R. 1725 and released in Supp. 18-2.*

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*Article 7, consisting of Sections R17-5-701 through R17-5-708, made by final rulemaking at 13 A.A.R. 3499, effective December 1, 2007 (Supp. 07-4). Article 7 introduction added for clarification per the Department's request (Supp. 09-2).*

*Article 7, consisting of Sections R17-5-701 through R17-5-706, repealed by final rulemaking at 12 A.A.R. 2297, effective August 5, 2006 (Supp. 06-2).*

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**ARTICLE 1. GENERAL PROVISIONS****ARTICLE 2. MOTOR CARRIERS****R17-5-201. Definitions**

In addition to the definitions provided under A.R.S. §§ 28-3001 and 28-5201, the following definitions apply to this Article unless otherwise specified:

“Audit” means any inspection of a transporter’s motor vehicle, equipment, books, or records to determine compliance with this Article and A.R.S. Title 28, Chapter 14.

“Co-applicant” means an employer or potential employer.

“Danger to public safety” means any condition of a transporter likely to result in serious peril to the public if not discontinued immediately.

“Director” means the Director of the Arizona Department of Transportation or the Director’s designated agent.

“Executive Hearing Office” means the Arizona Department of Transportation’s Executive Hearing Office.

“Medical waiver evaluation summary” means the form, provided by the Department, to be completed by either a board qualified or board certified orthopedic surgeon or physiatrist and mailed to the Department, at the address provided on the form, on behalf of an Arizona intrastate medical waiver applicant.

“Physiatrist” means a doctor of medicine specialized in physical medicine and rehabilitation.

“Transporter” means any person, driver, motor carrier, shipper, manufacturer, or motor vehicle, including any motor vehicle transporting a hazardous material, hazardous substance, or hazardous waste, subject to this Article and A.R.S. Title 28, Chapter 14.

“Violation” means any conduct, act, or failure to act required or prohibited under this Article and A.R.S. Title 28, Chapter 14.

“Vision examination report” means a form provided by the Department to be completed by an ophthalmologist or a licensed optometrist on behalf of a driver or driver applicant and mailed to the Department, at the address provided on the form, for use in determining whether or not a medical condition affects the driver’s, or driver applicant’s, ability to safely perform the functional skills involved with driving a motor vehicle.

**Historical Note**

New Section made by final rulemaking at 8 A.A.R. 3249, effective July 10, 2002 (Supp. 02-3). Amended by final rulemaking at 14 A.A.R. 3797, effective November 8, 2008 (Supp. 08-3). Amended by final rulemaking at 17 A.A.R. 1691, effective August 2, 2011 (Supp. 11-3).

**R17-5-202. Motor Carrier Safety: Incorporation of Federal Regulations; Applicability**

- A. The Department incorporates by reference 49 CFR 40, 379, 382, 383, 385 (except 385.301, 385.303, 385.305, 385.329, 385.405, 385.409, 385.419, 385.421, 385.603, 385.607, 385.609, and 385.713), 390 (except 390.3, 390.5, 390.19, 390.21, 390.40, and subpart E), 391, 392, 393, 395, 396, 397, and 399, revised as of October 1, 2016, and no later amendments or editions, as amended under this Article. The Department incorporates by reference 49 CFR 385.301T, 385.303T, 385.305T, 385.329T, 385.405T, 385.409T, 385.419T, 385.421T, 385.603T, 385.607T, 385.609T, 385.713T, 390.3T, 390.5T, 390.19T, 390.21T, 390.40T, and 390.200T, as pub-

lished in 82 FR 5292, January 17, 2017, and no later amendments or editions, as amended under this Article. The incorporated material is on file with the Department at 206 S. 17th Avenue, Phoenix, AZ 85007. The incorporated material is published by National Archives and Records Administration, Office of the Federal Register, 8601 Adelphi Road, College Park, MD 20740-6001, and is printed and distributed by the U.S. Government Publishing Office, P.O. Box 979050, St. Louis, MO 63197-9000. The incorporated material can be viewed online at <http://www.ofr.gov> or <https://www.gpo.gov/fdsys> and ordered online by visiting the U.S. Government Online Bookstore at <http://bookstore.gpo.gov>. The International Standard Book Numbers are 9780160935459 for 49 CFR 40 and 9780160935497 for 49 CFR 379, 382, 383, 385, 390, 391, 392, 393, 395, 396, 397, and 399.

- B. The sections of 49 CFR incorporated under subsection (A) apply as amended under this Article to all intrastate and interstate motor carriers operating in Arizona and persons operating a commercial motor vehicle, except as provided under subsection (C).
- C. The intrastate operator of a tow truck with a gross vehicle weight rating of 26,000 pounds or less is exempt from the requirements of 49 CFR 390 through 399, except that the driver is subject to the physical qualifications and examination requirements of 49 CFR 391, subpart E.

**Historical Note**

New Section recodified from R17-4-435 at 7 A.A.R. 3483, effective July 20, 2001 (Supp. 01-3). Amended by final rulemaking at 8 A.A.R. 3249, effective July 10, 2002 (Supp. 02-3). Amended by final rulemaking at 9 A.A.R. 1867, effective June 3, 2003 (Supp. 03-2). Amended by final rulemaking at 10 A.A.R. 2679, effective June 8, 2004 (Supp. 04-2). Amended by final rulemaking at 12 A.A.R. 1559, effective May 2, 2006 (Supp. 06-2). Amended by final rulemaking at 14 A.A.R. 3797, effective November 8, 2008 (Supp. 08-3). Amended by final rulemaking at 17 A.A.R. 1691, effective August 2, 2011 (Supp. 11-3). Amended by final rulemaking at 20 A.A.R. 2382, effective August 5, 2014 (Supp. 14-3). Amended by final rulemaking at 24 A.A.R. 1549, effective May 1, 2018 (Supp. 18-2).

**R17-5-203. Motor Carrier Safety: 49 CFR 390 - Federal Motor Carrier Safety Regulations; General**

- A. 49 CFR 390.3T, General applicability. Paragraph (a) is amended to read:

Regulations incorporated in this subchapter are applicable to all motor carriers operating in Arizona and any vehicle owned or operated by the state, a political subdivision, or a state public authority that is used to transport a hazardous material in an amount requiring the vehicle to be placarded as prescribed under R17-5-209.

- B. 49 CFR 390.5T, Definitions. The definitions listed under 49 CFR 390.5T are amended as follows:

“Commercial Motor Vehicle” or “CMV” has the same meaning as prescribed under A.R.S. § 28-5201.

“Shipper” has the same meaning as prescribed under A.R.S. § 28-5201.

“Special agent” means an officer or agent of the Department, the Department of Public Safety, or a political subdivision, who is trained and certified by the Department of Public Safety to enforce Arizona’s Motor Carrier Safety requirements.

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“State” means a state of the United States or the District of Columbia.

“Tow truck,” as used in the definition of emergency under 49 CFR 390.5, has the same meaning as prescribed under A.A.C. R13-3-701.

- C. 49 CFR 390.19T, Motor carrier identification reports for certain Mexico-domiciled motor carriers. Paragraph (a)(1) is amended to read:

A U.S.-, Canada-, Mexico-, or non-North America-domiciled motor carrier conducting operations in interstate commerce or in intrastate commerce in a CMV, except for intrastate commerce in a farm vehicle as defined under A.R.S. § 28-2514, must file a Motor Carrier Identification Report, Form MCS-150.

- D. 49 CFR 390.23, Relief from regulations.

1. Paragraph (a)(2), Local emergencies, is amended by adding:

When a local emergency exists that justifies an exemption from parts 390 through 399 of this chapter, a motor carrier may request the exemption by contacting Commercial Vehicle Enforcement at the Arizona Department of Public Safety, Highway Patrol Division, P.O. Box 6638, Phoenix, AZ 85005. The Arizona Department of Public Safety may grant the exemption with or without restrictions as necessary to provide vital service to the public.

2. Paragraph (a)(2)(i)(A) is amended to read:  
An emergency has been declared by a federal, state or local government official having authority to declare an emergency; or an emergency situation exists under A.R.S. § 28-5234(B); or

- E. 49 CFR 390.25, Extension of relief from regulations - emergencies, is amended by adding:

A motor carrier seeking to extend a period of relief from these regulations may request the extension by contacting Commercial Vehicle Enforcement at the Arizona Department of Public Safety, Highway Patrol Division, P.O. Box 6638, Phoenix, AZ 85005. The Arizona Department of Public Safety may grant the extension with any restrictions it considers necessary to provide vital service to the public.

#### Historical Note

New Section recodified from R17-4-435.01 at 7 A.A.R. 3483, effective July 20, 2001 (Supp. 01-3). Amended by final rulemaking at 8 A.A.R. 3249, effective July 10, 2002 (Supp. 02-3). Amended by final rulemaking at 9 A.A.R. 1867, effective June 3, 2003 (Supp. 03-2). Amended by final rulemaking at 11 A.A.R. 862, effective February 1, 2005 (Supp. 05-1). Amended by final rulemaking at 12 A.A.R. 1559, effective May 2, 2006 (Supp. 06-2). Amended by final rulemaking at 13 A.A.R. 2636, effective July 10, 2007 (Supp. 07-3). Amended by final rulemaking at 14 A.A.R. 3797, effective November 8, 2008 (Supp. 08-3). Amended by final rulemaking at 17 A.A.R. 1691, effective August 2, 2011 (Supp. 11-3). Amended by final rulemaking at 20 A.A.R. 2382, effective August 5, 2014 (Supp. 14-3). Amended by final rulemaking at 24 A.A.R. 1549, effective May 1, 2018 (Supp. 18-2).

#### R17-5-204. Motor Carrier Safety: 49 CFR 391 - Qualifications of Drivers and Longer Combination Vehicle (LCV) Driver Instructors

- A. 49 CFR 391.11, General qualifications of drivers. Paragraph (b)(1) is amended to read: Is at least 21 years of age for interstate operation or is at least 18 years of age for operations

restricted to intrastate transportation not involving the transportation of a reportable quantity of hazardous substance, hazardous waste required to be manifested, or hazardous material in an amount requiring a vehicle to be placarded as prescribed under R17-5-209;

- B. 49 CFR 391.51, General requirements for driver qualification files. Paragraph (b)(8) is amended to read: A Skill Performance Evaluation Certificate obtained from a Field Administrator, Division Administrator, or state Director issued in accordance with § 391.49; or the Medical Exemption document, issued by a Federal medical program in accordance with part 381 of this chapter; or a copy of the Arizona intrastate medical waiver, if a waiver is granted by the Director as prescribed under R17-5-208.

#### Historical Note

New Section recodified from R17-4-435.02 at 7 A.A.R. 3483, effective July 20, 2001 (Supp. 01-3). Amended by final rulemaking at 14 A.A.R. 3797, effective November 8, 2008 (Supp. 08-3). Amended by final rulemaking at 17 A.A.R. 1691, effective August 2, 2011 (Supp. 11-3). Amended by final rulemaking at 20 A.A.R. 2382, effective August 5, 2014 (Supp. 14-3).

#### R17-5-205. Motor Carrier Safety: 49 CFR 383 - Commercial Driver's License Standards; Requirements and Penalties

- A. 49 CFR 383.5, Definitions. The definitions listed under 49 CFR 383.5 are amended as follows:

“Commercial motor vehicle” or “CMV” has the same meaning as prescribed under A.R.S. § 28-3001.

“Conviction” has the same meaning as prescribed under A.R.S. § 28-3001.

“Disqualification” has the same meaning as prescribed under A.R.S. § 28-3001.

“Motor vehicle” has the same meaning as prescribed under A.R.S. § 28-101.

“Out-of-service order” has the same meaning as prescribed under A.R.S. § 28-5241.

“School bus” has the same meaning as prescribed under A.R.S. § 28-101.

“Tank vehicle” has the same meaning as prescribed under A.R.S. § 28-3103.

- B. 49 CFR 383.71, Driver application and certification procedures. Paragraphs (b)(1)(ii), Excepted interstate, and (b)(1)(iv), Excepted intrastate, are deleted.

- C. 49 CFR 383.73, State procedures.

1. Paragraph (c)(4) is amended to read:

If such applicant wishes to retain a hazardous materials endorsement, require compliance with standards for such endorsement specified in §§ 383.71(b)(8) and 383.141 and ensure that the driver has successfully completed a new test for such endorsement specified in § 383.121.

2. Paragraphs (c)(4)(i) and (c)(4)(ii) are deleted.

3. Paragraph (f)(2)(ii) is amended to read:

The state must add the word “non-domiciled” to the face of the CLP or CDL, in accordance with § 383.153(c) or “limited-term” to the face of the CLP or CDL, in accordance with 6 CFR 37.21; and

- D. 49 CFR 383.75, Third party testing. Paragraph (a)(8)(v) is amended to read:

Require the third party tester to initiate and maintain a bond in an amount pursuant to A.R.S. Title 28, Chapter

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13 to be sufficient to pay for re-testing drivers in the event that the third party or one or more of its examiners is involved in fraudulent activities related to conducting skills testing of applicants for a CDL. Exception: A third party tester that is a government entity is not required to maintain a bond. A provider exempted under A.R.S. Title 28, Chapter 13, is responsible for all costs associated with all re-testing of applicants due to examination fraud as determined by the Department.

- E. 49 CFR 383.153, Information on the CLP and CDL documents and applications. The introductory sentence in paragraph (e) is amended to read:

Before a CLP or CDL may be issued:

**Historical Note**

New Section recodified from R17-4-435.03 at 7 A.A.R. 3483, effective July 20, 2001 (Supp. 01-3). Amended by final rulemaking at 8 A.A.R. 3249, effective July 10, 2002 (Supp. 02-3). Amended by final rulemaking at 14 A.A.R. 3797, effective November 8, 2008 (Supp. 08-3). Section repealed by final rulemaking at 17 A.A.R. 1691, effective August 2, 2011 (Supp. 11-3). New Section made by final rulemaking at 20 A.A.R. 2382, effective August 5, 2016 (Supp. 14-3). Amended by final rulemaking at 24 A.A.R. 1549, effective May 1, 2018 (Supp. 18-2).

**R17-5-206. Motor Carrier Safety: 49 CFR 392 - Driving of Commercial Motor Vehicles**

- A. 49 CFR 392.5, Alcohol prohibition. Paragraph (e) is amended by adding:

Drivers who violate the terms of an out-of-service order as prescribed under this section are also subject to the provisions and sanctions of A.R.S. § 28-5241.

- B. 49 CFR 392.9b, Prohibited transportation.

1. Paragraph (a) is amended to read:  
Safety registration required. A commercial motor vehicle providing transportation in interstate commerce or in intrastate commerce, except for intrastate commerce in a farm vehicle as defined under A.R.S. § 28-2514, must not be operated without a safety registration and an active USDOT Number.
2. Paragraph (b), Penalties, is amended to read:  
Penalties. If it is determined that the motor carrier responsible for the operation of such a vehicle is operating in violation of paragraph (a) of this section, it may be subject to penalties in accordance with 49 U.S.C. 521 for interstate commerce and A.R.S. § 28-5245 for intrastate commerce.

**Historical Note**

New Section recodified from R17-4-435.04 at 7 A.A.R. 3483, effective July 20, 2001 (Supp. 01-3). Amended by final rulemaking at 9 A.A.R. 1867, effective June 3, 2003 (Supp. 03-2). Amended by final rulemaking at 14 A.A.R. 3797, effective November 8, 2008 (Supp. 08-3). Amended by final rulemaking at 17 A.A.R. 1691, effective August 2, 2011 (Supp. 11-3). Amended by final rulemaking at 24 A.A.R. 1549, effective May 1, 2018 (Supp. 18-2).

**R17-5-207. Civil Penalties**

To determine the amount of civil penalty for repeat findings of responsibility for the same class of violations involving vehicles required to be placarded, the higher level of civil penalty as prescribed under A.R.S. § 28-5238 applies.

**Historical Note**

New Section recodified from R17-4-435.05 at 7 A.A.R. 3483, effective July 20, 2001 (Supp. 01-3). Amended by

final rulemaking at 14 A.A.R. 3797, effective November 8, 2008 (Supp. 08-3).

**R17-5-208. Commercial Driver License Intrastate Medical Waiver; Intrastate Alternative Physical Qualification Standards for the Loss or Impairment of Limbs, an Insulin-Dependent Diabetic Condition, or Monocular Vision**

- A. A person who is not physically qualified to drive a commercial motor vehicle in interstate commerce due to loss of limb, limb impairment, an insulin-dependent diabetic condition, or monocular vision, as provided under 49 CFR 391.41(b)(1), (b)(2), (b)(3), or (b)(10), but otherwise meets all other requirements under 49 CFR 391.41, may operate a commercial motor vehicle in intrastate commerce if granted an intrastate medical waiver by the Director. Application for an intrastate medical waiver shall be submitted according to subsection (B).

- B. A driver applicant, or a driver applicant jointly with the motor carrier co-applicant that will employ the driver applicant, shall complete and submit the applicable intrastate medical waiver application to the Department's Medical Review Program, P.O. Box 2100, Mail Drop 818Z, Phoenix, AZ 85001-2100, with the following information as applicable:

1. Identify the applicant:
  - a. Name and complete address of the driver applicant;
  - b. Name and complete address of the motor carrier co-applicant;
  - c. U.S. Department of Transportation motor carrier identification number, if known; and
  - d. A description of the driver applicant's limb or visual impairment or insulin-dependent diabetic condition as applicable to the type of waiver being requested;
2. Describe the type of operation the driver applicant will be employed to perform, including the following information (if known):
  - a. Average period of time the driver will be driving or on duty, per day;
  - b. Type of commodities or cargo to be transported;
  - c. Type of driver operation (i.e., sleeper team, relay, owner operator, etc.); and
  - d. Number of years experience operating each type of commercial motor vehicle requested in the intrastate medical waiver application and total years of experience operating all types of commercial motor vehicles;
3. Describe the commercial motor vehicles the driver applicant intends to drive:
  - a. Truck, truck tractor, or bus make, model, and year (if known);
  - b. Drive train:
    - i. Transmission type (automatic or manual - if manual, designate number of forward speeds);
    - ii. Auxiliary transmission (if any) and number of forward speeds; and
    - iii. Rear axle (designate single speed, two-speed, or three-speed);
  - c. Type of brake system;
  - d. Steering, manual or power assisted;
  - e. Description of types of trailers (i.e., van, flatbed, cargo tank, drop frame, lowboy, or pole);
  - f. Number of semitrailers or full trailers to be towed at one time;
  - g. For commercial motor vehicles designed to transport passengers, indicate the seating capacity of the commercial motor vehicle; and
  - h. Description of any modifications made to the commercial motor vehicle for the driver applicant, attach photographs where applicable;

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4. Include a certification statement:
  - a. The driver applicant shall certify that the driver applicant is otherwise qualified to drive a commercial motor vehicle under the regulations of 49 CFR 391 as adopted by the Department; and
  - b. In case of a co-applicant, the co-applicant motor carrier shall certify that the driver applicant is otherwise qualified to drive a commercial motor vehicle under the regulations of 49 CFR 391 as adopted by the Department; and
5. Contain signature of each applicant and date signed:
  - a. The driver applicant's signature; and
  - b. The motor carrier official's signature and title if the application has a co-applicant. Depending on the motor carrier's organizational structure (corporation, partnership, or proprietorship), the signer of the application shall be an officer, partner, or the proprietor.
- C. The completed intrastate medical waiver application for a driver applicant not physically qualified to drive under 49 CFR 391.41(b)(1) or (b)(2) shall be accompanied by:
  1. A copy of the medical examination report and medical examiner's certificate completed pursuant to 49 CFR 391.43;
  2. The Department's medical waiver evaluation summary completed by either a board-qualified or board-certified physiatrist or orthopedic surgeon. The co-applicant motor carrier or the driver applicant shall provide the physiatrist or orthopedic surgeon with a description of the job-related tasks the driver applicant will be required to perform:
    - a. The medical waiver evaluation summary for a driver applicant not physically qualified to drive under 49 CFR 391.41(b)(1) shall include:
      - i. An assessment of the functional capabilities of the driver as they relate to the ability of the driver to perform normal tasks associated with operating a commercial motor vehicle; and
      - ii. A statement by a board-qualified or board-certified physiatrist or orthopedic surgeon that the applicant is capable of demonstrating precision prehension (e.g., manipulating knobs and switches) and power grasp prehension (e.g., holding and maneuvering the steering wheel) with each upper limb separately;
    - b. The medical waiver evaluation summary for a driver applicant not physically qualified to drive under 49 CFR 391.41(b)(2) shall include:
      - i. An explanation as to how and why the impairment interferes with the ability of the applicant to perform normal tasks associated with operating a commercial motor vehicle;
      - ii. An assessment and medical opinion of whether the condition will likely remain medically stable over the lifetime of the driver applicant; and
      - iii. A statement by a board-qualified or board-certified physiatrist or orthopedic surgeon that the applicant is capable of demonstrating precision prehension (e.g., manipulating knobs and switches) and power grasp prehension (e.g., holding and maneuvering the steering wheel) with each upper limb separately;
  3. A description of the driver applicant's prosthetic or orthotic device worn, if any; and
  4. A copy of the driver applicant's state motor vehicle driving record for the past three years from each state in which a motor vehicle driver license or permit has been obtained.
- D. The completed intrastate medical waiver application for a driver applicant not physically qualified to drive under 49 CFR 391.41(b)(3) shall be accompanied by:
  1. A copy of the medical examination report and medical examiner's certificate completed pursuant to 49 CFR 391.43;
  2. An evaluation by a board-certified or board-eligible endocrinologist. A complete endocrinologist evaluation shall consist of:
    - a. A comprehensive evaluation of the applicant's five-year medical history and current status. The applicant shall provide the examining endocrinologist with a complete medical history as it pertains to the applicant's diabetes or its complications or both, including, the date insulin use began, all hospitalization reports, consultation notes for diagnostic examinations, special studies, follow-up reports, reports of any hypoglycemic insulin reactions within the 12 months prior to the date of application, and other reports as requested by the endocrinologist. The evaluation shall also include a review of:
      - i. Daily glucose monitoring logs, glycosylated hemoglobin (A1c) indicating a result in the range of 7% to 10%, including lab reference page performed during the last six months unless recently diagnosed;
      - ii. Insulin dosages and types, diet utilized for control, and all medications taken; and
      - iii. Examinations to detect any peripheral neuropathy or circulatory insufficiency of the extremities;
    - b. A statement that the applicant is free from insulin reactions. Insulin reactions include any severe hypoglycemic reaction, which can be a reaction that results in seizure, loss of consciousness, requiring the assistance of another person, or a period of impaired cognitive function that occurs without warning. To be eligible the applicant must not have hypoglycemia unawareness and must have had no more than one documented severe hypoglycemic reaction in the previous 12 months and must have had:
      - i. No recurrent (two or more) severe hypoglycemic reactions resulting in a loss of consciousness or seizure within the past five years;
      - ii. No recurrent severe hypoglycemic reactions requiring the assistance of another person within the past five years;
      - iii. No recurrent severe hypoglycemic reactions resulting in impaired cognitive functions that occurred without warning symptoms within the past five years; and
      - iv. A period of one year of demonstrated stability following the first period of severe hypoglycemia;
  - c. A statement prepared and signed by the examining endocrinologist whose status as board-certified or board-eligible is indicated. The signed statement shall include separate declarations indicating the following medical determinations:
    - i. The endocrinologist is familiar with the applicant's medical history for the past five years through a records review, treating the patient, or consultation with the treating physician;



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- ii. The applicant is able to safely operate a commercial motor vehicle while using insulin; and
    - iii. The applicant has been educated in diabetes, including the last education date, and its management and is informed of and understands how to individually manage and monitor the applicant's diabetes mellitus and has demonstrated the ability and willingness to properly monitor and manage the applicant's diabetes and procedures to follow if complications arise;
  - 3. A separate signed vision evaluation report from an ophthalmologist or optometrist indicating that the applicant has been examined and does not have diabetic retinopathy and meets the vision standard of 49 CFR 391.41(b)(10), or has been issued a valid intrastate medical waiver for monocular vision. If the applicant has any evidence of diabetic retinopathy, the applicant must be examined by an ophthalmologist and submit a separate signed statement from the ophthalmologist that the applicant does not have unstable proliferative diabetic retinopathy (i.e. unstable advancing disease of blood vessels in the retina); and
  - 4. A copy of the driver applicant's state motor vehicle driving record for the past three years from each state in which a motor vehicle driver license or permit has been obtained.
- E.** The completed intrastate medical waiver application for a driver applicant not physically qualified to drive under 49 CFR 391.41(b)(10) shall be accompanied by:
- 1. A copy of the medical examination report and medical examiner's certificate completed pursuant to 49 CFR 391.43;
  - 2. A current vision examination report issued within the last 90 days from the date the report is received by the Department, completed by an ophthalmologist or optometrist. The report shall indicate that the applicant has distant visual acuity of at least 20/40 (Snellen), with or without a corrective lens, in one eye, and the applicant's dominant eye has a visual field of at least 70° peripheral measurement in one direction and 35° in the opposite direction of the horizontal meridian and the ability to distinguish the colors of a traffic signal or device showing standard red, green, and amber, as applicable to the type of medical waiver being requested;
  - 3. A copy of the driver applicant's state motor vehicle driving record for the past three years from each state in which a motor vehicle driver license or permit has been obtained; and
  - 4. A statement from the employer that the driver applicant has driven the type of vehicle for which the waiver is being requested for at least two of the previous five years.
- F.** Agreement. A motor carrier that employs a driver subject to an intrastate medical waiver granted by the Director under subsection (A), whether the waiver was granted unilaterally to the driver, or to the driver and co-applicant motor carrier, shall agree to:
- 1. Report to the Department's Medical Review Program, P.O. Box 2100, Mail Drop 818Z, Phoenix, AZ 85001-2100, in writing, any suspension, revocation, disqualification, or withdrawal of the subject driver's driver license or permit, and any accident, arrest, or conviction involving the driver within 30 days after the occurrence;
  - 2. Provide to the Department's Medical Review Program, on request, any documents and information pertaining to the driving activities, accidents, arrests, convictions, and driver license or permit suspensions, revocations, disqualifications, or withdrawals involving the subject driver;
- 3. Evaluate the subject driver with a road test using the trailer types the motor carrier intends the driver to transport, or alternatively accept a certificate of a trailer road test from another motor carrier if the trailer types are similar, or accept the trailer road test completed during the skill performance evaluation if trailer types are similar to that of the prospective motor carrier;
  - 4. Evaluate the subject driver for those non-driving safety related job tasks associated with each type of trailer that will be used and any other non-driving safety related or job related tasks unique to the operations of the employing motor carrier; and
  - 5. Use the subject driver to operate the type of commercial motor vehicle indicated on the intrastate medical waiver only when the driver is in compliance with the conditions and limitations of the waiver.
- G.** A driver subject to an intrastate medical waiver, issued by the Director under subsection (A), shall supply each employing motor carrier with a copy of the intrastate medical waiver.
- H.** The Department may require the driver applicant to demonstrate the driver applicant's ability to safely operate the commercial motor vehicle the driver intends to drive.
- I.** If required by the Department during the application process, a driver applicant shall have a skill performance evaluation performed by a federally-certified state commercial driver license examiner at a Department commercial driver license facility when directed.
- J.** If the Director grants an intrastate medical waiver under subsection (A) to the driver applicant, the Department shall mail to the driver applicant and co-applicant motor carrier (if applicable) written approval of the intrastate medical waiver describing the terms, conditions, and limitations of the waiver.
- K.** The intrastate medical waiver granted by the Director under subsection (A) shall identify:
- 1. The power unit (bus, truck, truck tractor) for which the waiver is granted; and
  - 2. The trailer type used in the skill performance evaluation, if applicable, without limiting the waiver to that specific trailer type.
- L.** A subject driver may use the intrastate medical waiver with other trailer types if the driver successfully completes:
- 1. A trailer road test administered by the motor carrier under subsection (F)(3) for each type of trailer, and
  - 2. A non-driving safety related or job related task evaluation administered by the motor carrier under subsection (F)(4).
- M.** The intrastate medical waiver granted by the Director under subsection (A) is:
- 1. Valid for a period of not more than two years from the date of issuance;
  - 2. Renewable 30 days prior to the expiration date; and
  - 3. Transferable from an original motor carrier co-applicant employer to a new motor carrier employer or to the subject driver, as a unilateral applicant if becoming self-employed, upon written notification to the Department's Medical Review Program, P.O. Box 2100, Mail Drop 818Z, Phoenix, AZ 85001-2100, stating the new employer's name and the type of equipment to be driven.
- N.** An intrastate medical waiver granted by the Director under subsection (A) to a driver applicant for monocular vision under subsection (E), shall prohibit the subject driver from transporting:
- 1. Passengers for hire; and

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2. Reportable quantities of hazardous substances, manifested hazardous wastes, and hazardous material required to be placarded.
- O. A driver subject to an intrastate medical waiver, issued by the Director under subsection (A), shall have the intrastate medical waiver (or a legible copy) in the subject driver's possession while on duty.
- P. The motor carrier employing a subject driver shall maintain a copy of the intrastate medical waiver in its driver qualification file and retain the copy in the motor carrier's file for a period of three years after the driver's employment is terminated.
- Q. A driver subject to an intrastate medical waiver, issued by the Director under subsection (A) to an applicant for insulin-dependent diabetes under subsection (D), must comply with the following conditions:
  1. Maintain appropriate medical supplies for glucose management while preparing for the operation of a commercial motor vehicle and during its operation. The supplies shall include the following:
    - a. A digital glucose monitor with computerized memory,
    - b. Supplies needed to obtain adequate blood samples and to measure blood glucose,
    - c. Insulin to be used as necessary, and
    - d. An amount of rapidly absorbable glucose to be used as necessary;
  2. Maintain a daily record of actual driving time to correlate with the daily glucose measurements;
  3. Monitor and maintain blood glucose levels in the range of 100 to 400 milligrams per deciliter (mg/dl) prior to and while driving.
    - a. Check glucose before starting to drive and take corrective action if necessary. If glucose is less than 100 mg/dl, take glucose or food and recheck in 30 minutes. Repeat the process until glucose is greater than 100 mg/dl. Do not drive if glucose is less than 100 mg/dl;
    - b. While driving, stop the vehicle in a safe location and check glucose every two to four hours and take appropriate action to maintain it in the range of 100 to 400 mg/dl;
    - c. Have food available at all times when driving. If glucose is less than 100 mg/dl, stop driving and eat. Recheck in 30 minutes and repeat procedure until glucose is greater than 100 mg/dl; and
    - d. If glucose is greater than 400 mg/dl, stop driving until glucose returns to the 100 to 400 mg/dl range. If more than two hours have passed since last insulin injection and eating, take additional insulin. Recheck blood glucose in 30 minutes. Do not resume driving until glucose is less than 400 mg/dl;
  4. Participate in a diabetes education program annually;
  5. Undergo the following evaluations and examinations and submit to the Department's Medical Review Program, P.O. Box 2100, Mail Drop 818Z, Phoenix, AZ 85001-2100, within 10 days of the date of the evaluation or exam:
    - a. A quarterly evaluation completed by a board-certified or board-eligible endocrinologist. A quarterly endocrinologist evaluation shall include a review of the driver's daily glucose logs and glucose levels (from the subject driver's required monitoring device), a comparison of monitoring dates to the driving log to ensure that the subject driver is checking glucose levels prior to operating a commercial motor vehicle, a certifying statement indicating that the subject driver is maintaining a glucose level in the range of 100 to 400 mg/dl while driving a commercial motor vehicle, a certifying statement indicating that the subject driver is maintaining a stable insulin regimen and that the subject driver's quarterly A1c result continues to reflect stable control, reports of any severe hypoglycemic episodes, any hypoglycemic-related hospitalization, and any treatment regimen changes since the last hypoglycemic episode;
    - b. An annual evaluation completed by a board-certified or board-eligible endocrinologist. In addition to the requirements of a quarterly endocrinologist evaluation under subsection (Q)(5)(a), an annual endocrinologist evaluation shall also include a general physical examination, an indication that the driver has continued to participate in a diabetes education program with the last education date provided, a certifying statement indicating that the driver understands how to individually manage and monitor the driver's diabetes mellitus, an indication of the development of, or progression, or both, in diabetes complications (i.e. renal disease, cardiovascular disease, and neurological disease), a list of all medications taken and whether any of the medications may compromise the driver's ability to operate a commercial motor vehicle, the endocrinologist's belief that the driver has demonstrated the ability and willingness to properly manage the driver's diabetes, and a certifying statement indicating that the driver is able to safely operate a commercial motor vehicle while using insulin;
    - c. An annual vision evaluation report, as prescribed under subsection (D)(3). If there is any evidence of diabetic retinopathy, provide annual documentation by an ophthalmologist that the driver does not have unstable proliferative diabetic retinopathy; and
    - d. An annual medical examination report and medical examiner's certificate completed pursuant to 49 CFR 391.43. Provide copies of the endocrinologist evaluation and the vision evaluation report to the medical examiner for review; and
  6. Report the following information to the Department's Medical Review Program, P.O. Box 2100, Mail Drop 818Z, Phoenix, AZ 85001-2100, within two days of occurrence:
    - a. All episodes of severe hypoglycemia, significant complications, or inability to manage diabetes; and
    - b. Any involvement in an accident or any other adverse event in a commercial motor vehicle or personal vehicle, related to an episode of hypoglycemia or hyperglycemia.
- R. A driver subject to an intrastate medical waiver, issued by the Director under subsection (A) to an applicant for monocular vision under subsection (E), must be physically examined every year and shall submit the following to the Department's Medical Review Program, P.O. Box 2100, Mail Drop 818Z, Phoenix, AZ 85001-2100:
  1. A vision examination report issued within the last 90 days from the date the report is received by the Department, as prescribed under subsection (E)(2); and
  2. A current medical examination report and medical examiner's certificate completed pursuant to 49 CFR 391.43 within the past year.
- S. A driver subject to an intrastate medical waiver, or a driver subject to an intrastate medical waiver jointly with a motor

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carrier co-applicant, may renew an intrastate medical waiver by submitting to the Department's Medical Review Program, P.O. Box 2100, Mail Drop 818Z, Phoenix, AZ 85001-2100, a new intrastate medical waiver application. The intrastate medical waiver application shall contain the following:

1. Name and complete address of the motor carrier currently employing the applicant;
2. Name and complete address of the subject driver;
3. Total miles driven under the current intrastate medical waiver;
4. Number of accidents incurred while driving under the current intrastate medical waiver, including the date of each accident, number of fatalities, number of injuries, and the estimated dollar amount of any property damage;
5. A current medical examination report and medical examiner's certificate completed pursuant to 49 CFR 391.43;
6. A current medical examination or evaluation as applicable to the medical condition:
  - a. A current medical waiver evaluation summary, as prescribed under subsection (C)(2), for a driver with a loss of limb or limb impairment;
  - b. A current endocrinologist evaluation, as prescribed under subsection (D)(2), and a current vision evaluation report, as prescribed under subsection (D)(3), for a driver who is an insulin-dependent diabetic; or
  - c. A current vision examination report, as prescribed under subsection (E)(2), for a driver with monocular vision;
7. A copy of the subject driver's current state motor vehicle driving record for the period of time the current intrastate medical waiver has been in effect;
8. Notification of any change in the type of tractor the driver will operate;
9. Subject driver's signature and date signed; and
10. Motor carrier co-applicant's signature and date signed (if applicable).

**T.** The Director may deny an application for the intrastate medical waiver or may grant the waiver in whole or in part and issue the waiver subject to such terms, conditions, and limitations as the Director deems consistent with the public interest.

**U.** The Director may revoke an intrastate medical waiver after providing the driver subject to an intrastate medical waiver written notice of the proposed revocation and a reasonable opportunity to request a hearing pursuant to the procedure prescribed under 17 A.A.C. 1, Article 5. The Director may revoke an intrastate medical waiver if the:

1. Driver subject to an intrastate medical waiver, or co-applicant (if applicable), or both provided false information in the application,
2. Driver subject to an intrastate medical waiver, or co-applicant (if applicable), or both failed to comply with the terms and conditions of the intrastate medical waiver, or
3. Issuance of the intrastate medical waiver resulted in a lower level of safety than before the waiver was granted.

**V.** If the enforcement of any provision of this Section would result in the loss or disqualification of federal funding for any state agency or program, that provision is invalid.

#### Historical Note

New Section recodified from R17-4-435.06 at 7 A.A.R. 3483, effective July 20, 2001 (Supp. 01-3). Amended by final rulemaking at 8 A.A.R. 3249, effective July 10, 2002 (Supp. 02-3). Section repealed; new Section made by final rulemaking at 14 A.A.R. 3797, effective November 8, 2008 (Supp. 08-3). Amended by final rulemaking at 17 A.A.R. 1691, effective August 2, 2011 (Supp. 11-3). Amended by final rulemaking at 20 A.A.R. 2382, effective

August 5, 2014 (Supp. 14-3). Amended by final rulemaking at 24 A.A.R. 1549, effective May 1, 2018 (Supp. 18-2).

#### **R17-5-209. Hazardous Materials Transportation: Incorporation of Federal Regulations; Applicability**

##### **A.** Incorporation of federal regulations.

1. As relevant to the transportation of hazardous materials by highway, the Department incorporates by reference, as amended under this Section, the following Parts of the Federal Hazardous Materials Regulations; revised as of October 1, 2016, and no later amendments or editions, as 49 CFR - Transportation, Subtitle B - Other Regulations Relating to Transportation, Chapter I - Pipeline and Hazardous Materials Safety Administration, Department of Transportation:
  - a. Subchapter A - Hazardous Materials and Oil Transportation; Part 107 - Hazardous materials program procedures; and
  - b. Subchapter C - Hazardous Materials Regulations; Parts:
    - i. 171 - General information, regulations, and definitions;
    - ii. 172 - Hazardous materials table, special provisions, hazardous materials communications, emergency response information, training requirements, and security plans;
    - iii. 173 - Shippers - general requirements for shipments and packagings;
    - iv. 177 - Carriage by public highway;
    - v. 178 - Specifications for packagings; and
    - vi. 180 - Continuing qualification and maintenance of packagings.
2. The material incorporated by reference under this subsection is on file with the Department at 206 S. 17th Avenue, Phoenix, AZ 85007. The incorporated material is published by National Archives and Records Administration, Office of the Federal Register, 8601 Adelphi Road, College Park, MD 20740-6001, and is printed and distributed by the U.S. Government Publishing Office, P.O. Box 979050, St. Louis, MO 63197-9000. The incorporated material can be viewed online at <http://www.ofr.gov> or <https://www.gpo.gov/fdsys> and ordered online by visiting the U.S. Government Online Bookstore at <http://bookstore.gpo.gov>. The International Standard Book Numbers are 9780160935466 for 49 CFR 107, 171, 172, 173, and 177 and 9780160935473 for 49 CFR 178 and 180.

##### **B.** Application and exceptions.

1. Application.
  - a. Regulations incorporated under subsection (A) apply as amended by subsection (C) to motor carriers, shippers, and manufacturers as defined under A.R.S. § 28-5201.
  - b. Regulations incorporated under subsection (A) also apply to any vehicle owned or operated by the state, a political subdivision, or a state public authority, used to transport a hazardous material, including hazardous substances and hazardous waste.
2. Exceptions. An authorized emergency vehicle, as defined under A.R.S. § 28-101, is excepted from the provisions of this Section.

##### **C.** Amendments. The following sections of the Federal Hazardous Materials Regulations, incorporated under subsection (A), are amended as follows:

1. Part 171, General information, regulations, and definitions. Section 171.8, Definitions and abbreviations. Section 171.8 is amended by revising the definitions for

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“Carrier,” “Hazmat employer,” and “Person,” and adding a definition for “Highway” as follows:

“‘Carrier’ means a person engaged in the transportation of passengers or property by highway as a common, contract, or private carrier and also includes the state, a political subdivision, and a state public authority engaged in the transportation of hazardous material.”

“‘Hazmat employer’ means a person who uses one or more employees in connection with: transporting hazardous material; causing hazardous material to be transported or shipped; or representing, marking, certifying, selling, offering, reconditioning, testing, repairing, or modifying containers, drums, or packagings as qualified for use in the transportation of hazardous material. This term includes motor carriers, shippers, and manufacturers defined under A.R.S. § 28-5201 and includes the state, political subdivisions, and state public authorities.”

“‘Highway’ means a public highway defined under A.R.S. § 28-5201.”

“‘Person’ has the same meaning as defined under A.R.S. § 28-5201.”

2. Part 172, Hazardous materials table, special provisions, hazardous materials communications, emergency response information, training requirements, and security plans. Section 172.3, Applicability. Paragraph (a)(2) is amended to read: “Each motor carrier that transports hazardous materials, and each state agency, political subdivision, and state public authority that transports hazardous material by highway.”
3. Part 177, Carriage by public highway.
  - a. Section 177.800, Purpose and scope of this part and responsibility for compliance and training. In paragraph (a), the phrase “by private, common, or contract carriers by motor vehicle” is amended to read, “by a motor carrier operating in Arizona, a state agency, a political subdivision, or a state public authority that transports hazardous material by highway.”
  - b. Section 177.802, Inspection. Section 177.802 is amended to read: “Records, equipment, packagings, and containers under the control of a motor carrier or other persons subject to this part, affecting safety in transportation of hazardous material by motor vehicle, must be made available for examination and inspection by an authorized representative of the Department as prescribed under A.R.S. §§ 28-5204 and 28-5231.”

#### Historical Note

New Section recodified from R17-4-436 at 7 A.A.R. 3483, effective July 20, 2001 (Supp. 01-3). Amended by final rulemaking at 8 A.A.R. 3249, effective July 10, 2002 (Supp. 02-3). Amended by final rulemaking at 9 A.A.R. 1867, effective June 3, 2003 (Supp. 03-2). Amended by final rulemaking at 13 A.A.R. 1262, effective May 5, 2007 (Supp. 07-1). Amended by final rulemaking at 17 A.A.R. 1691, effective August 2, 2011 (Supp. 11-3). Amended by final rulemaking at 20 A.A.R. 2382, effective August 5, 2014 (Supp. 14-3). Amended by final rulemaking at 24 A.A.R. 1549, effective May 1, 2018 (Supp. 18-2).

#### R17-5-210. Motor Carrier Safety: Public Service Corpora-

#### tion, Political Subdivision of this State that is Engaged in Rendering Public Utility Service, or Railroad Contacting State Officials in an Emergency

- A. A public service corporation, a political subdivision of this state that is engaged in rendering public utility service, or a railroad shall notify Commercial Vehicle Enforcement, through the Arizona Department of Public Safety Duty Office, that an emergency situation under A.R.S. § 28-5234(B) exists. Notification shall be made on a form provided by the Arizona Department of Public Safety and sent by fax transmission to (602) 223-2929 immediately, but in no case longer than three hours from the time the public service corporation, political subdivision of this state that is engaged in rendering public utility service, or railroad determines that the emergency situation exists. The information to be provided includes:
  1. Date of the emergency situation,
  2. Time that the emergency situation started,
  3. Description of the emergency situation,
  4. Location of the emergency situation,
  5. Projected duration of the emergency situation,
  6. Authorized party’s signature for determining that an emergency situation exists,
  7. Name and contact number of responsible party in the field, and
  8. The utility’s self-generated Emergency ID or tracking number.
- B. A public service corporation, a political subdivision of this state that is engaged in rendering public utility service, or a railroad shall maintain supporting documentation for no less than three years from the date of an emergency situation and shall make the supporting documentation available to a special agent upon request. Supporting documentation includes:
  1. A list of drivers involved in the emergency situation;
  2. The duration of the emergency situation;
  3. The off-duty time provided for the affected drivers after the emergency situation concluded; and
  4. Any United States Department of Transportation recordable accidents, as defined under 49 CFR 390.5, which occurred during the emergency situation.
- C. After an emergency situation terminates and a driver returns to the principal place of business, the driver shall not drive a commercial motor vehicle unless the driver remains off duty under 49 CFR 395.

#### Historical Note

New Section recodified from R17-4-438 at 7 A.A.R. 3483, effective July 20, 2001 (Supp. 01-3). Amended by final rulemaking at 7 A.A.R. 4259, effective September 13, 2001 (Supp. 01-3). Section repealed by final rulemaking at 8 A.A.R. 3249, effective July 10, 2002 (Supp. 02-3). New Section made by final rulemaking at 11 A.A.R. 862, effective February 1, 2005 (Supp. 05-1). Amended by final rulemaking at 17 A.A.R. 1691, effective August 2, 2011 (Supp. 11-3).

#### R17-5-211. Motor Carrier Safety: Inspection, Enforcement, Sanction

- A. Scope. This Section applies to any transporter subject to:
  1. R17-5-201 through R17-5-209; and
  2. A.R.S. Title 28, Chapter 14.
- B. Audits.
  1. The Department may conduct an audit for cause or without cause.
  2. The Department may enter the premises of any transporter for the purpose of conducting an audit.
  3. The Department may inspect a motor vehicle:
    - a. Within Arizona at:

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- i. A transporter's place of business, or
  - ii. Any other in-state location, or
- b. Outside Arizona at a transporter's place of business.
- 4. A transporter shall make records available for audit:
  - a. During the transporter's normal business hours, and
  - b. In a specific location as follows:
    - i. The transporter's Arizona place of business, or
    - ii. Either an Arizona location designated by the Director or the transporter's out-of-state place of business.
- 5. The Department shall charge a transporter in advance for all expenses to be incurred in performance of an out-of-state audit.
- C. Violation notification. Within five days after audit completion, the Department shall notify an audited transporter in writing of all violations. The notification shall specify a deadline date for remedy of all violations.
- D. Obligation to remedy violations. After receipt of a violation notification, a transporter shall remedy all violations by the specified date to comply with:
  - 1. R17-5-201 through R17-5-209; and
  - 2. A.R.S. Title 28, Chapter 14.
- E. Noncompliance: Failure to remedy violations. If the Department determines a transporter does not remedy a violation by the date specified in a violation notice, the Department shall initiate further enforcement action as prescribed under A.R.S. §§ 28-5237 and 28-5238.
- F. Danger to public safety. If the Director determines a written violation report establishes probable cause of danger to public safety, the Director shall issue an order by 5:00 p.m. the next business day suspending the Arizona registration of the motor vehicle owned or leased by the transporter, or a driver's Arizona driver license or nonresident driving privilege.

**Historical Note**

New Section recodified from R17-4-439 at 7 A.A.R. 3483, effective July 20, 2001 (Supp. 01-3). Amended by final rulemaking at 7 A.A.R. 4259, effective September 13, 2001 (Supp. 01-3). Amended by final rulemaking at 17 A.A.R. 1691, effective August 2, 2011 (Supp. 11-3). Amended by final rulemaking at 20 A.A.R. 2382, effective August 5, 2014 (Supp. 14-3).

**R17-5-212. Motor Carrier Safety: Hearing Procedure**

- A. Scope.
  - 1. This Section applies only to a motor carrier enforcement action under:
    - a. R17-5-201 through R17-5-209; and
    - b. A.R.S. Title 28, Chapter 14.
  - 2. In an enforcement hearing involving a manufacturer, motor carrier, shipper, or driver under this Section, the Department shall follow the procedures prescribed under 17 A.A.C. 1, Article 5, except as modified under subsections (B) and (C).
- B. Initiation of proceedings; service.
  - 1. The Director shall initiate a hearing under this Section by:
    - a. Signing and serving a complaint in the form prescribed under subsection (C) that cites a manufacturer, motor carrier, shipper, or driver for an alleged infraction; and
    - b. Submitting to the Department's Executive Hearing Office a copy of the complaint and notification of the date the complaint was served.
  - 2. The date of service is the date of mailing.
- C. Complaint; order to show cause.
  - 1. The complaint shall contain the following:
    - a. The Department as the designated petitioner;

- b. The respondent's name and the basis of fact for the complaint, including a listing of any alleged violation of Department statute or rule;
  - c. The relief sought by the Department; and
  - d. A copy of the written violation notice issued by a law enforcement agency to the respondent, if applicable.
- 2. Upon receipt of a copy of the complaint, the Executive Hearing Office shall issue an order to show cause for a respondent to appear at an administrative hearing to explain why the requested relief should not be granted.
- 3. The Executive Hearing Office shall hold a hearing under this Section within the time-frame required by statute.
- 4. The parties may resolve a complaint before the hearing date.
  - a. The parties shall file notice of settlement with the Executive Hearing Office.
  - b. Complaint settlement terminates the right of both petitioner and respondent to receive additional administrative review.

**Historical Note**

New Section recodified from R17-4-440 at 7 A.A.R. 3483, effective July 20, 2001 (Supp. 01-3). Amended by final rulemaking at 8 A.A.R. 4230, effective November 15, 2002 (Supp. 02-3). Amended by final rulemaking at 17 A.A.R. 1691, effective August 2, 2011 (Supp. 11-3). Amended by final rulemaking at 24 A.A.R. 1549, effective May 1, 2018 (Supp. 18-2).

**ARTICLE 3. PROFESSIONAL DRIVER SERVICES****R17-5-301. Definitions**

In addition to the definitions under A.R.S. §§ 28-101 and 32-2351, the following definitions apply to this Article, unless otherwise specified:

"Activity" means a function or service that is provided by a licensed professional driver training school pursuant to A.R.S. Title 32, Chapter 23 or licensed traffic survival school pursuant to A.R.S. Title 28, Chapter 8, Article 7.1 and that is performed by a professional driver training school instructor or traffic survival school qualified instructor as defined in this Article.

"Applicant" means an individual or school, including principals, requesting in the manner set forth in this Article the issuance or renewal of a license or to become a qualified instructor under A.R.S. Title 28, Chapter 8, Article 7.1 or Title 32, Chapter 23 and this Article.

"Application date" means the date the Department or private entity receives a signed application from an applicant.

"Audit" means a review of the operations, facilities, equipment, and records of a licensee under this Article, which is performed by the Department or private entity under A.R.S. § 28-3411 or 32-2352 to assess and ensure compliance with all applicable federal and state laws and rules.

"Branch" means a licensed professional driver training school's or licensed traffic survival school's business location that is an additional established place of business, but not the school's principal place of business.

"Business day" means a day other than a Saturday, Sunday, or legal state holiday.

"Business manager" means an owner or employee of a licensed school who has primary and sufficient oversight, supervision, and responsibility for all operations necessary to

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ensure full compliance with all applicable federal or state laws, rules, and school guidelines.

“Certificate of completion” means an electronic or paper document that is approved by the Department or private entity and that is issued by a traffic survival school or high school qualified instructor to a student who has demonstrated successful completion of a training or educational session or both conducted under this Article.

“Character and reputation” means a person:

- Has not been convicted of a class 1 or 2 felony by a court of competent jurisdiction,
- Has not within five years of application date been convicted of any other felony or misdemeanor offense having a reasonable relationship to the functions of the activity or the employment or category for which the qualification is sought, and
- Has not within 12 months of application date had an application or an examination required for license or qualification under this Chapter denied or revoked due to fraud or misrepresentation.

“Commercial driver license motor vehicle record” has the same meaning as a CDLIS motor vehicle record as defined in 49 CFR 384.105.

“Department-approved inventory” means educational media and related items or other resources provided and approved by the Department or private entity that are deemed necessary or useful for traffic survival school instruction, which includes curriculum, computer disks or drives, classroom training materials, instructor workbooks, instructor training manuals, or other materials, whether stored in paper or electronic formats.

“Established place of business” means a licensed professional driver training school’s or licensed traffic survival school’s business location that is:

- Approved by the Department,
- Located in Arizona,
- Not used as a residence, and
- Where the licensed school performs licensed activities.

“Good standing” means an applicant:

- Has not had a similar business license, qualification, or approval suspended, revoked, canceled, or denied within the previous three years of the application date;
- Does not have any pending corrective action, as defined under R17-5-323, relating to a Department-issued business license, qualification, or approval;
- Has not had a fingerprint clearance card required for licensure under this Article suspended, revoked, or canceled;
- Does not owe delinquent fees, taxes, or unpaid balances to the Department or private entity;
- Has not had any substantiated derogatory information relevant to the requested license reported to the Department about the applicant from any state agency contacted by the Department; or
- Has not been dismissed, or resigned in lieu of dismissal, from a position for cause following allegations of misconduct having a reasonable relationship to the person’s proposed area of licensure or qualification, if the applicant is a former Department employee or a former principal or employee of a licensed professional driver training school or licensed traffic survival school.

“Immediate family member” has the same meaning as prescribed in A.R.S. § 28-2401.

“Inactivation” or “inactive” means a temporary or permanent status, assigned by the Department to a school previously licensed under this Article, which prohibits the school from further engaging in the previously licensed activity after the occurrence of any of the following actions:

- Cancellation of license, as defined in R17-5-323;
- Suspension of license, as defined in R17-5-323;
- Revocation of license, as defined in R17-5-323;
- Non-renewal of license; or
- Relinquishment of license.

“Licensee” means a school licensed by the Department or private entity under A.R.S. § 28-3413 or 32-2371 and this Article, to perform a licensed activity.

“Principal” means any of the following:

- If a sole proprietorship, the sole proprietor;
- If a partnership, limited partnership, limited liability partnership, limited liability company or corporation, the:
  - Partner;
  - Manager;
  - Member;
  - Officer;
  - Director;
  - Agent; or
- If a limited liability company or corporation, each stockholder owning 20 percent or more of the limited liability company or corporation; or
- If a political subdivision or government agency, the political subdivision or agency head.

“Principal place of business” means a licensed professional driver training school’s or licensed traffic survival school’s administrative headquarters, which shall not be used as a residence.

“Private entity” means an entity that contracts with the Department under A.R.S. § 28-3411 or 32-2352.

“Professional driver training school instructor” means an individual meeting the qualifications under R17-5-303 who can present specific training and educational curriculum to professional driver training school students as provided under this Article.

“Satisfactory driver record” means an applicant has not had within the past 39 months:

- A conviction for driving under the influence, reckless or aggressive driving, racing on a highway, or leaving the scene of an accident;
- A driver license previously canceled, suspended, revoked, or disqualified for any reason except for failing to meet or maintain the commercial driver license physical qualifications under 49 CFR 391.41 and A.A.C. R17-4-508; and
- More than three previous assignments to attend traffic survival school and no pending assignment.

“Traffic survival school qualified instructor” means an individual deemed qualified by the Department or private entity under this Article to conduct instruction of an education session on behalf of a licensed traffic survival school.

#### Historical Note

New Section made by exempt rulemaking under Laws 2013, Ch. 129, § 27 at 21 A.A.R. 1096, effective Septem-

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ber 1, 2015 (Supp. 15-2). Amended by final rulemaking at 23 A.A.R. 2045, effective September 5, 2017 (Supp. 17-3).

**R17-5-302. Professional Driver Training School and Traffic Survival School Licensing; Eligibility and Application Requirements**

- A. An applicant for a professional driver training school or traffic survival school license, issued by the Department or private entity under A.R.S. § 28-3411 or 32-2371 and this Section, shall meet all applicable licensing requirements under state law and this Article when applying for an original or renewal license.
- B. An applicant for a professional driver training school or traffic survival school license shall complete and submit to the Department or private entity an application packet that contains all of the following:
  1. An application, completed on a form approved by the Department;
  2. Certification that each classroom used for the instruction of students is maintained in compliance with all applicable fire codes and local zoning ordinances;
  3. Certification that each classroom used for the instruction of students meets the accessibility requirements of the Americans with Disabilities Act of 1990 (42 U.S.C. 12101 et seq.), as amended;
  4. A copy of the following documents relating to the applicant's business if the applicant is a:
    - a. Corporation:
      - i. A copy of the articles of incorporation, including any amendments filed with the Arizona Corporation Commission; and
      - ii. Any other official documents, including copies of board meeting minutes and annual reports that reflect the most recent change to the corporate name, structure, or officers;
    - b. Limited liability company:
      - i. A copy of the articles of organization, including any amendments filed with the Arizona Corporation Commission; or
      - ii. A copy of the application for registration as a foreign limited liability company filed with the Arizona Corporation Commission and a copy of the certificate of registration issued by the Arizona Corporation Commission to a foreign limited liability company;
    - c. Limited partnership or a limited liability partnership:
      - i. A copy of a valid certificate of existence issued by the Arizona Office of the Secretary of State;
      - ii. A copy, stamped "filed" by the Arizona Office of the Secretary of State, of a certificate of limited partnership, certificate of foreign limited partnership, limited liability partnership form, foreign limited liability partnership form, or statement of qualification for conversion of limited partnership or limited liability partnership; or
      - iii. A copy of a valid trade name certificate issued by the Arizona Office of the Secretary of State; or
    - d. Sole proprietor:
      - i. A copy of a valid certificate of existence issued by the Arizona Office of the Secretary of State, or
      - ii. A copy of a valid trade name certificate issued by the Arizona Office of the Secretary of State;

5. The name and Arizona address of the school's statutory agent, as designated in the articles of incorporation, if the applicant is a corporation;
  6. Documentation prescribed under A.R.S. § 41-1080 indicating that each applicant's presence in the United States is authorized under federal law if the applicant is an individual, a sole proprietor, or part of a general partnership;
  7. Payment of the license fees prescribed under A.R.S. § 28-3415 or 32-2374 for each activity requested; and
  8. A form, approved by the Department, completed for each branch license, if applicable, and accompanied by payment of any applicable branch license fees prescribed under A.R.S. § 28-3415 or 32-2374.
- C. An applicant shall not use the following in any part of its school name, which is subject to approval by the Department or private entity:
    1. The terms "Arizona Department of Transportation," "Department of Transportation," "Motor Vehicle Division," "Motor Vehicle Department," "Division of Motor Vehicles," or "Department of Motor Vehicles;" or
    2. The acronyms "ADOT," "DOT," "MVD," or "DMV."
  - D. Professional driver training school applicants must provide the following additional documents with the school's application packet:
    1. A copy of the school's complete curriculum, including a sample of all written examinations and answer keys, unless the curriculum is provided by the Department or private entity;
    2. Verification of liability insurance coverage reflecting at least the minimum amount prescribed under A.R.S. § 32-2393 for each motor vehicle used to provide instruction; and
    3. Diagrams detailing a minimum of three separate behind-the-wheel final evaluation routes with a written narrative indicating all required maneuvers, if the applicant will be providing behind-the-wheel driver training.

**Historical Note**

New Section recodified from R17-4-512 at 7 A.A.R. 3483, effective July 20, 2001 (Supp. 01-3). Section amended by exempt rulemaking under Laws 2013, Ch. 129, § 27 at 21 A.A.R. 1096, effective September 1, 2015 (Supp. 15-2). Amended by final rulemaking at 23 A.A.R. 2045, effective September 5, 2017 (Supp. 17-3).

**R17-5-303. Professional Driver Training School Instructor Qualifications and Requirements**

- A. A professional driver training school instructor shall:
  1. Work for a professional driver training school licensed by the Department or private entity under A.R.S. § 32-2371 and R17-5-302,
  2. Possess a valid Arizona commercial driver license with applicable endorsements representative of the vehicle to be used in training,
  3. Meet the character and reputation requirements as defined in R17-5-301, and
  4. Meet all applicable instructor requirements under state law and this Article.
- B. Each professional driver training school licensed under A.R.S. § 32-2371 and this Article shall maintain a file for each professional driver training school instructor that contains the following:
  1. A copy of a valid Arizona commercial driver license with applicable endorsements representative of the vehicle to be used in training, and

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2. An annual commercial driver license motor vehicle record which indicates the instructor has maintained a satisfactory driver record as defined in R17-5-301.
- C. A business manager of a professional driver training school licensed under A.R.S. § 32-2371 and this Article shall submit to the Department or private entity a list of all of its professional driver training school instructors, including full name and commercial driver license number, at the time of hiring the instructors, within 10 calendar days of making any changes to the instructors as required under R17-5-310, and when renewing the school license as required under R17-5-309.

**Historical Note**

New Section made by exempt rulemaking under Laws 2013, Ch. 129, § 27 at 21 A.A.R. 1096, effective September 1, 2015 (Supp. 15-2). Amended by final rulemaking at 23 A.A.R. 2045, effective September 5, 2017 (Supp. 17-3).

**R17-5-304. Fingerprint Background Check; Fingerprint Clearance Card**

- A. An applicant for a license issued under A.R.S. Title 28, Chapter 8, Article 7.1 or Title 32, Chapter 23, Article 2 and this Article, as applicable, shall:
  1. Successfully complete a fingerprint background check conducted by the Arizona Department of Public Safety under A.R.S. § 41-1758.01, and
  2. Submit to the Department or private entity a copy of the fingerprint clearance card issued to the applicant under A.R.S. § 41-1758.03 as part of the application packet.
- B. An applicant is responsible for all costs associated with obtaining the fingerprint clearance card.
- C. A licensee, as applicable, shall maintain a valid fingerprint clearance card while licensed under this Article, and shall provide written notice to the Department or private entity within 10 calendar days if the fingerprint clearance card is cancelled, suspended, or revoked.

**Historical Note**

New Section made by exempt rulemaking under Laws 2013, Ch. 129, § 27 at 21 A.A.R. 1096, effective September 1, 2015 (Supp. 15-2).

**R17-5-305. Traffic Survival School Qualified Instructor Status; Eligibility and Application Requirements**

- A. An applicant for traffic survival school qualified instructor status shall:
  1. Apply through a traffic survival school licensed by the Department or private entity under A.R.S. § 28-3413 and this Article,
  2. Possess a valid Arizona driver license,
  3. Meet all applicable requirements under this Article, and
  4. Meet the good standing and character and reputation requirements as defined in R17-5-301.
- B. Each traffic survival school qualified instructor applicant shall complete an application packet that contains the following:
  1. An application, completed on a form approved by the Department;
  2. A copy of a valid Arizona driver license;
  3. Documentation prescribed under A.R.S. § 41-1080 indicating that the applicant's presence in the United States is authorized under federal law;
  4. A motor vehicle record, dated within 30 days of the application date, which indicates that the applicant maintained a satisfactory driver record as defined in R17-5-301;
  5. An affidavit from the business manager of the traffic survival school certifying that the qualified instructor applicant

has the necessary skills and abilities to give instruction at a professional level; and

6. Payment of authorized fees as required by the private entity for application and administration of the instructor qualification process and for required instructor continuing education, which shall be negotiated by the Department and the private entity and shall be set forth in their contract.
- C. An applicant for instructor qualification shall have successfully completed a traffic survival school educational workshop or similar curriculum approved by the Department or private entity before being permitted to instruct any traffic survival school course.
- D. An applicant for instructor qualification shall have successfully completed an examination given for qualification of instructors by the Department or private entity as required under R17-5-306 before being permitted to instruct any traffic survival school course.
- E. A business manager of a traffic survival school licensed under A.R.S. § 28-3413 and this Article shall submit to the Department or private entity the complete application packet for each qualified instructor applicant.

**Historical Note**

New Section made by exempt rulemaking under Laws 2013, Ch. 129, § 27 at 21 A.A.R. 1096, effective September 1, 2015 (Supp. 15-2). Amended by final rulemaking at 23 A.A.R. 2045, effective September 5, 2017 (Supp. 17-3).

**R17-5-306. Required Training and Examination of School and Instructor Applicants**

- A. An applicant for traffic survival school instructor qualification under this Article shall attend Department-approved training and shall pass one or more required examinations administered by the Department or private entity.
- B. The Department or private entity shall limit a traffic survival school qualified instructor applicant to three opportunities within 90 days, based on scheduling, to successfully complete and achieve a passing score or grade on each examination required under this Section.

**Historical Note**

New Section made by exempt rulemaking under Laws 2013, Ch. 129, § 27 at 21 A.A.R. 1096, effective September 1, 2015 (Supp. 15-2). Amended by final rulemaking at 23 A.A.R. 2045, effective September 5, 2017 (Supp. 17-3).

**R17-5-307. Approval or Denial of Application; Hearing; Appeal**

- A. An application will not be approved by the Department or private entity unless it is properly and fully completed with all required supporting documents and applicable fees as identified in this Article.
- B. The Department or private entity shall provide written notification to the professional driver training school or traffic survival school of the approval or denial of a license or traffic survival school instructor qualification. A notice denying the applicant a license or qualification under this Article shall specify the basis for denial and indicate that the applicant may request a hearing on the denial with the Department's Executive Hearing Office within 30 calendar days of the date on the notice unless the application is withdrawn by the applicant.
- C. The Department or private entity may deem a traffic survival school instructor applicant qualified when a completed application is received and the applicant has successfully completed all required training and examinations.



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- D. Unless the application is withdrawn by the applicant, the Department or private entity may deny an application in which the applicant has:
1. Failed to have or to document a satisfactory driver record as required under R17-5-305, as applicable;
  2. Failed to meet the good standing or character and reputation requirements of the Department as defined in R17-5-301;
  3. Failed to meet the fingerprint clearance card requirement under R17-5-304, as applicable;
  4. Made a material misrepresentation or misstatement on the application;
  5. Violated a federal or state law or rule reasonably related in a business context to the authority applied for; or
  6. Failed to complete all applicable application requirements under this Article.
- E. If timely requested by an applicant under subsection (B), the Department shall schedule and conduct a hearing as prescribed under A.R.S. Title 41, Chapter 6, Article 6 and 17 A.A.C. 1, Article 5 for denial of a license.
- F. An applicant whose application was previously denied by the Department or private entity for making a material misrepresentation or misstatement on the application is not eligible to reapply for 12 months from the date of previous denial.

**Historical Note**

New Section made by exempt rulemaking under Laws 2013, Ch. 129, § 27 at 21 A.A.R. 1096, effective September 1, 2015 (Supp. 15-2). Amended by final rulemaking at 23 A.A.R. 2045, effective September 5, 2017 (Supp. 17-3).

**R17-5-308. License Issuance; Effective Date; Expiration; Display**

- A. The Department or private entity may issue the following licenses upon determining an applicant meets all eligibility and application requirements provided under A.R.S. Title 28, Chapter 8, Article 7.1 or Title 32, Chapter 23 and this Article:
1. Professional driver training school,
  2. Traffic survival school, and
  3. Established place of business (branch).
- B. The Department or private entity shall license only a school that employs or contracts at least one professional driver training school instructor who meets the qualifications under this Article or at least one currently qualified traffic survival school instructor, as applicable.
- C. A license issued under this Article is:
1. Effective on the date of issuance;
  2. Effective until its expiration on the last day of each calendar year, except:
    - a. A license subject to an active duty military extension shall expire as provided under A.R.S. § 32-4301, and
    - b. A license subject to an individual's limited length of authorized stay shall expire immediately if the individual's presence in the United States is no longer authorized under federal law; and
  3. Nontransferable under any circumstances.
- D. A licensed school shall prominently and publicly display all licenses currently in effect at the school's principal place of business.
- E. A school shall surrender to the Department or private entity within three business days after the date of any license inactivation, as defined in R17-5-301, all:
1. Licenses;
  2. Records pertaining to the school's operations and the training of students; and

3. Department-approved inventory, as applicable and as defined in this Article.

**Historical Note**

New Section made by exempt rulemaking under Laws 2013, Ch. 129, § 27 at 21 A.A.R. 1096, effective September 1, 2015 (Supp. 15-2). Amended by final rulemaking at 23 A.A.R. 2045, effective September 5, 2017 (Supp. 17-3).

**R17-5-309. Renewal of License**

- A. A completed renewal, consisting of the following, shall be submitted to the Department or private entity a minimum of 30 calendar days prior to license expiration, notwithstanding A.A.C. R17-1-102, failure to submit a renewal prior to December 1st shall result in the applicant being subject to all original licensing requirements:
1. A renewal application, completed on a form approved by the Department, including:
    - a. An updated list of all principals, instructors, contracted personnel, and employees of the school who are responsible for Arizona school operations, including full name and driver license number; and
    - b. The signature of all current principals on the completed application; and
  2. Payment of applicable license fees prescribed under A.R.S. § 28-3415 or 32-2374, for each activity and branch.
- B. Notwithstanding A.R.S. § 28-3415 or 32-2374, an annual license issued by the Department or private entity under this Article during the month of December shall not expire until the last day of the subsequent calendar year.

**Historical Note**

New Section made by exempt rulemaking under Laws 2013, Ch. 129, § 27 at 21 A.A.R. 1096, effective September 1, 2015 (Supp. 15-2). Amended by final rulemaking at 23 A.A.R. 2045, effective September 5, 2017 (Supp. 17-3).

**R17-5-310. Modifications of Original Application Information**

- A. A licensee or traffic survival school qualified instructor, making or learning of any change in the content of its original application information, other than ownership, shall provide written notification of the change, completed on a form approved by the Department and signed by a principal or business manager, to the Department or private entity within two business days of making the change.
- B. A licensed school making a change to a principal or corporate structure shall submit to the Department or private entity a new application for licensing under this Article and all applicable fees, as a new applicant for licensure, within 10 calendar days of making the change.
- C. A licensed school submitting a new application to the Department or private entity, as provided under subsection (B), is subject to the fingerprint clearance card requirement under R17-5-304 unless a valid fingerprint clearance card is already on file with the Department.
- D. A licensed school shall provide written or electronic notification on a form, approved by the Department, to the Department or private entity within 10 calendar days of making any changes to the licensee's contact person, business manager, or instructors.

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**Historical Note**

New Section made by exempt rulemaking under Laws 2013, Ch. 129, § 27 at 21 A.A.R. 1096, effective September 1, 2015 (Supp. 15-2).

**R17-5-311. Professional Conduct; Conflicts of Interest; Advertising**

- A. A professional driver training school or traffic survival school representative or instructor shall not:
  1. Accompany a student into any Department office or office of an authorized third party driver license or driver license training provider; or
  2. Solicit an individual for any purpose on any premises rented, leased, operated, or owned by the Department or by an authorized third party driver license or driver license training provider.
- B. A licensee or traffic survival school qualified instructor shall maintain good standing with the Department at all times while licensed or qualified by the Department or private entity under this Article.
- C. A licensee shall not delegate or subcontract any licensed activity authorized by the Department or private entity under this Article.
- D. The Department may take corrective action as provided under R17-5-321 and R17-5-323 if the Department or private entity determines or has reason to believe that a licensee or instructor has demonstrated unethical conduct in the performance of official duties, including:
  1. Verbally abusing, intimidating, or sexually harassing a student or potential student; or
  2. Making a false statement that is material to the activities regulated in this Article to any personnel of the Department or private entity.
- E. A school shall use for all licensed activities and related advertising purposes only its official business name or its doing-business-as name as indicated on the license issued under this Article.
- F. A licensee shall not represent or imply that it is the state of Arizona, the Department, the Motor Vehicle Division, or any government agency in any printed or electronic advertising or promotional material, except to the extent expressly authorized by the Department.
- G. Licensee advertising shall not in any way:
  1. Contain false, deceptive, or misleading information;
  2. Imply that the licensee can issue or guarantee issuance of a driver license or endorsement;
  3. Imply that the licensee can influence the Department or an authorized third party provider in the issuance of a driver license or endorsement;
  4. Imply that the licensee can provide any activity the licensee is not licensed by the Department or private entity to perform;
  5. Imply that preferential or advantageous treatment by the Department can be obtained; or
  6. Use or contain a term prohibited under R17-5-302(C).
- H. A school licensed by the Department or private entity under this Article may state in its advertising that it is "licensed" or "qualified" by the Department, but shall not indicate that the school is approved, sanctioned, or in any other way endorsed or recommended by the Department.
- I. All printed or electronic advertising or promotional material used, issued, or published by a licensee must be pre-approved by the Department or private entity.
- J. An instructor, in any official capacity as an instructor or for compensation, shall not provide any classroom instruction or skills training for an immediate family member or a principal or employee of any school that employs the instructor.

- K. A full-time employee of the state of Arizona shall not receive any direct pecuniary payments from any fees paid by those who attend a licensed school.

**Historical Note**

New Section made by exempt rulemaking under Laws 2013, Ch. 129, § 27 at 21 A.A.R. 1096, effective September 1, 2015 (Supp. 15-2). Amended by final rulemaking at 23 A.A.R. 2045, effective September 5, 2017 (Supp. 17-3).

**R17-5-312. Cancellation and Continuity of Services to Participants**

- A. A principal of a school ceasing operations or cancelling courses for any reason shall ensure continuity of services to each student currently enrolled in courses as follows:
  1. A principal shall notify each student currently scheduled for, or enrolled in, a course that the school will be unable to provide the services previously offered 72 hours before the scheduled course; and
  2. A principal shall refund within four business days any payment received by the school for a course not yet provided.
- B. A principal of a school ceasing operations shall provide to the Department or private entity, upon request, a written list of all students notified under subsection (A) with an explanation of the final resolution reached as a result of the principal's contact with the student.
- C. A principal's failure to provide continuity of services to enrolled students as provided under this Section may result in the loss of the principal's status of good standing with the Department.

**Historical Note**

New Section made by exempt rulemaking under Laws 2013, Ch. 129, § 27 at 21 A.A.R. 1096, effective September 1, 2015 (Supp. 15-2).

**R17-5-313. Method of Instruction; Curriculum**

- A. An instructor shall teach only curriculum approved by the Department or private entity to a student attending a class.
- B. An instructor shall not conduct personal business during a time designated for instruction.
- C. An instructor shall not solicit students during training classes for businesses other than those licensed by the Department or private entity.
- D. A school or instructor shall ensure that a student has both fully attended and successfully completed a course before issuing a certificate of completion to the student.
- E. A licensed traffic survival school must use all equipment required by the Department or private entity to present the curriculum to the students, including at a minimum, a computer, a PowerPoint compatible projector, a DVD player, and a display monitor visible to all students.
- F. Professional driver training school approved curriculum. The Department shall approve, and may modify, in writing, a uniform curriculum that the professional driver training school shall teach as applicable for each activity the licensee is authorized to perform. The curriculum shall be a standard course of instruction used by a professional driver training school for the training and education of students.
- G. Traffic survival school approved curriculum. The Department shall approve, and may modify, in writing a uniform curriculum that the traffic survival school shall teach. The curriculum shall be selected and approved on the basis of effectiveness in improving the safety and habits of drivers.

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**Historical Note**

New Section made by exempt rulemaking under Laws 2013, Ch. 129, § 27 at 21 A.A.R. 1096, effective September 1, 2015 (Supp. 15-2). Amended by final rulemaking at 23 A.A.R. 2045, effective September 5, 2017 (Supp. 17-3).

**R17-5-314. Certificate of Completion**

- A.** A qualified instructor for traffic survival school or high school driver education program shall accurately complete all required information on a certificate of completion:
  - 1. The instructor providing the training listed on the certificate of completion shall sign the document once training is complete, or
  - 2. The instructor providing the final instruction or test shall sign the certificate of completion if training is provided by multiple instructors.
- B.** A qualified instructor shall provide a certificate of completion to the student at the conclusion of the course. A traffic survival school qualified instructor shall print the certificate of completion from the web site of the Department's private entity or the Department's web site, as applicable.
- C.** A high school qualified instructor shall not make a correction to a certificate of completion. If an error is made, the high school qualified instructor shall:
  - 1. Void the certificate of completion,
  - 2. Write the word "VOID" or "VOIDED" clearly on the face of each voided certificate of completion, and
  - 3. Issue a new certificate of completion.
- D.** The Department may elect not to accept a certificate of completion that contains an alteration, erasure, correction, or illegible information.
- E.** A school or qualified instructor shall not withhold timely issuance of a certificate of completion due to a payment dispute between the school and the student.

**Historical Note**

New Section made by exempt rulemaking under Laws 2013, Ch. 129, § 27 at 21 A.A.R. 1096, effective September 1, 2015 (Supp. 15-2).

**R17-5-315. Record Retention**

- A.** A licensed traffic survival school shall electronically transmit proof of course completion immediately following each student's satisfactory completion of a traffic survival school course in a manner and with the basic computer equipment prescribed by the Department or private entity. At a minimum, the computer equipment must be able to temporarily store, and electronically transmit over the internet, the certificates of completion required by the Department or private entity.
- B.** All records pertaining to a licensed school's operations and training of students shall be:
  - 1. Stored and securely maintained at the licensee's principal place of business,
  - 2. Available for inspection by the Department or private entity during business hours, and
  - 3. Retained by the school for three years from the date of course completion.
- C.** A licensed school shall establish and maintain separate records for each authorized activity.
- D.** A licensed school shall maintain, for three years, attendance records for each class conducted.

**Historical Note**

New Section made by exempt rulemaking under Laws 2013, Ch. 129, § 27 at 21 A.A.R. 1096, effective September 1, 2015 (Supp. 15-2). Amended by final rulemaking

at 23 A.A.R. 2045, effective September 5, 2017 (Supp. 17-3).

**R17-5-316. Traffic Survival School Department-Approved Inventory**

- A.** A traffic survival school licensed under this Article shall:
  - 1. Prohibit public or other unauthorized access to all Department-approved inventory, and
  - 2. Submit to the Department or private entity a written report detailing the circumstances surrounding the loss or theft of any missing or stolen Department-approved inventory.
- B.** A licensee shall use only Department-approved inventory.
- C.** A school principal or business manager shall submit to the Department or private entity a written or electronic request for any additional Department-approved inventory the school may require.

**Historical Note**

New Section made by exempt rulemaking under Laws 2013, Ch. 129, § 27 at 21 A.A.R. 1096, effective September 1, 2015 (Supp. 15-2).

**R17-5-317. School Responsibilities**

While licensed by the Department or private entity under A.R.S. § 28-3413 or 32-2371 and this Article, the school shall:

- 1. Comply with the Americans with Disabilities Act of 1990 (42 U.S.C. 12101 et seq.) and applicable federal regulations by providing appropriate auxiliary aids and services to students with disabilities requesting reasonable accommodation;
- 2. Comply with Title VI of the Civil Rights Act of 1964 (42 U.S.C. 2000d et seq.) and applicable federal regulations. As a requirement of compliance, the school shall:
  - a. Provide public notification of its compliance with Title VI by displaying a Department-approved notice to the public;
  - b. Take reasonable steps to ensure that Limited English Proficient (non-English speaking) customers have meaningful access to the services or activities performed under this Article, which includes, providing the school's services and authorized transactions in languages other than English and providing these services at no additional cost to the customer or student;
  - c. Report promptly any customer complaints alleging discrimination or failure to meet the requirements of this Section to the Department's Civil Rights office for processing and investigation. The school shall immediately upon receipt of such complaints provide access to its facilities, books, records, accounts, and other sources of information as may be determined or requested by the Department to be pertinent, in order to ascertain compliance with Title VI; and
  - d. Inform and formally train all school officers, principals, employees, and contractors on the requirements to comply with Title VI; and
- 3. Provide written notice to the Department or private entity within twenty-four hours if the driver license of any of the school's principals, managers, or instructors is suspended, revoked, cancelled, or disqualified.

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**Historical Note**

New Section made by exempt rulemaking under Laws 2013, Ch. 129, § 27 at 21 A.A.R. 1096, effective September 1, 2015 (Supp. 15-2).

**R17-5-318. Instructor Responsibilities**

A professional driver training school instructor or traffic survival school qualified instructor shall:

1. Attend all ongoing training and continuing education as required by the Department or private entity;
2. Provide written notice to the licensed professional driver training school or traffic survival school within twenty-four hours if the instructor's driver license is suspended, revoked, cancelled, or disqualified;
3. Conduct training and courses only at training sites approved by the Department or private entity;
4. Conduct the final evaluation on behind-the-wheel final evaluation routes approved by the Department or private entity;
5. Follow and complete the curriculum approved by the Department or private entity for each course conducted; and
6. Conduct at least two courses in a calendar year.

**Historical Note**

New Section made by exempt rulemaking under Laws 2013, Ch. 129, § 27 at 21 A.A.R. 1096, effective September 1, 2015 (Supp. 15-2). Amended by final rulemaking at 23 A.A.R. 2045, effective September 5, 2017 (Supp. 17-3).

**R17-5-319. Traffic Survival Schools**

- A. The Department shall assign an individual only to a traffic survival school licensed by the Director under this Article.
- B. A traffic survival school or qualified instructor shall allow only students who provide acceptable proof of traffic survival school assignment to register for and attend a traffic survival school course. The following documents are acceptable proof of assignment:
  1. Notice of traffic survival school assignment or suspension for failure to attend traffic survival school,
  2. An order from a court or other appropriate tribunal from Arizona or another state indicating traffic survival school assignment,
  3. Traffic survival school proof of assignment form obtained from the Department,
  4. Electronic verification of traffic survival school assignment through the Department's private entity, or
  5. Motor vehicle record.
- C. On enrollment of a student in, or on a student's attendance of, a traffic survival school course, a licensed traffic survival school shall collect the statutory enrollee fee provided in A.R.S. § 28-3411, unless the student has paid the enrollee fee in advance. The licensed traffic survival school also shall collect the records fee prescribed by A.R.S. § 28-446, if applicable, before the student attends the traffic survival school course. The licensed traffic survival school shall fully remit these fees to the private entity within four business days after a student completes the traffic survival school course. If a licensed traffic survival school does not timely remit the enrollee fees, the Department or private entity may notify the traffic survival school that its prospective future students will be required to prepay the enrollee fees until remittances are current. The amount of the enrollee fee charged by the private entity shall be negotiated by the Department and the private entity and shall be set forth in their contract.
- D. A traffic survival school or qualified instructor shall not:

1. Conduct courses with a number of students in excess of the classroom's fire safety capacity reported to the Department or private entity by the licensee under R17-5-321;
2. Conduct courses with more than 30 students per qualified instructor;
3. Exclude a translator, the Director, the private entity, or Department personnel from attending courses;
4. Issue a certificate of completion to a student who has not fully completed the required curriculum; or
5. Issue a certificate of completion for a student whom the instructor did not personally instruct.
- E. A licensee shall retain for three years all copies of the student's acceptable proof of assignment and the signed class roster of attending students.
- F. The private entity may develop and administer a web site that allows individuals who are assigned to traffic survival school to locate and enroll online in traffic survival school courses.
- G. Only an individual who meets the qualifications under R17-5-305, remains in compliance with this Article, and who is granted and retains traffic survival school qualified instructor status, may be allowed to teach individuals assigned by the Department to attend a licensed traffic survival school.
- H. A licensed traffic survival school must hold at least one course every 60 days at the school's established place of business and each branch, as applicable.

**Historical Note**

New Section made by exempt rulemaking under Laws 2013, Ch. 129, § 27 at 21 A.A.R. 1096, effective September 1, 2015 (Supp. 15-2).

**R17-5-320. High School Driver Education Program**

- A. The following definitions apply to this Section:
  1. "Accountable forms inventory" means a series of distinctly and consecutively numbered documents provided by the Department to an instructor qualified under this Section for:
    - a. Recording in a log, the assigned number of each document completed, issued, or voided by a high school qualified instructor; and
    - b. Reporting to the Department the assigned number of each document completed, issued, or voided by a high school qualified instructor.
  2. "Certified instructor report" means a report prepared and certified monthly by each high school qualified instructor listing all certificates of completion that were issued and voided.
- B. The Department shall cooperate with the Arizona Department of Education, under A.R.S. §§ 28-3174 and 32-2353, to enable the issuance of a certificate of completion to a regularly enrolled full-time student as part of a high school driver education program.
- C. The Director or private entity shall qualify an instructor approved by the Arizona Department of Education to issue a certificate of completion.
- D. A high school qualified instructor may issue a certificate of completion to a regularly enrolled full-time student who:
  1. Successfully completes the classroom course of instruction required by the Arizona Department of Education, which may waive the student's requirement to take the Department's written test; or
  2. Successfully completes the skills course of instruction required by the Arizona Department of Education, which may waive the student's requirement to take the Department's skills test.

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- E. A high school qualified instructor shall submit to the Department, no later than the fifth day of each month, all certified instructor reports and certificates of completion issued by the school during the preceding month. A high school qualified instructor who does not issue any certificates of completion during the preceding month shall submit to the Department a certified instructor report indicating "no activity."
- F. A high school qualified instructor shall provide the status of certificates of completion to the Department, upon request, by identifying the certificates by number as either issued, not issued, lost, or stolen.
- G. A high school representative shall promptly return all unused or un-issued certificates of completion to the Department, upon request.
- H. A certificate of completion constitutes accountable forms inventory to be secured at all times by the high school qualified instructor or other designee of the high school and any misuse, fraud, or negligence by a high school qualified instructor involving the form in consultation with the Arizona Department of Education pursuant to A.R.S. § 28-3174 may lead to Department disqualification of the instructor's authorization to issue the form.
- I. A high school qualified instructor shall submit to the Department all reports required under this Article by regular mail, certified mail, registered mail, electronic mail, or personal delivery. The following dates shall be used to determine whether a report was received within the required timeframes established under this Section:
  1. For regular mail, the postmark date;
  2. For certified or registered mail, the date of receipt by the designated delivery service;
  3. For electronic mail, the send date; and
  4. For personal delivery, the Department's time and date stamp of receipt.
- J. If a high school qualified instructor fails to timely or accurately submit to the Department a certified instructor report required under this Section, the Department may initiate corrective action. The Department may:
  1. Provide an oral or written warning for a first untimely or inaccurate report,
  2. Send a letter of concern for a second untimely or inaccurate report in a 12-month period, and
  3. Request that the Arizona Department of Education disqualify a high school qualified instructor from issuing a certificate of completion under this Article for a third untimely or inaccurate report in a 12-month period.
- K. A high school shall develop and maintain a driver education class training record for each student, which shall include at least the following information:
  1. Student's name;
  2. Student's phone number;
  3. Student's driver license or instruction permit number and its expiration date;
  4. Fee amounts collected for any related services;
  5. Date, type, and duration of all classroom lessons and practical instruction;
  6. Make, model, and license plate number of any motor vehicle used to conduct training, as applicable;
  7. Date and results of all tests administered;
  8. Number of certificates of completion issued; and
  9. Name and Department-issued number of each instructor who conducted a lesson or test.

**Historical Note**

New Section made by exempt rulemaking under Laws 2013, Ch. 129, § 27 at 21 A.A.R. 1096, effective September 1, 2015 (Supp. 15-2).

**R17-5-321. Periodic Audits, Monitoring, Inspections, and Investigations**

- A. To determine compliance with license requirements, qualification requirements and applicable federal and state laws and rules, the Department or private entity may:
  1. Monitor for compliance by attending any licensed school's course or other activities on a scheduled or unscheduled basis;
  2. Audit for compliance by performing periodic reviews of the operations, facilities, equipment, and records;
  3. Inspect for compliance by making random, on-site visits during posted business hours; or
  4. Investigate for compliance by interviewing or submitting questions to school owners, instructors, and former or current students.
- B. Failure of a school or instructor to allow or cooperate in an audit, monitoring, inspection, or investigation may result in the Department issuing an immediate cease and desist order or requesting a hearing for suspension or revocation of a license issued under this Article.
- C. During an audit, monitoring, inspection, or investigation of a licensee, the Department, the private entity, a law enforcement agency, or employee of the Federal Motor Carrier Safety Administration may:
  1. Review and copy paper and electronic records;
  2. Examine the licensee's principal and established place of business, all branches, training, or road training sites; and
  3. Interview the school's employees, instructors, and customers.
- D. A licensee shall make records available for audit, monitoring, inspection, or investigation at the licensee's principal place of business.
- E. After an audit or monitoring, the Department or private entity shall send a report of the results in writing to the school.
- F. If instances of non-compliance are found as a result of an audit, monitoring, inspection, or investigation, the Department or private entity may determine if either of the following actions is required:
  1. An informal meeting to discuss findings, or
  2. A written compliance plan addressing findings.
- G. If greater instances of non-compliance are found as a result of an audit, monitoring, inspection, or investigation, the Department may determine if either of the following actions is required:
  1. A probationary period; or
  2. A request for a hearing to cancel, suspend, or revoke a license to operate a school or conduct instruction under this Article.
- H. The Department or private entity may issue a notice of corrective action to a licensee if the licensee fails to comply with a warning letter, with an audit, inspection or investigation request, a monitoring request, or with written findings provided by the Department or private entity. Only the Department may initiate a corrective action provided under subsection (G).
- I. Each site used by a school as an office, training location, or classroom location shall:
  1. Be inspected and approved by the Department or private entity prior to initial use or relocation,
  2. Be licensed by the Department or private entity, and
  3. Have office hours displayed in a conspicuous location at each site open to the public during the posted hours.

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- J. There shall be a clearly defined and visible separation between a school and any other business if a professional driver training school or traffic survival school is located in an office building, store, or other physical structure shared with any other business or enterprise.
- K. Any request by a school for inspection and approval of a site on a recognized Indian reservation shall contain the written permission of the appropriate Tribal authority.
- L. Any request by a school for inspection and approval of a site on a military base shall contain the written permission of the appropriate military authority.
- M. A school shall submit to the Department or private entity a copy of the written lease or contract agreement or deed of ownership, if the site is owned by the school, for each site, as applicable.
- N. Any request by a traffic survival school for inspection and approval of a site to be used for educational sessions shall include the approved fire safety capacity of the classroom(s) at that site and shall be signed by a principal of the traffic survival school.

**Historical Note**

New Section made by exempt rulemaking under Laws 2013, Ch. 129, § 27 at 21 A.A.R. 1096, effective September 1, 2015 (Supp. 15-2).

**R17-5-322. Cease and Desist Order; Hearing and Appeal**

- A. The Department may immediately issue and serve a cease and desist order on a licensee, as prescribed under A.R.S. § 28-3417 or 32-2394, if the Department or private entity has reasonable cause to believe that the licensee has violated or is violating a federal or state law or rule relating to a duty prescribed under this Article.
- B. A cease and desist order issued by the Department to a licensee under this Article shall:
  1. Require the person on receipt of the order to cease and desist from further engaging in the prohibited conduct or in any activity authorized under this Article as specified in the cease and desist order, and
  2. Provide information regarding the person's right to request a hearing to show cause as to why the Department's order should not be upheld.
- C. On failure or refusal of a licensee to comply with a cease and desist order, or after a requested hearing, the Department may cancel, suspend, or revoke the license of the licensee under A.R.S. § 28-3416 or 32-2391 and R17-5-323.

**Historical Note**

New Section made by exempt rulemaking under Laws 2013, Ch. 129, § 27 at 21 A.A.R. 1096, effective September 1, 2015 (Supp. 15-2).

**R17-5-323. Non-compliance; Notice of Corrective Action; Cancellation, Suspension, or Revocation of a Professional Driver Training School License or Traffic Survival School License or Qualification of a Traffic Survival School Instructor; Hearing and Appeal**

- A. The following definitions apply to this Section:
  1. "Cancellation" means a Department action that withdraws a license or qualification of a traffic survival school instructor issued under A.R.S. Title 28, Chapter 8, Article 7.1 or Title 32, Chapter 23 and this Article.
  2. "Revocation" means a Department action that terminates, for an indefinite period of time, a licensee's or traffic survival school qualified instructor's privilege to operate a school or conduct instruction under this Article.
  3. "Suspension" means a Department action that prohibits, for a stated period of time, a licensee or traffic survival

school qualified instructor from operating as a school or instructor under this Article.

- B. The Department or private entity may initiate corrective action on a licensee or a traffic survival school qualified instructor as provided under A.R.S. Title 28, Chapter 8, Article 7.1, Title 32, Chapter 23, Article 3, or Title 41, Chapter 6, Article 6, and this Article, if satisfactory evidence shows that a licensee or instructor, individually or collectively:
  1. Violated a federal or state law or rule reasonably relating in a business context to a duty prescribed under this Article;
  2. Failed to maintain a status of good standing or character and reputation as defined in R17-5-301; or
  3. Provided false, deceptive, or misleading information to the Department or private entity in either an application or in response to an audit or inspection conducted pursuant to R17-5-321.
- C. A corrective action initiated under subsection (B), depending on the severity or number of violations, may include the Department imposing a term of probation; issuing a cease and desist order under A.R.S. § 28-3417 or 32-2394; or requesting a hearing to cancel, suspend, or revoke an existing license under A.R.S. § 28-3416 or 32-2391.
- D. A notice of corrective action issued by the Department requesting a hearing to cancel, suspend, or revoke an existing school license shall include:
  1. The grounds for the Department's action; and
  2. A brief written statement explaining that it will request that a hearing be held before the Department's Executive Hearing Office on the proposed cancellation, suspension, or revocation of a professional driver training school license or a traffic survival school license, as provided under A.R.S. § 28-3416 or 32-2391.
- E. A notice of corrective action issued by the Department to cancel, suspend, or revoke an existing qualification of a traffic survival school instructor shall include:
  1. The grounds for the Department's action; and
  2. A brief written statement of the hearing and appeal rights, including that the instructor may request a hearing with the Department's Executive Hearing Office within 30 calendar days of the date on the notice for the cancellation, suspension, or revocation of the qualification of a traffic survival school instructor, as provided in A.R.S. §§ 41-1001(12) and 41-1064.
- F. The Department shall provide notice and conduct hearings as prescribed under A.R.S. Title 41, Chapter 6, Article 6, and 17 A.A.C. 1, Article 5, as applicable.

**Historical Note**

New Section made by exempt rulemaking under Laws 2013, Ch. 129, § 27 at 21 A.A.R. 1096, effective September 1, 2015 (Supp. 15-2). Amended by final rulemaking at 23 A.A.R. 2045, effective September 5, 2017 (Supp. 17-3).

**ARTICLE 4. DEALERS****R17-5-401. Definitions**

In addition to the definitions in A.R.S. §§ 28-4301 and 28-4410, the following definitions apply to this Article unless otherwise specified:

"Dealer" or "motor vehicle dealer" has the same meaning as "motor vehicle dealer" in A.R.S. § 28-4301.

"Director" has the same meaning as in A.R.S. § 28-101.

"Owner" means a person who holds the legal title of a motor vehicle.

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“Principal place of business” means a licensed place of business from which a wholesale motor vehicle dealer or a broker conducts business and keeps the records of the business.

“State” means the state of Arizona and all its agencies and political subdivisions, their officers and agents.

“Taxpayer identification number” means a number used for tax purposes that is assigned by the Social Security Administration or the Internal Revenue Service.

“VIN” or “Vehicle Identification Number” means the unique code, including serial number, used by an automobile manufacturer to identify a specific motor vehicle.

**Historical Note**

New Section made by final rulemaking at 23 A.A.R. 1434, effective July 4, 2017 (Supp. 17-2).

**R17-5-402. Bond Amounts; Dealers, Brokers, and Automotive Recyclers’ Business Licenses**

- A. As prescribed under A.R.S. § 28-4362, the Department shall require a bond in the amount specified for the following motor vehicle business license applicants:
1. \$100,000 for:
    - a. A new motor vehicle dealer,
    - b. A used motor vehicle dealer, or
    - c. A public consignment auction dealer.
  2. \$25,000 for:
    - a. A broker,
    - b. A wholesale motor vehicle dealer, or
    - c. A wholesale motor vehicle auction dealer.
  3. \$20,000 for an automotive recycler.
- B. An applicant shall submit a bond on the original vehicle dealer bond form prescribed by the Director that meets the requirements in A.R.S. § 28-4362 and these rules. An applicant shall submit a separate, original bond for each application and for each county in which an applicant or licensee has an established place of business or a principle place of business. A power of attorney for the attorney-in-fact shall be attached to the dealer bond, if applicable.
- C. An applicant shall sign the dealer bond, in addition to all partners for a partnership, or one officer for an incorporation.
- D. The completed bond form shall contain an embossed stamp, seal, or sticker from the bond company.
- E. The Department shall not accept a handwritten bond.

**Historical Note**

New Section recodified from R17-4-240 at 7 A.A.R. 3483, effective July 20, 2001 (Supp. 01-3). Amended by final rulemaking at 9 A.A.R. 1864, effective August 2, 2003 (Supp. 03-2). Section amended by final rulemaking at 23 A.A.R. 1434, effective July 4, 2017 (Supp. 17-2).

**R17-5-403. Expired****Historical Note**

New Section made by final rulemaking at 9 A.A.R. 1864, effective August 2, 2003 (Supp. 03-2). Section expired under A.R.S. 1056(J) at 22 A.A.R. 3195, effective October 5, 2016 (Supp. 16-3).§

**R17-5-404. Dealer Title Requirement for Vehicle Sale**

For purposes of A.R.S. § 28-4409(A), the dealer’s name shall be recorded on a title certificate as transferee or purchaser.

**Historical Note**

New Section recodified from R17-4-241 at 7 A.A.R. 3483, effective July 20, 2001 (Supp. 01-3). Section head-

ing corrected as recodified at 7 A.A.R. 3483 (Supp. 09-2).

**R17-5-405. Dealer Acquisition Contract**

- A. For the purposes of A.R.S. § 28-4410, a dealer shall prepare a dealer acquisition contract on a Department form with contents as prescribed under subsection (B).
- B. A dealer acquisition contract shall contain the following information:
1. The heading “Dealer Acquisition Contract;”
  2. The dealer’s name and dealer license number;
  3. The dealer’s business address and telephone number;
  4. The owner’s name, address, telephone number; driver license number or taxpayer identification number, as applicable; and type of ownership;
  5. The VIN; license plate number; licensing state; and model, make, and year of the motor vehicle that has a dealer acquisition contract;
  6. If there is a lien holder, for each lien holder:
    - a. The lien holder’s name, address, and telephone number;
    - b. The lien balance;
    - c. The prepayment penalties, if any; and
    - d. Other information on the terms and conditions of the lien repayment.
  7. A statement by the owner that the motor vehicle is free and clear of all liens and encumbrances, except those disclosed under subsection (B)(6)(a) and the unpaid lien balance is no greater than disclosed under subsection (B)(6)(b);
  8. The contracted purchase price and a recital that this amount has been either paid directly to the owner or credited to the owner against the purchase price of another motor vehicle;
  9. A statement indicating that the owner is selling and transferring the described motor vehicle to the dealer;
  10. An authorization by the owner permitting the dealer to obtain all information necessary to verify the accuracy of the lien balance and assure that the balance is paid and the lien is released;
  11. A statement by the owner that the registration document provided to the dealer is the original and most recent registration issued for the vehicle;
  12. An agreement indicating whether the owner or dealer is responsible to satisfy the lien balance;
  13. An authorization by the owner permitting the dealer to obtain the original title certificate from the lien holder; endorse the owner’s name on the title; and if necessary, transfer the title to the dealer;
  14. A statement that if the owner receives the certificate of title, the owner shall immediately deliver the title to the dealer and provide any signature and acknowledgment necessary to complete the title transfer to the dealer;
  15. The date when the dealer acquisition contract is executed by each party;
  16. The dealer’s signature; and
  17. The owner’s signature.
- C. A dealer or an owner who adds to a dealer acquisition contract a provision not described in this Section shall ensure that the provision does not conflict with or alter the meaning of a provision of this Section.
- D. When a dealer prepares a dealer acquisition contract as prescribed under this Section, the dealer shall give a copy to the owner and keep the original at the dealer’s established place of business for three years after the date that the contract expires or terminates, or the date the motor vehicle is sold.

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- E. In complying with this Section, a dealer shall not interpret or claim compliance to be an approval by the state of the fairness, validity, or legality of a dealer acquisition contract. This Section furnishes only information required in a dealer acquisition contract. This Section does not detail any additional contractual requirements that may be defined under other Arizona statutes.

**Historical Note**

New Section recodified from R17-4-245 at 7 A.A.R. 3483, effective July 20, 2001 (Supp. 01-3). Amended by final rulemaking at 8 A.A.R. 4234, effective November 15, 2002 (Supp. 02-3). Section amended by final rulemaking at 23 A.A.R. 1434, effective July 4, 2017 (Supp. 17-2).

**R17-5-406. Dealer Consignment Contract**

- A. For the purposes of A.R.S. § 28-4410, a motor vehicle dealer shall prepare a dealer consignment contract on a form with contents as prescribed under subsection (B).
- B. A dealer consignment contract shall contain the following information:
1. The heading "Dealer Consignment Contract;"
  2. The dealer's name and dealer license number;
  3. The dealer's business address and telephone number;
  4. The owner's name, address, telephone number, driver license number or taxpayer identification number, and type of ownership;
  5. The VIN; license plate number; licensing state; and model, make, and year of the motor vehicle that has a dealer consignment contract;
  6. If there is a lien holder, for each lienholder:
    - a. The lien holder's name, address, and telephone number;
    - b. The lien balance;
    - c. The prepayment penalties, if any; and
    - d. Other information on the terms and conditions of the lien repayment;
  7. A statement by the owner that the vehicle is free and clear of all liens and encumbrances, except those disclosed under subsection (B)(6)(a) and the lien balance is no greater than that disclosed under subsection (B)(6)(b);
  8. An authorization by the owner permitting the dealer to market and sell the vehicle on behalf of the owner at a mutually-agreed upon, specified, minimum price;
  9. An agreement by the dealer to inform any prospective purchaser that the vehicle is on consignment;
  10. An agreement by the dealer that, upon receiving the sale proceeds, the dealer shall immediately satisfy all disclosed liens and ensure that the liens are released;
  11. An agreement by the owner that, upon the completion of the sale and after receiving the sale proceeds, the owner shall promptly deliver and endorse the title certificate for reassignment to the purchaser;
  12. The expiration date of the consignment contract;
  13. An agreement by the dealer to deliver the motor vehicle to the owner at a specified location on the date that the contract expires or terminates;
  14. An agreement by the owner to pay any specified fees due to the motor vehicle dealer on the return of the vehicle, after the expiration or termination of the consignment contract;
  15. The date the contract is executed;
  16. The dealer's signature; and
  17. The owner's signature.
- C. A dealer or an owner who adds to a dealer consignment contract a provision not described in this Section shall ensure that

the provision does not conflict with or alter the meaning of a provision of this Section.

- D. When a dealer prepares a dealer consignment contract as prescribed under this Section, the dealer shall give a copy to the owner and keep the original at the dealer's established place of business for three years after the date that the dealer consignment contract expires or terminates, or the vehicle is sold.
- E. In complying with this Section, a dealer shall not interpret or claim compliance to be an approval by the state of the fairness, validity, or legality of a dealer consignment contract. This Section furnishes only information required in a dealer consignment contract. This Section does not detail any additional contractual requirements that may be defined under other Arizona statutes.

**Historical Note**

New Section recodified from R17-4-246 at 7 A.A.R. 3483, effective July 20, 2001 (Supp. 01-3). Amended by final rulemaking at 8 A.A.R. 4234, effective November 15, 2002 (Supp. 02-3). Section amended by final rulemaking at 23 A.A.R. 1434, effective July 4, 2017 (Supp. 17-2).

**R17-5-407. Motor Vehicle Repossession**

- A. The Department shall not transfer a title when the ownership of a motor vehicle titled in this state or another state reverts through operation of state law to a lienholder of record through repossession unless the following conditions are met:
1. The motor vehicle is physically located in this state;
  2. A notice of lien is filed with the Department;
  3. A completed affidavit from the lienholder is submitted to the Department stating that the motor vehicle is physically located in this state and was repossessed on default pursuant to the terms of the lien and applicable law and that this state, its agencies, employees, and agents shall not be held liable for relying on the contents of the affidavit; and
  4. In addition to the information required in subsection (A)(3), the affidavit contains the following information:
    - a. The (VIN),
    - b. The vehicle model year,
    - c. The vehicle make,
    - d. The registered owner's name,
    - e. The date of repossession,
    - f. The state in which the vehicle is titled,
    - g. The lienholder company name,
    - h. The lienholder agent or representative name,
    - i. The lienholder signature, and
    - j. The notary or Department agent signature.
- B. The Department shall accept out-of-state affidavits of repossession that comply with the requirements in subsections (A)(3), (A)(4), and subsection (C) if all of the following apply:
1. The affidavit is submitted by an Arizona licensed dealer, and
  2. The Arizona licensed dealer is transferring the title into the dealership's name.
- C. A lienholder may sell a repossessed motor vehicle without transferring the title into the lienholder's name by completing a Bill of Sale for submission to the Department. The Bill of Sale may be combined with the affidavit of repossession and shall contain the following information:
1. The buyer's name;
  2. The sale date;
  3. The buyer's street address, including the city, state, and zip code;
  4. The name of the new lienholder, if applicable;
  5. The new lien date, if applicable;



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6. The odometer certification statement, if required by A.R.S. § 28-2058, including odometer reading, and an acknowledgment with the buyer's name and signature;
  7. A statement that the buyer is aware of the odometer certification made by the seller;
  8. The seller's name;
  9. The seller's notarized signature; and
  10. The seller's address, including city, state, and zip code.
- D.** A completed repossession affidavit as prescribed in this Section is proof of ownership, right of possession, and right of transfer.
- E.** The Department has no responsibility relating to foreclosure on real property under A.R.S. Title 33, Chapter 7.

**Historical Note**

New Section recodified from R17-4-260 at 7 A.A.R. 3483, effective July 20, 2001 (Supp. 01-3). Amended by final rulemaking at 10 A.A.R. 3399, effective October 2, 2004 (Supp. 04-3). Section amended by final rulemaking at 23 A.A.R. 1434, effective July 4, 2017 (Supp. 17-2).

**R17-5-408. Resale of a New Motor Vehicle**

- A.** A motor vehicle dealer that sells a new motor vehicle that was delivered to a previous purchaser, shall provide written notice to the new purchaser under subsection (B).
- B.** A motor vehicle dealer shall ensure that the notice under A.R.S. § 28-4422 contains the following information:
1. The name of the dealership;
  2. A vehicle description, including year, make, and VIN;
  3. A statement that the new motor vehicle was delivered to a previous purchaser;
  4. The printed name of the new purchaser; and
  5. The signature of the new purchaser (initials are not acceptable) indicating that the new purchaser has received the notice.
- C.** The motor vehicle dealer shall:
1. Provide a copy of the notice under subsection (B) to the new purchaser, and
  2. Keep a copy of the signed notice under subsection (B) at the new motor vehicle dealer's established place of business for at least three years.
- D.** The motor vehicle dealer is not required to submit the notice to the Department under subsection (B) unless otherwise required by state or federal law.
- E.** A new motor vehicle dealer shall not add additional language to the notice that would conflict with, or alter the intent of the provisions specified in subsection (B).

**Historical Note**

New Section made by final rulemaking at 12 A.A.R. 225, effective March 11, 2006 (Supp. 06-1). Section amended by final rulemaking at 23 A.A.R. 1434, effective July 4, 2017 (Supp. 17-2).

**ARTICLE 5. MOTOR CARRIER FINANCIAL RESPONSIBILITY****R17-5-501. Definitions**

In addition to the definitions provided under A.R.S. §§ 28-4001, 28-4031, 28-5201, and 28-5431, the following terms apply to this Article, unless the context otherwise requires:

"Binder" means a contract for temporary insurance as described in A.R.S. § 20-1120.

"Initial motor vehicle registration" means the first time a motor carrier registers a specific motor vehicle or a vehicle combination in Arizona.

"Insurance company" means an entity that is in the business of issuing motor carrier liability insurance policies.

**Historical Note**

New Section made by final rulemaking at 9 A.A.R. 235, effective March 11, 2003 (Supp. 03-1). Amended by final rulemaking at 18 A.A.R. 2365, effective November 10, 2012 (Supp. 12-3).

**R17-5-502. Repealed****Historical Note**

New Section recodified from R17-4-226 at 7 A.A.R. 3483, effective July 20, 2001 (Supp. 01-3). Section repealed by final rulemaking at 13 A.A.R. 858, effective March 6, 2007 (Supp. 07-1).

**R17-5-503. Repealed****Historical Note**

New Section recodified from R17-4-226.01 at 7 A.A.R. 3483, effective July 20, 2001 (Supp. 01-3). Section repealed by final rulemaking at 13 A.A.R. 858, effective March 6, 2007 (Supp. 07-1).

**R17-5-504. Requirement to Submit Proof of Financial Responsibility; Applicability; Procedure; Exception**

- A.** If a person or motor carrier subject to financial responsibility requirements under A.R.S. § 28-4032 does not insure its motor vehicle or vehicle combination through an insurance company that electronically reports to the Department under A.R.S. § 28-4148 and Article 8 of this Chapter, the person or motor carrier shall submit proof of financial responsibility as prescribed in this Section, and in the amount required under A.R.S. § 28-4033(A):
1. On initial motor vehicle registration, or
  2. On written request by the Department.
- B.** An insurance company, its managing general agent, broker, or agent may submit proof of financial responsibility to the Department on behalf of a person or motor carrier.
- C.** As proof of financial responsibility, a person or motor carrier shall submit to the Department a photocopy of:
1. A valid liability insurance policy;
  2. A binder dated within 90 days of filing with the Department;
  3. A completed and signed Form E Uniform Motor Carrier Bodily Injury and Property Damage Liability Certificate of Insurance, issued by an insurer that holds a valid certificate of authority or that is permitted to transact surplus lines insurance in this state, naming the Arizona Department of Transportation as the agency;
  4. A completed and signed Certificate of Liability Insurance form, issued by an insurer that holds a valid certificate of authority or that is permitted to transact surplus lines insurance in this state, naming the Arizona Department of Transportation as the certificate holder; or
  5. A certificate of self-insurance issued by the Department after a person or motor carrier meets the requirements of R17-5-810 and A.R.S. §§ 28-4007 and 28-4135.
- D.** Before a binder submitted as proof of financial responsibility expires, a motor carrier shall submit:
1. A binder from an insurance company other than the insurance company named in the first binder; or
  2. Proof of financial responsibility listed in subsections (C)(1) or (C)(3) through (5).
- E.** A person or motor carrier that maintains a valid USDOT number and files proof of financial responsibility with the Federal Motor Carrier Safety Administration under 49 CFR 387 is not required to submit additional proof of financial responsibility under this Section, except on written request by the Department.

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**Historical Note**

New Section recodified from R17-4-445 at 7 A.A.R. 3483, effective July 20, 2001 (Supp. 01-3). Amended by final rulemaking at 9 A.A.R. 235, effective March 11, 2003 (Supp. 03-1). Amended by final rulemaking at 18 A.A.R. 2365, effective November 10, 2012 (Supp. 12-3).

**R17-5-505. Repealed****Historical Note**

New Section recodified from R17-4-446 at 7 A.A.R. 3483, effective July 20, 2001 (Supp. 01-3). Section repealed by final rulemaking at 9 A.A.R. 235, effective March 11, 2003 (Supp. 03-1).

**R17-5-506. Repealed****Historical Note**

New Section recodified from R17-4-447 at 7 A.A.R. 3483, effective July 20, 2001 (Supp. 01-3). Section repealed; new Section made by final rulemaking at 9 A.A.R. 235, effective March 11, 2003 (Supp. 03-1). Repealed by final rulemaking at 18 A.A.R. 2365, effective November 10, 2012 (Supp. 12-3).

**R17-5-507. Repealed****Historical Note**

New Section recodified from R17-4-448 at 7 A.A.R. 3483, effective July 20, 2001 (Supp. 01-3). Section repealed by final rulemaking at 9 A.A.R. 235, effective March 11, 2003 (Supp. 03-1).

## **ARTICLE 6. IGNITION INTERLOCK DEVICE MANUFACTURERS AND IGNITION INTERLOCK SERVICE PROVIDERS**

**R17-5-601. Definitions**

In addition to the definitions provided under A.R.S. §§ 28-101 and 41-1072, in this Article, unless the context otherwise requires, the following terms apply:

“Alcohol concentration” means the weight amount of alcohol contained in a unit volume of breath or air, measured in grams of ethanol/210 liters of breath or air and expressed as grams/210 liters.

“Alveolar breath sample” means the last portion of a prolonged, uninterrupted exhalation from which breath alcohol concentrations can be determined.

“Anticircumvention feature” means any feature or circuitry incorporated into the ignition interlock device that is designed to prevent human activity that would cause the device not to operate as intended.

“Authorization agreement” or “agreement” means an agreement authorized by the Director that an IISP enters into with the Department to provide ignition interlock services under A.R.S. § 28-1468.

“Breath alcohol test” means analysis of a sample of the person’s expired alveolar breath to determine alcohol concentration.

“Bump starting” means a method of starting a motor vehicle with an internal combustion engine by engaging the manual transmission while the vehicle is in motion.

“Business day” means a day other than a Saturday, Sunday, or state holiday.

“Calibration” means the testing, adjustment, or systematic standardization of an ignition interlock device to determine and verify its accuracy.

“Cancellation” means the termination of a manufacturer’s ignition interlock device certification for ignition interlock device installation.

“Certification” means a status granted by the Department under this Article, which permits a certified ignition interlock device manufacturer to offer an ignition interlock device for installation.

“Certified ignition interlock device,” “CIID,” or “device” means a device that is based on alcohol specific electrochemical fuel sensor technology that meets the NHTSA specifications; that connects a breath analyzer to a motor vehicle’s ignition system; that is constantly available to monitor the alcohol concentration in the breath of any person attempting to start the motor vehicle by using its ignition system; that deters starting the vehicle by use of its ignition system unless the person attempting to start the motor vehicle provides an appropriate breath sample for the device; and determines whether the alcohol concentration in the person’s breath is below a preset level.

“Circumvent” or “circumvention” means an attempted or successful bypass of the proper functioning of a certified ignition interlock device and includes all of the following:

The bump start of a motor vehicle with a certified ignition interlock device;

The introduction of a false sample other than a deep-lung breath sample from the person driving the motor vehicle;

The introduction of an intentionally contaminated or a filtered breath sample;

The intentional disruption or blocking of a digital image identification device;

The continued operation of the motor vehicle after the certified ignition interlock device detects breath alcohol exceeding the presumptive limit prescribed in A.R.S. § 28-1381(G)(3) or, if the person is under 21 years of age, any attempt to operate the motor vehicle with any spirituous liquor in the person’s body;

Operating a motor vehicle without a properly functioning certified ignition interlock device and;

When a person, who is required to maintain a functioning certified ignition interlock device is starting or operating the motor vehicle, permits another individual to breathe into the certified ignition interlock device for the purpose of providing a breath alcohol sample to start the motor vehicle or for the rolling retest.

“Corrective action” means an action specified in or reasonably implied from Title 28, Chapter 4, Arizona Revised Statutes, that the Department takes in relation to a person’s driving privilege and the usage or discontinuation of usage of a CIID.

“Customer number” means the system-generated, or other distinguishing number, assigned by the Department to each person conducting business with the Department. The customer number of a private individual is generally the person’s driver license or non-operating identification license number.

“Data logger” means the electronic record of all ignition interlock device activity during the period when the device is installed.

“Data storage system” means a computerized recording of all events monitored by an ignition interlock device, which may be reproduced in the form of specific reports.

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“Defective ignition interlock device” means an ignition interlock device that:

1. Does not meet the NHTSA specifications;
2. Does not pass calibration tests; or
3. Does not meet the accuracy and device standards prescribed in these rules.

“Drive cycle” means either the period of time from when a motor vehicle is initially turned on to the next time the ignition is turned off, or the period of time from when an initial breath alcohol test is performed and failed, to the time a breath alcohol test is successfully taken and the ignition is turned off.

“Early recall” means that a person’s ignition interlock device recorded one tampering or circumvention event, any ignition interlock malfunction, or any four valid reportable violations within a continuous 90-day period, that requires a person to return to a service center within 72 hours.

“Emergency bypass” means an event that permits a vehicle equipped with an ignition interlock device to be started without requiring successful completion of a required breath alcohol test.

“Emergency situation” means a circumstance in which the person informs the IISP or IISP-certified technician that the person’s vehicle needs to be moved to comply with the law, or the person has a valid and urgent need to operate the vehicle.

“Established place of business” means a business location that is:

- Approved by the Department;
- Located in Arizona;
- Not used as a residence; and
- Where an IISP or its agent or subcontractor provides authorized ignition interlock services.

“False sample” means any sample other than the unaltered, undiluted, or unfiltered alveolar breath sample coming from the person.

“Filtered breath sample” means any mechanism by which there is an attempt to remove alcohol from the human breath sample.

“Free restart” means a function of a CIID that will allow a person to restart the vehicle, under the conditions provided in R17-5-615, without completing another breath alcohol test.

“FTP” means file transfer protocol, the exchange of files over any network that supports electronic data interchange reporting that is transmitted through the Internet and prescribed by the Department.

“Global positioning system” means the ability of a wireless certified ignition interlock device to identify and transmit its geographic location through the operation of the device.

“Ignition interlock device installation fee” means the fee required in A.R.S. § 28-1462, and established by the Department in R17-5-614, that is paid by a person to an IISP when a CIID is installed on, or transferred to a person’s vehicle.

“Ignition interlock period” means the period in which a person is required to use a CIID that is installed on a vehicle.

“Ignition interlock service provider” or “IISP” means a person who is an authorized representative of a manufacturer and who is under contract with the Department to install or oversee the installation of ignition interlock devices by the provider’s

authorized agents or subcontractors and to provide services to the public related to ignition interlock devices.

“Improper reporting” means any of the following:

Failure of a manufacturer to report any violations to the Department within 24 hours as required in R17-5-610(D)(1), or failure to send a person’s ignition interlock reporting records, including records relating to a violation, to the Department as required in R17-5-612(C);

Failure of a manufacturer to submit to the Department valid and substantiated proof or evidence of a reportable activity related to a violation, including a summary report and relevant data loggers as required in R17-5-610(D)(2), within 10 days after the Department’s request;

Failure of a manufacturer to electronically send each Certified Ignition Interlock Summarized Reporting Record to the Department within 24 hours, after performing a calibration check, that results in the Department mailing a driver license suspension to a person;

Failure of a manufacturer to electronically send a Certified Ignition Interlock Device Summarized Reporting Record to the Department within 24 hours after installing a CIID;

Electronic reporting by a manufacturer to the Department, of data that is an exact duplicate of a single violation that occurs on a particular day and time and is reported multiple times;

Knowingly reporting a violation that occurs when a participant’s vehicle has high or low voltage;

Reporting an incident that occurs when a person has a free restart test to start the person’s vehicle;

Reporting an incident that occurs in which a manufacturer downloads data from the device during a calibration check and tampers with the data or a CIID;

Failure of a manufacturer to validate any person’s ignition interlock period extension within 10 days; or

Reporting an incident that occurs after the person’s vehicle is turned off.

“Independent laboratory” means a testing facility, not owned or operated by a manufacturer, that can test an ignition interlock device according to the Model Specifications for Breath Alcohol Ignition Interlock Devices (BAIIDs), NHTSA, published at 78 FR 26862 to 26866, May 8, 2013, with the NHTSA technical corrections published at 80 FR 16720 to 16723, March 30, 2015.

“Manufacturer” means a person or an organization that is located in the United States, that is responsible for the design, construction, and production of an ignition interlock device and that is certified by the Department to offer ignition interlock devices for installation in motor vehicles in this state.

“Material modification” means a change to a CIID that affects the functionality of the device.

“Missed rolling retest” means the person refused or failed to provide a valid and substantiated breath sample while operating the motor vehicle, in response to a requested rolling retest within the time period prescribed in R17-5-615(E).

“Mobile services” means ignition interlock services provided by an IISP or its agents or subcontractors at a publicly accessible location other than the IISP’s service center, that meet the requirements of R17-5-618.

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“NHTSA” means the United States Department of Transportation’s National Highway Traffic Safety Administration.

“NHTSA specifications” means the specifications for breath alcohol ignition interlock devices published at 78 FR 26862 to 26866, May 8, 2013, with the NHTSA technical corrections published at 80 FR 16720 to 16723, March 30, 2015.

“Permanent lock-out” means a feature of the CIID in which a motor vehicle will not start until the CIID is reset by an IISP or an IISP-certified technician.

“Person” means a person who is ordered by an Arizona court or the Department to equip each motor vehicle operated by the person with a functioning CIID, and who becomes a customer of an IISP for installation and servicing of the CIID.

“Positive result” means a test result indicating that the alcohol concentration meets or exceeds the set point value.

“Principal place of business” means the administrative headquarters of a manufacturer or an IISP that is located in Arizona, is zoned for commercial, and is not used as a residence.

“Purge” means any mechanism that cleanses or removes a previous breath or reference sample from the device and specifically removes alcohol.

“Real-time” or “real-time reporting” means the instant transmission of unfiltered ignition interlock violations as defined in R17-5-601, and data as prescribed in R17-5-610, including digital images, to the manufacturer’s website for viewing by the Department without delay, as electronic or digital service permits.

“Reference sample device” means a device containing a sample of known alcohol concentration.

“Reference value” means an alcohol reference solution prepared and tested in a laboratory with a reference value and used to perform an accuracy check of the calibration of a CIID.

“Retest set point” has the same meaning as set point.

“Rolling retest” means a breath alcohol test that is required of a person at random intervals after the motor vehicle is started and that is in addition to the initial test required to start the motor vehicle.

“Service center” means an established place of business approved by the Department from which an IISP or its agents or subcontractors provide ignition interlock services to persons from one or more counties.

“Set point” means an alcohol concentration of 0.020 g/210 liters of breath.

“Tampering” means an overt or conscious attempt to physically disable or otherwise disconnect the CIID from its power source that allows the operator to start the engine without taking and passing the requisite breath test.

“Technician” means a person who is certified and properly trained by an ignition interlock service provider to install, inspect, calibrate, service or remove certified ignition interlock devices.

“Temporary lock-out” means a feature of the CIID which will not allow a motor vehicle to start for five minutes after a breath alcohol test result indicating an alcohol concentration above the set point.

“Vehicle identification number” or “VIN” means the unique code, including serial number, used by an automobile manufacturer to identify a specific motor vehicle.

“Violation” (when referencing acts or omissions on the part of a person in the ignition interlock program) includes, but is not limited to any of the following reportable activities performed by a person which a manufacturer shall promptly report to the Department:

Circumventing the CIID as defined in R17-5-601;

Tampering with the CIID as defined in A.R.S. § 28-1301;

Failing to provide proof of compliance or inspection of the CIID under A.R.S. § 28-1461(E)(4);

Attempting to operate the vehicle with an alcohol concentration of 0.08 or more as prescribed in A.R.S. § 28-1461(E)(5) if the person is at least 21 years of age;

Attempting to operate the vehicle with an alcohol concentration value in excess of the set point if the person is under 21 years of age;

Refusing or failing to provide any set of three consecutive valid and substantiated breath samples in response to a requested rolling retest within an 18-minute time frame during a person’s drive cycle;

Disconnecting or removing a CIID, except:

On repair of the vehicle, if the person provided to the IISP, technician, or service center advance notice of the repair and the anticipated completion date; or

On moving the device from one motor vehicle to another motor vehicle if replacement of the device is accomplished within 72 hours of device removal.

“Violation reset” means the unplanned servicing and inspection of a CIID and the downloading of information from its data storage system by an IISP as a result of an early recall that requires the manufacturer to unlock the device.

#### Historical Note

New Section recodified from R17-4-709 at 7 A.A.R. 3483, effective July 20, 2001 (Supp. 01-3). Amended by final rulemaking at 13 A.A.R. 3499, effective December 1, 2007 (Supp. 07-4). Amended by final rulemaking at 20 A.A.R. 3132, effective April 1, 2015 (Supp. 14-4). Amended by final exempt rulemaking at 24 A.A.R. 1725, effective July 1, 2018 (Supp. 18-2). Amended by final rulemaking at 26 A.A.R. 1047, effective July 5, 2020 (Supp. 20-2).

#### R17-5-602. Ignition Interlock Device Manufacturer Certification; Expiration; Cancellation of Certification; Notice

- A. An ignition interlock device manufacturer shall obtain certification by the Department under this Article before offering a new ignition interlock device model and before making material modifications to an existing ignition interlock device model for implementation and installation under Arizona law.
- B. Ignition interlock device certification by an ignition interlock device manufacturer shall occur prior to the IISP signing an authorization agreement with the Department.
- C. After receiving Department certification for a new ignition interlock device model and meeting all the requirements under R17-5-604, the ignition interlock device manufacturer is effectively certified by the Department to offer the certified ignition interlock device model for installation under Arizona law.
- D. An ignition interlock device manufacturer shall submit a new application to the Department under R17-5-604 for the certifi-

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cation of each new ignition interlock device model the manufacturer intends to offer for installation.

- E. Manufacturer certification issued by the Department under this Article shall automatically expire if:
  1. The manufacturer no longer provides at least one currently certified ignition interlock device model for installation under Arizona law; and
  2. The manufacturer has no pending application on file with the Department for the certification of a device under R17-5-604.
- F. Manufacturer certification of an ignition interlock device that was previously approved by the Department under this Article shall automatically expire within one year after the certification is granted if the manufacturer has not contracted with an IISP currently contracted with the Department to install the CIID.
- G. After the one-year cancellation period in subsection (F) ends, a manufacturer may reapply to the Department for certification by completing a new application for the certification of a device and meeting all certification requirements under this Article.
- H. If the Department determines that a manufacturer fails to properly report ignition interlock information and data to the Department in the manner prescribed in these rules, the Department may immediately provide written notice to the manufacturer with the following information:
  1. The name of the person and the date of the improper reporting; and
  2. The manufacturer shall send the required record or report to the Department within ten business days, if applicable.
- I. If the manufacturer fails to remedy the issues identified in the notice within ten business days, the Department may cancel the manufacturer device certification.
- J. If a manufacturer's certification expires as a result of subsections (E)(1) and (E)(2), the manufacturer may reapply for certification by submitting a new application to the Department for the certification of a device under R17-5-604.
- K. A manufacturer shall only appoint one IISP that is contracted with the Department and serves as an authorized representative of the manufacturer to provide ignition interlock services to the public.
- L. A manufacturer shall notify the Department within 24 hours if an IISP is no longer authorized by a manufacturer to install its CIID.

**Historical Note**

New Section recodified from R17-4-709.01 at 7 A.A.R. 3483, effective July 20, 2001 (Supp. 01-3). Former R17-5-602 renumbered to R17-5-604; new R17-5-602 made by final rulemaking at 13 A.A.R. 3499, effective December 1, 2007 (Supp. 07-4). Amended by final rulemaking at 20 A.A.R. 3132, effective April 1, 2015 (Supp. 14-4). Amended by final exempt rulemaking at 24 A.A.R. 1725, effective July 1, 2018 (Supp. 18-2).

**R17-5-603. Device Requirements, Technical Specifications, and Standards for Setup and Calibration**

- A. The accuracy of the CIID shall be determined by analysis of an external standard generated by a reference sample device.
- B. A device shall have a demonstrable feature designed to assure that a breath sample measured is essentially alveolar.
- C. A test of alcohol-free samples shall not yield a positive result. Endogenously produced substances capable of being present in the breath shall not yield or significantly contribute to a positive result.
- D. All devices shall meet the setpoint requirements of R17-5-601 and the following requirements:

1. Be calibrated to have an accuracy within plus or minus 0.005 g/210L of the reference value;
  2. Be calibrated using a known reference value between .020 g/210L and .050 g/210L; and
  3. Be accompanied by a Certificate of Analysis (COA).
- E. A device shall be designed so that anticircumvention features will be difficult to bypass.
    1. Anticircumvention provisions on the device shall include, but are not limited to, prevention or preservation of any evidence of circumvention by attempting to use a false or filtered breath sample or electronically bypassing the breath sampling requirements of a device.
    2. A device shall use special seals or other methods that reveal attempts to bypass lawful device operation.
  - F. A CIID shall have global positioning system capability, and the manufacturer shall electronically and wirelessly download in real-time from the device and transmit daily to the Department, a person's ignition interlock activity in an FTP batch file.
  - G. A CIID shall be equipped with a camera, which shall not distract or impede the driver in any manner from safe and legal operation of the vehicle, shall record all ignition interlock activity of the person, and shall provide any visual evidence of actual or attempted tampering, alteration, bypass, or circumvention, and report this information directly to the manufacturer.
  - H. The camera shall be able to record and store visual evidence of each person providing a breath alcohol test, and shall meet the following requirements:
    1. At device installation, the camera shall take a reference picture of the person, which shall be kept on file;
    2. A clear digital image shall be taken for each event, including initial vehicle start, all rolling retests, and whenever a violation is recorded;
    3. Each digital image shall be a wide-angle view of the front cabin of the vehicle, including the passenger side, to ensure the camera can clearly capture the entire face of the person and any passengers; and
    4. The camera shall produce a digital image of the person in all lighting conditions, including brightness, darkness, and low light conditions.
  - I. A device shall:
    1. Automatically purge alcohol before allowing analysis.
    2. Have a data storage system with the capacity to sufficiently record and maintain a record of the person's daily driving activities that occur between each regularly scheduled calibration check referenced under R17-5-610 and R17-5-706. An IISP shall download and transmit any digital images taken during a person's calibration check, during each rolling retest, and each time a person with the ignition interlock requirement or another individual starts the motor vehicle. A manufacturer shall make these digital images available to the Department on request.
    3. Use the most current version of the manufacturer's software and firmware to ensure compliance with this Article and any other applicable rule or statute. The manufacturer's software and firmware shall:
      - a. Require device settings and operational features to include, but not limited to, sample delivery requirements, the set point, free restart, rolling retest requirements, violation settings, and temporary and permanent lock-outs; and
      - b. Prohibit modification of the device settings or operational features by a service center, or an IISP-certified technician unless the Department approves the modification under subsection (J).

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4. Record all emergency bypasses in its data storage system.
5. Provide a visual reminder on the device that a calibration check must be performed on the person's CIID every 90 days, with prominent device notifications during each 77-day to 90-day interval within a person's ignition interlock period, of the following:
  - a. The device needs service; and
  - b. The time remaining until a permanent lock-out occurs.
6. Notify a person that failure to get the calibration check, including calibration and data download, by the end of each 90-day period will cause the vehicle to be in a permanent lock-out mode, and shall record the event in the data storage system.
7. On recording a violation of A.R.S. Title 28, Chapter 4, Article 5 for one instance of tampering or circumvention, any ignition interlock device malfunction, or any four valid reportable violations within a continuous 90-day period, emit a unique cue, either auditory, visual, or both, to warn a person that an early recall is initiated, requiring the person to return to the IISP in 72 hours for a violation reset.
8. Enter into a permanent lock-out if a person does not return to the IISP for a violation reset within 72 hours after an early recall occurs.
9. When a violation results in a permanent lock-out mode, the device shall:
  - a. Immobilize the person's vehicle;
  - b. Uniquely record the event in the data storage system; and
  - c. Require a violation reset by the IISP.
10. Enter into a temporary lock-out mode for five minutes when the device detects during the initial breath alcohol test that a person's breath alcohol concentration is at or above the set point.
11. After the five-minute temporary lock-out, the device shall allow subsequent breath alcohol tests with no further lock-out as long as each subsequent test produces a valid and substantiated breath test.
12. Have security protections and the capability to provide visual evidence of any actual or attempted tampering, alteration or bypass of the device, or circumvention.
- J. No modification shall be made to the design or operational concept of a device model after the Department has certified the device for installation under Arizona law, except that:
  1. A software or firmware update required to maintain a device model is permissible if the update does not modify the design or operational concept of the device.
  2. Replacement, substitution, or repair of a part required to maintain a device model is permissible if the part does not modify the design or operational concept of the device.
  3. If a manufacturer determines that an existing Department-certified ignition interlock device model requires any modification, the manufacturer shall immediately notify the Department.

**Historical Note**

New Section recodified from R17-4-709.02 at 7 A.A.R. 3483, effective July 20, 2001 (Supp. 01-3). Former R17-5-603 renumbered to R17-5-606; new R17-5-603 made by final rulemaking at 13 A.A.R. 3499, effective December 1, 2007 (Supp. 07-4). Amended by final rulemaking at 20 A.A.R. 3132, effective April 1, 2015 (Supp. 14-4). Amended by final exempt rulemaking at 24 A.A.R. 1725, effective July 1, 2018 (Supp. 18-2). Amended by final

rulemaking at 26 A.A.R. 1047, effective July 5, 2020 (Supp. 20-2).

**R17-5-604. Ignition Interlock Device Certification; Application Requirements**

- A. A manufacturer shall offer for installation only an ignition interlock device that is certified by the Department under this Section.
- B. To certify an ignition interlock device model, a manufacturer shall submit to the Department a properly completed application form that provides:
  1. The manufacturer's name;
  2. The address of the manufacturer's principal place of business in this state and telephone number;
  3. The manufacturer's status as a sole proprietorship, partnership, limited liability company, or corporation;
  4. The name of the sole proprietor or of each partner, officer, director, manager, member, agent, or 20% or more stockholder;
  5. The name and model number of the ignition interlock device and the name under which the ignition interlock device will be marketed; and
  6. The manufacturer's electronic mail address.
  7. The following statements, signed by the manufacturer:
    - a. A statement that all information provided on the application form, including all information provided on any attachment to the application form, is complete, true, and correct;
    - b. A statement that the manufacturer agrees to indemnify and hold harmless the state of Arizona and any department, division, agency, officer, employee, or agent of the state of Arizona from all liability for:
      - i. Damage to property or injury to people arising, directly or indirectly, out of any act or omission by the manufacturer or the manufacturer's authorized IISP relating to the installation and operation of the ignition interlock device; and
      - ii. All court costs, expenses of litigation, and reasonable attorneys' fees;
    - c. A statement that the manufacturer agrees to comply with all requirements under this Article; and
    - d. A statement that the manufacturer agrees to immediately notify the Department of any change to the information provided on the application form.
- C. A manufacturer shall submit the following additional items with the application form:
  1. A document that provides a detailed description of the ignition interlock device and a digital image, drawing, or other graphic depiction of the device;
  2. A document that contains the complete technical specifications for the accuracy, reliability, security, data collection, recording, and tamper detection capabilities of the ignition interlock device;
  3. An independent laboratory's report for each device model that:
    - a. Presents supporting data to demonstrate that the ignition interlock device meets or exceeds the test results required by the Model Specifications For Breath Alcohol Ignition Interlock Devices (BAIDs), NHTSA, published at 78 FR 26862 to 26866, May 8, 2013, with the NHTSA technical corrections published at 80 FR 16720 to 16723, March 30, 2015. The NHTSA specifications and technical corrections are incorporated by reference and are on file with the Department at 206 S. 17th Avenue, Phoenix, AZ 85007, and the NHTSA Office of Research and Technology, 1200 New Jersey Avenue SE, Washing-

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ton, D.C. 20590. This incorporation by reference contains no future editions or amendments;

- b. Provides the independent laboratory's name, address, and telephone number; and
  - c. Provides the name and model number of the ignition interlock device tested.
4. A laboratory certification form, signed by an authorized representative of the independent laboratory that prepared the report required under subsection (C)(3), that states all of the following:
- a. The laboratory is not owned or operated by a manufacturer and no other conflict of interest exists.
  - b. The laboratory tested the ignition interlock device in accordance with the Model Specifications For Breath Alcohol Ignition Interlock Devices (BAIIDs), NHTSA, published at 78 FR 26862 to 26866, May 8, 2013 with the NHTSA technical corrections published at 80 FR 16720 to 16723, March 30, 2015.
  - c. The laboratory confirms that the ignition interlock device meets or exceeds the test results required under the Model Specifications For Breath Alcohol Ignition Interlock Devices (BAIIDs), NHTSA, published at 78 FR 26862 to 26866, May 8, 2013, with the NHTSA technical corrections published at 80 FR 16720 to 16723, March 30, 2015.
  - d. The laboratory used properly maintained equipment and trained personnel to test the ignition interlock device.
  - e. The laboratory presented accurate test results to the Department.
5. A certificate of insurance, issued by an insurance company authorized to transact business in Arizona, specifying:
- a. A product liability policy with a current effective date;
  - b. The name and model number of the ignition interlock device model covered by the policy;
  - c. Policy coverage of \$1,000,000 and \$3,000,000 in the aggregate;
  - d. The manufacturer as the insured and the state of Arizona as an additional insured;
  - e. Product liability coverage for defects in manufacture, materials, design, calibration, installation, and operation of the ignition interlock device; and
  - f. The insurance company shall notify the Department's Risk Management, Insurance and Indemnification Section in writing at least 30 days before canceling the product liability policy.
6. A statement that the ignition interlock device has a camera, includes a global positioning system, and provides real-time reporting.
- D. For any installation of a certified ignition interlock device or any replacement of a device on a person's motor vehicle with another device, an IISP or an IISP-certified technician shall install only a certified ignition interlock device that meets the additional requirements in this Article, and meets or exceeds the test results required by the Model Specifications for Breath Alcohol Ignition Interlock Devices (BAIIDs), NHTSA, published at 78 FR 26862 to 26866, May 8, 2013, with the NHTSA technical corrections published at 80 FR 16720 to 16723, March 30, 2015.
- E. A person whose CIID was installed prior to July 1, 2018, that does not meet all the requirements of subsection (D) shall return to the person's IISP by October 1, 2020 to exchange the CIID for a CIID that meets all the requirements of subsection (D).

**Historical Note**

New Section recodified from R17-4-709.03 at 7 A.A.R. 3483, effective July 20, 2001 (Supp. 01-3). Former R17-5-604 renumbered to R17-5-607; new R17-5-604 renumbered from R17-5-602 and amended by final rulemaking at 13 A.A.R. 3499, effective December 1, 2007 (Supp. 07-4). Amended by final rulemaking at 20 A.A.R. 3132, effective April 1, 2015 (Supp. 14-4). Amended by final exempt rulemaking at 24 A.A.R. 1725, effective July 1, 2018 (Supp. 18-2). Amended by final rulemaking at 26 A.A.R. 1047, effective July 5, 2020 (Supp. 20-2).

**R17-5-605. Application Processing; Time Frames; Exception**

- A. The Department shall process an application for ignition interlock device certification only if an applicant meets all applicable application requirements.
- B. The Department shall, within 10 days of receiving an application for certification, provide notice to the applicant that the application is either complete or incomplete.
  1. The date of receipt is the date the Department receives the application.
  2. If an application is incomplete, the notice shall specifically identify what required information is missing.
- C. An applicant with an incomplete application shall provide all missing information to the Department within 15 days of the date indicated on the notice provided by the Department under subsection (B).
  1. After receiving all of the required information, the Department shall notify the applicant that the application is complete.
  2. The Department may deny certification of an ignition interlock device if the applicant fails to provide the required information within 15 days of the date indicated on the notice.
- D. Except as provided under subsection (F), the Department shall render a decision on an application for certification of an ignition interlock device within 30 days of the date indicated on the notice acknowledging receipt of a complete application provided to the applicant under subsections (B) or (C)(1).
- E. For the purpose of A.R.S. § 41-1073, the Department establishes the following time frames for processing an application for certification of an ignition interlock device:
  1. Administrative completeness review time frame: 10 days.
  2. Substantive review time frame: 30 days.
  3. Overall time frame: 40 days.
- F. Established time frames may be suspended by the Department under A.R.S. § 41-1074 for certification of an ignition interlock device until the Department receives all external agency approvals required for certifying a new ignition interlock device model from the Department of Public Safety.

**Historical Note**

New Section recodified from R17-4-709.04 at 7 A.A.R. 3483, effective July 20, 2001 (Supp. 01-3). Former R17-5-605 renumbered to R17-5-608; new R17-5-605 made by final rulemaking at 13 A.A.R. 3499, effective December 1, 2007 (Supp. 07-4). Amended by final rulemaking at 20 A.A.R. 3132, effective April 1, 2015 (Supp. 14-4). Amended by final exempt rulemaking at 24 A.A.R. 1725, effective July 1, 2018 (Supp. 18-2).

**R17-5-606. Application Completeness; Denial of Ignition Interlock Device Certification; Hearing**

- A. An application for certification of an ignition interlock device model is complete when the Department receives:
  1. From the manufacturer, a properly prepared application form;

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2. From the manufacturer, all additional items required under R17-5-604(C);
  3. From the Department of Public Safety, under A.R.S. § 28-1462, written confirmation or disapproval of the independent laboratory's report that the ignition interlock device meets or exceeds the NHTSA specifications in R17-5-604(C); and
  4. From the manufacturer, a letter or notification that the device meets the following standards:
    - a. The anticircumvention features in R17-5-603(E),
    - b. The data storage capacity requirement in R17-5-603(I)(2), and
    - c. The constant communication requirement in R17-5-610(O).
- B.** The Director shall deny an application for certification of an ignition interlock device model if all requirements of subsection (A) are not met, or on finding any of the following:
1. The design, material, or workmanship is defective, causing the ignition interlock device model to fail to function as intended;
  2. The manufacturer's product liability insurance coverage is terminated or canceled;
  3. The manufacturer no longer offers the ignition interlock device model for installation under Arizona law;
  4. The manufacturer or the independent laboratory provided false or inaccurate information to the Department relating to the performance of the ignition interlock device model;
  5. The components, design, or installation and operating instructions have undergone a modification that causes the ignition interlock device model to be out of compliance with the NHTSA specifications in R17-5-604(C), the requirements in this Article; or
  6. The Department receives a report of device disapproval from an independent laboratory or other external reviewer.
- C.** The Department shall mail to the manufacturer, written notification of the certification or denial of certification of an ignition interlock device model. A notice denying certification of an ignition interlock device model shall specify the basis for the denial and indicate that the applicant may, within 15 days of the date on the notice, request a hearing on the Director's decision to deny certification by filing a written request with the Department's Executive Hearing Office as prescribed under 17 A.A.C. 1, Article 5.
- D.** If a manufacturer timely requests a hearing on the Director's decision to deny certification of an ignition interlock device model, the Department's Executive Hearing Office shall conduct the hearing as provided under A.R.S. Title 41, Chapter 6, Article 6, and 17 A.A.C. 1, Article 5.
- Historical Note**
- New Section recodified from R17-4-709.05 at 7 A.A.R. 3483, effective July 20, 2001 (Supp. 01-3). Former R17-5-606 renumbered to R17-5-609; new R17-5-606 renumbered from R17-5-603 and amended by final rulemaking at 13 A.A.R. 3499, effective December 1, 2007 (Supp. 07-4). Amended by final rulemaking at 20 A.A.R. 3132, effective April 1, 2015 (Supp. 14-4). Amended by final exempt rulemaking at 24 A.A.R. 1725, effective July 1, 2018 (Supp. 18-2). Amended by final rulemaking at 26 A.A.R. 1047, effective July 5, 2020 (Supp. 20-2).
- R17-5-607. Cancellation of Device Certification; Hearing**
- A.** The Director shall cancel an ignition interlock device model certification and remove the device from its list of CIID's on finding any of the following:
1. The design, material, or workmanship contains a defect that causes the ignition interlock device model to fail to function as intended;
  2. The manufacturer's product liability insurance coverage is terminated or canceled;
  3. The manufacturer no longer offers the ignition interlock device model for installation under Arizona law;
  4. The manufacturer or independent laboratory provided false or inaccurate information to the Department relating to the performance of the ignition interlock device model;
  5. The components, design, or installation and operating instructions have undergone a modification that causes the ignition interlock device model to be out of compliance with the NHTSA specifications in R17-5-604(C);
  6. The manufacturer instructs the Department to cancel its certification of the ignition interlock device model;
  7. The manufacturer, the IISP, or the device does not comply with this Article or any other applicable rule or statute; or
  8. If the manufacturer has not contracted with an IISP authorized by the Department within one year after the device model certification.
- B.** The Department, on finding any of the conditions described under subsection (A), or on finding that the manufacturer failed to timely remedy the issues identified in the notice provided under R17-5-602(H), shall mail to the manufacturer a notice and order of cancellation of certification for the specific ignition interlock device model. The notice and order of cancellation shall:
1. Specify the basis for the action;
  2. Specify the date when the one-year decertification begins and ends; and
  3. State that the manufacturer may, within 15 days after receipt of a notice and order of manufacturer device model cancellation, file a written request for a hearing with the Department's Executive Hearing Office as prescribed under 17 A.A.C. 1, Article 5, to show cause as to why the ignition interlock device certification should not be cancelled.
- C.** If a hearing to show cause is timely requested, the Department's Executive Hearing Office shall conduct the hearing as prescribed under A.R.S. Title 41, Chapter 6, Article 6, and 17 A.A.C. 1, Article 5. The request for a hearing stays the summary cancellation of manufacturer device model certification.
- D.** Within 10 days after a hearing, the hearing officer shall issue to the manufacturer a written decision, which shall:
1. Provide findings of fact and conclusions of law; and
  2. Grant or cancel the certification.
- E.** If the hearing officer affirms the manufacturer device model cancellation, the manufacturer may seek judicial review under A.R.S. Title 12, Chapter 7, Article 6, within 35 days of the date when a copy of the decision sought to be reviewed is served upon the party affected unless the court grants a stay while the appeal is pending.
- F.** Within 60 days after the effective date of an order of cancellation, the manufacturer shall, at the manufacturer's own expense, ensure the removal of all ignition interlock devices that are not certified and facilitate the replacement of each device with a CIID.
- G.** The manufacturer of a previously decertified ignition interlock device model may reapply to the Department for certification of another ignition interlock device model under R17-5-604 after the one-year device decertification period ends.
- H.** After cancellation, the Department shall notify the IISP and the IISP-certified technicians that each of them is prohibited



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from installing the ignition interlock device for which the device certification was cancelled.

- I. Cancellation of a manufacturer's device model certification prohibits the manufacturer from performing its duties with respect to the device model that has been cancelled and making the device model available for installation in the state for a period of one year from the latest of the following dates when:
  1. The Department cancels a manufacturer's device model certification, or
  2. The Department's Executive Hearing Office cancels the manufacturer's device model certification.

**Historical Note**

New Section recodified from R17-4-709.06 at 7 A.A.R. 3483, effective July 20, 2001 (Supp. 01-3). Former R17-5-607 renumbered to R17-5-610; new R17-5-607 renumbered from R17-5-604 and amended by final rulemaking at 13 A.A.R. 3499, effective December 1, 2007 (Supp. 07-4). Amended by final rulemaking at 20 A.A.R. 3132, effective April 1, 2015 (Supp. 14-4). Amended by final exempt rulemaking at 24 A.A.R. 1725, effective July 1, 2018 (Supp. 18-2).

**Appendix A. Renumbered****Historical Note**

New Appendix recodified from 17 A.A.C. 4, Article 7 at 7 A.A.R. 3483, effective July 20, 2001 (Supp. 01-3). Appendix A renumbered to R17-5-610, Appendix A, by final rulemaking at 13 A.A.R. 3499, effective December 1, 2007 (Supp. 07-4).

**Appendix B. Renumbered****Historical Note**

New Appendix recodified from 17 A.A.C. 4, Article 7 at 7 A.A.R. 3483, effective July 20, 2001 (Supp. 01-3). Appendix B renumbered to R17-5-610, Appendix B, by final rulemaking at 13 A.A.R. 3499, effective December 1, 2007 (Supp. 07-4).

**Appendix C. Renumbered****Historical Note**

New Appendix recodified from 17 A.A.C. 4, Article 7 at 7 A.A.R. 3483, effective July 20, 2001 (Supp. 01-3). Appendix C renumbered to R17-5-610, Appendix C, by final rulemaking at 13 A.A.R. 3499, effective December 1, 2007 (Supp. 07-4).

**R17-5-608. Modification of a Certified Ignition Interlock Device Model**

- A. A manufacturer shall notify the Department in writing at least 10 days before a material modification is made to a certified ignition interlock device model.
- B. Before providing a previously certified but materially modified ignition interlock device model for installation in a motor vehicle under an order of an Arizona court or the Department, a manufacturer shall:
  1. Submit to the Department a completed application form with the information required under R17-5-604(B) and all additional items required under R17-5-604(C), and
  2. Obtain certification of the materially modified ignition interlock device from the Department.
- C. The Department's certification of a materially modified ignition interlock device model does not affect the original certification of the unmodified model.

**Historical Note**

New Section recodified from R17-4-709.07 at 7 A.A.R.

3483, effective July 20, 2001 (Supp. 01-3). Former R17-5-608 renumbered to R17-5-611; new R17-5-608 renumbered from R17-5-605 and amended by final rulemaking at 13 A.A.R. 3499, effective December 1, 2007 (Supp. 07-4). Amended by final rulemaking at 20 A.A.R. 3132, effective April 1, 2015 (Supp. 14-4). Amended by final exempt rulemaking at 24 A.A.R. 1725, effective July 1, 2018 (Supp. 18-2).

**R17-5-609. IISP and Manufacturer Responsibilities**

- A. An IISP shall refer a person only to the IISP's certified technician.
- B. An IISP shall provide the Department and each person with a toll-free telephone number to call to obtain the names and phone numbers of the IISP's certified technicians, the IISP service center locations, and hours of operation for the IISP service centers.
- C. An IISP shall certify each technician by providing adequate training and oversight for the technician to perform one of the activities at a service center, which are installation, inspection, calibration, service, or removal of a CIID.
- D. An IISP shall provide to every person operating a motor vehicle equipped with a CIID, and any other persons who will operate the motor vehicle, training on how to operate the motor vehicle. An IISP shall instruct the person on all of the following:
  1. How to use the system;
  2. How to obtain service for the CIID;
  3. How to find answers to any additional questions;
  4. How the alcohol retest feature works;
  5. How drinking alcohol before a test may result in a reading of sensitive or fail;
  6. How the CIID shall not be removed, except by an IISP or IISP-certified technician;
  7. How noncompliance with a regularly scheduled calibration check for a person with a limited or restricted driving privilege shall result in suspension of the person's driving privilege under A.R.S. § 28-1463 until proof of compliance is submitted to the Department under A.R.S. § 28-1461, and the duration of the person's certified ignition interlock device requirement shall be extended under A.R.S. § 28-1461;
  8. What the penalties are for circumvention of the CIID;
  9. What the penalties are for tampering with, or misusing the CIID;
  10. What will happen after failing a start-up breath alcohol test;
  11. What will happen after a person has a set of three consecutive valid and substantiated missed rolling retests within an 18-minute time frame during a drive cycle; and that a person shall not avoid compliance with the rolling retest requirement by turning off a motor vehicle's ignition or by keeping the motor vehicle in operation while the vehicle is parked, and leaving the vehicle when a rolling retest is requested;
  12. What events or actions will result in a temporary or permanent lock-out of the CIID; and
  13. How to provide a properly delivered alveolar breath sample.
- E. An IISP shall have each person sign a document stating that the IISP has instructed the person regarding each topic contained in subsections (D) and (L), and has received the manufacturer's written instructions for operation of the CIID.
- F. An IISP shall inform a person that a compliance check on a CIID is required 30 days and 60 days after installation of the device, which shall be done electronically.

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- G.** An IISP shall inform each person to bring the vehicle to a service center for a calibration check within every 77 to 90-day period until the person is eligible for device removal.
- H.** An IISP shall check each CIID for evidence of tampering at least once every 90 days or more frequently if needed. This anticircumvention check shall be conducted at each person's calibration check at a service center as required under R17-5-706.
- I.** An IISP shall ensure that the manufacturer reports to the Department electronically under R17-5-610 if any evidence of tampering is discovered, and the manufacturer shall submit valid and substantiated proof or evidence of a reportable activity. An IISP shall keep visual evidence of a person's tampering or circumvention for a minimum of three years after the termination of the person's required ignition interlock period.
- J.** An IISP shall submit to the Department a list of the IISP-certified technicians, subcontractors, or agents, and service centers at the beginning of the contract with the Department, within 5 business days of making a change to the list previously provided, and on a monthly basis as requested by the Department.
- K.** An IISP shall comply with the provisions of this Article and A.R.S. Title 28, Chapter 4, Article 5.
- L.** A manufacturer shall develop and an IISP shall provide each person a reference and problem solving guide at the time of installation that shall include information on the following:
1. Operating a motor vehicle equipped with the CIID;
  2. Cleaning and caring for the CIID;
  3. Identifying and addressing any vehicle malfunctions or repairs that may affect the CIID; and
  4. How to properly take a valid and substantiated rolling retest.
- M.** A manufacturer shall notify the Department within 10 days of a change of address of its principal place of business in this state.
- N.** A manufacturer or an IISP shall provide a warning label, for each CIID installed, which shall have an orange background and shall include the following:
1. Be a minimum size of two inches by one inch;
  2. Be printed in a minimum of nine-point font;
  3. Be printed in Arial font, or a font of substantially similar size and legibility; and
  4. Contain the words in black lettering: "Warning! Any person tampering with, circumventing, or otherwise misusing this Ignition Interlock Device, is guilty of a Class 1 misdemeanor."
- O.** A manufacturer shall ensure that the IISP or the IISP-certified technician affixes conspicuously and maintains on each installed CIID the warning label described under subsection (N), which may be affixed to the device or to the device's cord.
- P.** A manufacturer shall develop written instructions for the installation and removal of an ignition interlock device from a motor vehicle.
- Q.** While a person maintains a functioning CIID in a vehicle under A.R.S. Title 28, Chapter 4, Article 5, the ignition interlock manufacturer shall electronically provide to the Department and transmit daily to the Department the information and reports prescribed in R17-5-610 and R17-5-615.
- R.** The manufacturer is responsible for overseeing any agents or subcontractors, including vendors and distributors, as well as overseeing the manufacturer's IISP to ensure adherence to all performance standards.
- at 13 A.A.R. 3499, effective December 1, 2007 (Supp. 07-4). Amended by final rulemaking at 20 A.A.R. 3132, effective April 1, 2015 (Supp. 14-4). Section repealed; new Section made by final exempt rulemaking at 24 A.A.R. 1725, effective July 1, 2018 (Supp. 18-2). Amended by final rulemaking at 26 A.A.R. 1047, effective July 5, 2020 (Supp. 20-2).
- R17-5-610. Reporting; Reportable Activity**
- A.** A person shall have installed in a motor vehicle, only an ignition interlock device certified by the Department under R17-5-604.
- B.** A manufacturer shall develop and the IISP shall ensure that each IISP-certified technician complies with the IISP's written procedures for the installation of a CIID.
- C.** Certified ignition interlock device installation verification.
1. A manufacturer shall electronically transmit a Certified Ignition Interlock Device Summarized Reporting Record to the Department within 24 hours of the device installation.
  2. The electronic Certified Ignition Interlock Device Summarized Reporting Record for installation verification shall contain all of the following information:
    - a. Department-assigned service center number;
    - b. Person's full name (first, middle, last and suffix);
    - c. Date of birth;
    - d. Driver license or customer number;
    - e. Report date;
    - f. Install date;
    - g. Report type;
    - h. Technician identification number;
    - i. A unique identification number for the CIID;
    - j. The last six digits of the vehicle identification number that matches the vehicle information on the data logger; and
    - k. Whether the Department, a court, or an out-of-state entity requires a person to have a CIID.
- D.** Certified ignition interlock device calibration check.
1. A manufacturer shall electronically transmit a Certified Ignition Interlock Device Summarized Reporting Record to the Department within 24 hours after performing a calibration check on an installed CIID.
  2. A manufacturer shall submit to the Department the following valid and substantiated proof or evidence of a reportable activity related to a violation, as prescribed in subsection (F), within 10 days by electronic means, which shall include:
    - a. A summary report stating why the data logger or any other evidence confirms the occurrence of a violation, including any digital images of the person; and
    - b. A data logger that shows at least 12 hours of data before and after the violation.
  3. A manufacturer may submit to the Department the following additional valid and substantiated proof or evidence of a reportable activity related to a violation, as prescribed in subsection (F), if available, within 10 days by electronic means, which may include:
    - a. Video recordings;
    - b. Written statements; and
    - c. Any other evidence relevant to a violation.
  4. The electronic Certified Ignition Interlock Device Summarized Reporting Record for the calibration check shall contain all of the following information:
    - a. Department-assigned service center number;
    - b. Person's full name (first, middle, last and suffix);
    - c. Date of birth;
    - d. Driver license or customer number;

**Historical Note**

New Section recodified from R17-4-709.08 at 7 A.A.R. 3483, effective July 20, 2001 (Supp. 01-3). Former R17-5-609 renumbered to R17-5-612; new R17-5-609 renumbered from R17-5-606 and amended by final rulemaking

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- e. Report date;
  - f. Install date;
  - g. Report type;
  - h. Missed rolling retest count, dates, and times;
  - i. Technician identification number;
  - j. Alcohol concentration violation count, dates, time, and alcohol concentration;
  - k. Tampering violation count, dates, and time;
  - l. Circumvention count, dates, and time;
  - m. Device download date;
  - n. Device download time;
  - o. Bypass code indication, date, and time;
  - p. A unique identification number for the CIID;
  - q. The last six digits of the vehicle identification number that matches the vehicle information on the data logger; and
  - r. Whether the Department, a court, or an out-of-state entity requires a person to have a CIID.
- E.** Certified ignition interlock device removal report.
1. When a certified ignition interlock device is removed, a manufacturer shall electronically transmit a Certified Ignition Interlock Device Summarized Reporting Record to the Department within 24 hours.
  2. The electronic Certified Ignition Interlock Device Summarized Reporting Record for removal of a device shall indicate the condition of noncompliance and contain all of the following information:
    - a. Department-assigned service center number;
    - b. Person's full name (first, middle, last and suffix);
    - c. Date of birth;
    - d. Driver license or customer number;
    - e. Report date;
    - f. Install date;
    - g. Removal date;
    - h. Report type;
    - i. Technician identification number;
    - j. A unique identification number for the CIID;
    - k. The last six digits of the vehicle identification number that matches the vehicle information on the data logger;
    - l. Whether the Department, a court, or an out-of-state entity requires a person to have a CIID;
    - m. Missed rolling retest count, dates, and times;
    - n. Device download date; and
    - o. Device download time.
- F.** Reportable activity for a person's noncompliance with these rules and A.R.S. Title 28, Chapter 4, Article 5, shall be limited to valid and substantiated instances by a person of any of the following transmitted electronically and wirelessly by the manufacturer to the Department in real-time within 24 hours:
1. Tampering with a CIID as defined in A.R.S. § 28-1301;
  2. Refusing or failing to provide any set of three consecutive valid and substantiated breath samples in response to a requested rolling retest within an 18-minute time frame during a person's drive cycle;
  3. Failing to provide proof of compliance or inspection of the CIID as required under A.R.S. § 28-1461(E)(4);
  4. Attempting to operate the vehicle with an alcohol concentration of 0.08 or more as prescribed in A.R.S. § 28-1461(E)(5) if the person is at least 21 years of age;
  5. Attempting to operate the vehicle with an alcohol concentration in excess of the set point if the person is under 21 years of age;
  6. Circumvention of a CIID as defined in R17-5-601; or
  7. Disconnecting or removing a CIID, except:
    - a. On repair of the vehicle, if the person provided to the IISP, technician, or service center advance notice of the repair and the anticipated completion date; or
    - b. On moving the device from one motor vehicle to another motor vehicle if replacement of the device is accomplished within 72 hours of device removal.
- G.** A person shall not avoid compliance with the rolling retest requirement by turning off a motor vehicle's ignition or by keeping the motor vehicle operating while the vehicle is parked, and leaving the vehicle when a rolling retest is requested. A missed rolling retest is reportable activity for a person's noncompliance under subsection (F).
- H.** A manufacturer shall screen each person's data loggers to ensure that there is no improper reporting.
- I.** A manufacturer shall ensure that a CIID has the necessary programming to identify each person's ignition interlock period and each drive cycle to report and send data and violations to the Department as required by these rules.
- J.** A manufacturer shall review within 10 days all reports sent by the Department and returned to the manufacturer for verification of accurate reporting. If a manufacturer finds that the reported information does not indicate valid and substantiated evidence of a violation, the manufacturer shall immediately contact the Department to correct the person's record before corrective action is initiated against a person as a result of misreported ignition interlock data.
- K.** A manufacturer shall immediately contact the Department if the manufacturer finds that the reported information indicates:
1. An obvious mechanical failure of a CIID;
  2. Obvious errors in the recorded CIID data that cannot be attributed to a person's actions;
  3. Obvious errors in the transmission of CIID data to the Department, including misreported instances of tampering; or
  4. Submission of an extension of a person's ignition interlock period or a violation to the Department when a person was not in the vehicle to take the rolling retests.
- L.** A manufacturer shall ensure that a CIID electronically and wirelessly uploads data in real-time to the manufacturer's website, that is maintained by the manufacturer, and the manufacturer shall submit all required information and reports in a daily FTP file to the Department.
- M.** In cases where no electronic or digital service exists, the manufacturer shall store the data and send the data as soon as electronic or digital service is available.
- N.** A manufacturer shall include the date of the last upload on the person's account on the manufacturer's website.
- O.** A CIID shall have constant communication between the manufacturer's server and relay unit while the device is in use.
- P.** All data, including digital images, shall be available to the Department for viewing on the manufacturer's website within five minutes after the data is recorded on the device, or as soon as electronic or digital reception permits.

**Historical Note**

New Section recodified from R17-4-709.09 at 7 A.A.R. 3483, effective July 20, 2001 (Supp. 01-3). Former R17-5-610 renumbered to R17-5-703; new R17-5-610 renumbered from R17-5-607 and amended by final rulemaking at 13 A.A.R. 3499, effective December 1, 2007 (Supp. 07-4). Amended by final rulemaking at 20 A.A.R. 3132, effective April 1, 2015 (Supp. 14-4). Amended by final exempt rulemaking at 24 A.A.R. 1725, effective July 1, 2018 (Supp. 18-2). Amended by final rulemaking at 26 A.A.R. 1047, effective July 5, 2020 (Supp. 20-2).

**Exhibit A. Renumbered**

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**Historical Note**

New Exhibit recodified from 17 A.A.C. 4, Article 7 at 7 A.A.R. 3483, effective July 20, 2001 (Supp. 01-3).  
Exhibit A renumbered to R17-5-703, Exhibit A, by final rulemaking at 13 A.A.R. 3499, effective December 1, 2007 (Supp. 07-4).

**Exhibit B. Renumbered****Historical Note**

New Exhibit recodified from 17 A.A.C. 4, Article 7 at 7 A.A.R. 3483, effective July 20, 2001 (Supp. 01-3).  
Exhibit B renumbered to R17-5-703, Exhibit B, by final rulemaking at 13 A.A.R. 3499, effective December 1, 2007 (Supp. 07-4).

**Appendix A. Repealed****Historical Note**

Appendix A renumbered from R17-5-607, Appendix A, and repealed by final rulemaking at 13 A.A.R. 3499, effective December 1, 2007 (Supp. 07-4).

**Appendix B. Repealed****Historical Note**

Appendix B renumbered from R17-5-607, Appendix B, and repealed by final rulemaking at 13 A.A.R. 3499, effective December 1, 2007 (Supp. 07-4).

**Appendix C. Repealed****Historical Note**

Appendix C renumbered from R17-5-607, Appendix C, and repealed by final rulemaking at 13 A.A.R. 3499, effective December 1, 2007 (Supp. 07-4).

**R17-5-611. Emergency Assistance; Continuity of Service to Persons**

- A.** For events occurring outside of normal business hours, an IISP shall provide to each person a 24-hour emergency toll-free phone number answered by a live person at all times, to provide assistance in the event a CIID fails to operate properly or a vehicle experiences a problem relating to the installation, operation, or failure of a CIID.
1. During normal business hours, if the IISP or technician receives a call for emergency assistance, and determines that a vehicle is experiencing a problem relating to the installation, operation, or failure of a CIID, an IISP or a technician shall respond to the call within 24 hours of the initial contact and shall be available either to:
    - a. Provide telephonically, the technical information required for the person to resolve the issue; or
    - b. Provide or arrange for appropriate towing or roadside assistance services if unable to resolve the issue telephonically.
  2. After receiving a person's call for emergency or other assistance, the IISP, technician, or manufacturer, as appropriate, shall either:
    - a. Make the CIID functional, if possible, within 24 hours, or
    - b. Replace or repair the CIID within 48 hours of the initial contact.
- B.** An IISP shall ensure uninterrupted service to a person for the duration of the person's ignition interlock period, which shall include facilitating the replacement of a technician, subcontractor, or an employee or agent who goes out of business, is removed, or a technician whose certification is cancelled by the IISP.

1. If a manufacturer terminates the IISP's authorization, the manufacturer shall obtain each person's records from the IISP and retain the records according to R17-5-612.
  2. At the end or termination of an ignition interlock service authorization agreement, the manufacturer shall provide the Department with electronic access to each person's ignition interlock records for three years.
  3. If a manufacturer authorizes a new IISP, the manufacturer shall notify each person affected by the authorization of the new IISP at least 30 days before the authorization becomes effective.
  4. If a manufacturer does not authorize a new IISP, the manufacturer at no cost to the person, shall:
    - a. Provide written notification to all persons who are affected by the loss of an IISP or lack of service in an area, at least 30 days before the IISP discontinues service. The written notification shall inform the person of the manufacturer's responsibility to facilitate removal and replacement of the CIID and shall provide the instructions necessary for the person to successfully exchange the device;
    - b. Remove the device from the vehicle of each affected person; and
    - c. Facilitate the replacement of each device through a manufacturer with an IISP that can provide service.
  5. A manufacturer shall notify the Department within 24 hours of replacing its IISP.
  6. An IISP shall submit to the Department an updated list of the IISP's certified technicians within 5 business days after making a change to the list provided to the Department under R17-5-609(J).
- C.** Except in an emergency situation, a manufacturer, an IISP, or an IISP's-certified technician shall not remove another manufacturer's CIID without the express permission of that manufacturer.
1. If in an emergency situation a manufacturer, an IISP, or the IISP's-certified technician removes another manufacturer's CIID, that manufacturer, IISP, or the IISP's-certified technician shall return the device to the original manufacturer within 72 hours of the emergency removal; and
  2. The original manufacturer, on receipt of the device, shall provide to the Department an electronic report of the device removal under R17-5-610, which shall include the transmission of all data stored in its data storage system.
- D.** In accordance with the IISP's implementation plan, an IISP shall facilitate the replacement of the IISP's service center if the service center goes out of business or the service center is closed, and the IISP does not have a service center in the county. An IISP shall notify the Department within 72 hours of replacing a service center location in a county.
1. If a service center closes and is replaced, the manufacturer shall make all reasonable efforts to obtain from the service center being replaced, all the individual ignition interlock records and data required to be retained under R17-5-612. The records shall be provided to, and maintained by the IISP.
  2. If an out-of-business or closed service center is not replaced, the manufacturer shall retain the records and data as required under R17-5-612, and shall provide the Department with electronic access to the records and data.
    - a. The manufacturer shall facilitate removal of all installed CIID's no longer serviced by the out-of-business or closed service center, and shall bear the cost of replacing each device with a serviceable

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CIID chosen by the person, even if the replacement device must be provided through an alternate manufacturer.

- b. The manufacturer shall, within 30 days, make a reasonable effort to notify its customers of the change of service center or replacement of a device.
3. If the manufacturer cannot comply with subsection (D)(1) or subsection (D)(2), the IISP shall:
  - a. Notify its customers and the Department that service will be terminated; and
  - b. Remove each device at no cost to the customer.

**Historical Note**

Section R17-5-611 renumbered from R17-5-608 and amended by final rulemaking at 13 A.A.R. 3499, effective December 1, 2007 (Supp. 07-4). Amended by final rulemaking at 20 A.A.R. 3132, effective April 1, 2015 (Supp. 14-4). Amended by final exempt rulemaking at 24 A.A.R. 1725, effective July 1, 2018 (Supp. 18-2).

**R17-5-612. Records Retention; Submission of Copies and Quarterly Reports**

- A. During the duration of the ignition interlock service authorization agreement, an IISP shall retain each person's ignition interlock activity records in an electronic format, including a secure database, or a paper format. The retained records shall consist of every document relating to installation, operation, and removal of the CIID. The IISP shall maintain all daily ignition interlock activity records of each person in the device's data storage system, or in a secure database at a commercial business location in this state, that the Department may access during posted business hours. An IISP shall inform the Department where all individual ignition interlock activity records are located.
- B. Prior to the end or termination of an ignition interlock service authorization agreement, the manufacturer shall obtain all person's ignition interlock records and provide the Department with electronic access to the records for three years.
- C. A manufacturer shall provide copies of each person's ignition interlock records to the Department within 10 days after Department personnel request copies of records, including records relating to installation and operation of the CIID.
- D. A manufacturer shall electronically send to the Department, by the 10th day of January, April, July, and October, a quarterly report containing the following information for the previous three months:
  1. The number of CIID's the IISP currently has in service;
  2. The number of CIID's installed since the previous quarterly report;
  3. The number of CIID's removed by the IISP since the previous quarterly report; and
  4. Other information required by the Department.
- E. An IISP shall maintain and make available to the Department the ignition interlock records of all persons served by the IISP, records relating to the authorization agreement, and employee background check information at a commercial business location in this state of the manufacturer or the IISP during normal business hours.

**Historical Note**

Section R17-5-612 renumbered from R17-5-609 and amended by final rulemaking at 13 A.A.R. 3499, effective December 1, 2007 (Supp. 07-4). Amended by final rulemaking at 20 A.A.R. 3132, effective April 1, 2015 (Supp. 14-4). Amended by final exempt rulemaking at 24 A.A.R. 1725, effective July 1, 2018 (Supp. 18-2). Amended by final rulemaking at 26 A.A.R. 1047, effective July 5, 2020 (Supp. 20-2).

effective July 5, 2020 (Supp. 20-2).

**R17-5-613. Inspections and Complaints**

- A. The Department shall investigate any complaint that is related to a CIID or an IISP.
- B. An IISP and a manufacturer shall permit and fully cooperate with periodic on-site inspections of the IISP's service centers and principal places of business of the manufacturer at any time during normal business hours by an authorized representative of the Department, where records relating to the authorization agreement and individual ignition interlock device records are maintained.
- C. The Department shall conduct on-site inspections of a manufacturer, or a service center under the provisions of A.R.S. § 41-1009. The inspection shall include an examination of ignition interlock activity, records and verification of an adequate supply of the warning labels that meet the requirements of A.R.S. § 28-1462 and R17-5-609.

**Historical Note**

New Section made by final rulemaking at 13 A.A.R. 3499, effective December 1, 2007 (Supp. 07-4). Amended by final rulemaking at 20 A.A.R. 3132, effective April 1, 2015 (Supp. 14-4). Amended by final exempt rulemaking at 24 A.A.R. 1725, effective July 1, 2018 (Supp. 18-2).

**R17-5-614. Ignition Interlock Device Installation Fee; Financial Records**

- A. An IISP shall collect an ignition interlock device installation fee of twenty dollars from each participant for each CIID that is installed in, or transferred to a motor vehicle by an IISP.
- B. An IISP shall electronically remit the collected ignition interlock device installation fees paid by all persons to the Department on a monthly basis through a payment account created by the IISP, as determined by the Department, by transferring the collected fees paid during the previous month to the Department by the tenth day of the following month.
- C. An IISP shall not charge a person an installation fee to replace a defective ignition interlock device.
- D. An IISP shall post the amount of the ignition interlock device installation fee and the statutory authority for the ignition interlock device installation fee required by A.R.S. § 28-1462 on the IISP's website, that is available to all persons with an ignition interlock device requirement, and in a visible location at each of the IISP's service centers.
- E. An IISP must clearly post the amount of all other fees charged to a person for ignition interlock device services.
- F. An IISP shall maintain the financial records of the ignition interlock device installation fee collection and transfer to the Department, at an IISP's established place of business, or in a secure database, for three years from the date of the fee transfer. The Department may review the financial records of an IISP during normal business hours, to ensure compliance with the collection and transfer of the ignition interlock device installation fee to the Department.

**Historical Note**

New Section made by final exempt rulemaking at 24 A.A.R. 1725, effective July 1, 2018 (Supp. 18-2). Section repealed; new Section made by final rulemaking at 26 A.A.R. 1047, effective July 5, 2020 (Supp. 20-2).

**R17-5-615. Rolling Retest; Missed Rolling Retest; Extension of Ignition Interlock Period**

- A. A manufacturer shall report to the Department any valid and substantiated missed rolling retests, as defined in R17-5-601, that occur during the time period prescribed in subsection (E).

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- B. A CIID shall have the capability to require a rolling retest and meet the requirements of a rolling retest. A person shall be prompted for the first rolling retest within five to 15 minutes after the initial test required to start an engine, and the device shall prompt for additional rolling retests at random intervals of up to 30 minutes after each previously requested and passed rolling retest.
- C. A certified ignition interlock device shall:
  - 1. Emit a warning light, tone, or both, to alert a person that a rolling retest is required;
  - 2. Allow a period of six minutes after the warning light, tone, or both, to allow a person to take a rolling retest;
  - 3. Require a person to perform a new test to restart an engine if it is switched off during or after a rolling retest warning;
  - 4. Allow a free restart of a motor vehicle's ignition, within three minutes after the ignition is switched off, without requiring another breath alcohol test, except when a rolling retest is in progress;
  - 5. Use the set point value for startups and retests;
  - 6. Record, in its data storage system, the result of each rolling retest performed by a person during the person's drive cycle, and any valid and substantiated missed rolling retests; and
  - 7. Immediately require another rolling retest each time a person refuses to perform a requested rolling retest.
- D. Until a person successfully performs a rolling retest, or the engine is switched off, a device shall record in its data storage system, each subsequent refusal or failure of the person to perform the requested rolling retest.
- E. The Department shall count one missed rolling retest for a person who refuses or fails to provide a valid and substantiated breath sample in response to a requested rolling retest if not followed by the person providing a valid and substantiated breath sample within six minutes.
- F. Failure to take a rolling retest when a person's breath alcohol concentration is equal to or exceeds the set point shall not sound the vehicle horn, nor any type of siren, bell, whistle or any device emitting a similar sound, or any unreasonable loud or harsh sound that is audible outside of the vehicle, and shall not cause the engine of the vehicle to shut off.
- G. The Department shall extend a person's ignition interlock period for six months, as provided in A.R.S. § 28-1461(E) for any set of three consecutive missed rolling retests that occur within an 18-minute time frame during a drive cycle.
- H. If during one drive cycle, a person who is at least 21 years of age, has two or more breath alcohol concentrations of 0.08 or more, the Department shall count this as one violation, and shall extend a person's ignition interlock period for six months.
- I. If during one drive cycle, a person who is under 21 years of age, has any breath alcohol concentration one or more times, the Department shall count this as one violation, and shall extend a person's ignition interlock period for six months.
- J. Except as provided in subsections (H) and (I), if during one drive cycle, a person has more than one violation as defined in R17-5-601, the Department shall extend a person's ignition interlock period for six months for each violation.

**Historical Note**

New Section made by final exempt rulemaking at 24 A.A.R. 1725, effective July 1, 2018 (Supp. 18-2).

**R17-5-616. Civil Penalties; Hearing**

- A. After notice and an opportunity for a hearing, the Director may impose a civil penalty pursuant to A.R.S. § 28-1465, against a manufacturer of a certified ignition interlock device for

improper reporting to the Department of ignition interlock data, as defined in R17-5-601. The Director may impose and collect a civil penalty against a manufacturer of a certified ignition interlock device, who is responsible for an occurrence of improper reporting, as follows:

1. \$100 for the first occurrence, but not to exceed \$1,000 per series of occurrences of improper reporting on a specific date;
  2. \$250 for the second occurrence, but not to exceed \$2,500 per series of occurrences of improper reporting on a specific date; and
  3. \$500 for the third or subsequent occurrence, but not to exceed \$5,000 per series of occurrences of improper reporting on a specific date.
- B. The Director, on finding that a manufacturer engaged in improper reporting, shall mail a notice to the manufacturer stating that civil penalties may be imposed for improper reporting. The notice shall:
    1. Specify the basis for the action; and
    2. State that the manufacturer may, within 15 days after receipt of the notice, file a written request for a hearing with the Department's Executive Hearing Office as prescribed in 17 A.A.C. 1, Article 5.
  - C. A manufacturer who is aggrieved by an assessment, decision, or order of the Department under A.R.S. § 28-1465 and this Section may seek judicial review under A.R.S. Title 12, Chapter 7, Article 6.
  - D. The manufacturer shall pay the civil penalty imposed under this Section to the Department no later than 30 days after the order is final.
  - E. If the manufacturer fails to pay the civil penalty within 30 days after the order is final, the director may file an action in the superior court in the county in which the hearing is held to collect the civil penalty.

**Historical Note**

New Section made by final exempt rulemaking at 24 A.A.R. 1725, effective July 1, 2018 (Supp. 18-2).

Amended by final rulemaking at 26 A.A.R. 1047, effective July 5, 2020 (Supp. 20-2).

**R17-5-617. Cease and Desist**

- A. If the Director has reasonable cause to believe that a party to an IISP authorization agreement is violating any provision of state statute, administrative rule, or the authorization agreement, the Director will immediately issue and serve a cease and desist order by mail to the IISP's last known address.
- B. On receipt of the cease and desist order, the IISP shall immediately cease and desist from further engaging in any activity that is not authorized in state statute, administrative rule, or the agreement, and that is specified in the cease and desist order.
- C. On failure of the IISP to comply with the cease and desist order, the IISP may request a hearing with the Department's Executive Hearing Office under 17 A.A.C. 1, Article 5 within 15 days. On failure of the IISP to comply with the cease and desist order, the Director will immediately cancel the agreement with the IISP.

**Historical Note**

New Section made by final exempt rulemaking at 24 A.A.R. 1725, effective July 1, 2018 (Supp. 18-2).

**R17-5-618. Service Centers; Mobile Services**

- A. An IISP shall have at least one readily accessible service center in each county in this state that performs all ignition interlock services, including service, calibration, installation, inspection, and removal of a CIID by a technician who is trained and certified by the IISP for the specific service area.

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- B.** An IISP, subcontractor, agent, or an employee who operates a service center, or provides mobile services as an extended service provided by a service center on a temporary or emergency basis, shall meet the requirements in these rules before conducting CIID-related business in this state.
- C.** A service center shall maintain sufficient staffing to provide an acceptable level of ignition interlock device services during all posted business hours.
- D.** A technician that provides mobile services shall be stationed and employed at the IISP's service center and be certified in the ignition interlock service area the technician will provide.
- E.** When a service center technician provides mobile services, an IISP shall ensure that the service center has another technician or employee available at the service center to provide ignition interlock device services.
- F.** An IISP's service center shall:
1. Be located in a permanent, fixed-site facility that accommodates installing, inspecting, downloading, calibrating, monitoring, maintaining, servicing, and removing a CIID;
  2. Provide a designated waiting area for a person that is separate from the installation area;
  3. Ensure that a person does not witness installation of the CIID;
  4. Through the IISP, the IISP-certified technician or employee, provide the necessary training required by R17-5-609(D) for a person to operate a CIID;
  5. Ensure that a technician meets the necessary requirements in order to receive and maintain certification before a technician or an IISP conducts ignition interlock device business in this state; and
  6. Have the necessary equipment and tools to provide all ignition interlock services in a professional manner.
- G.** A service center that provides mobile services shall:
1. Have the capability to provide all the ignition interlock services in subsection (F)(1);
  2. Meet the requirements in subsection (F)(3) through (F)(6);
  3. Have permission from the motor vehicle owner to provide mobile services; and
  4. Ensure that a technician provides business identification to a person requesting service prior to performing services, along with the service center certificate and the technician's training certificate.
- H.** A service center that provides mobile services shall not operate from a tow truck.
- I.** An IISP that operates a service center, shall ensure that an IISP-certified technician utilizes all of the following:
1. The analysis of a reference sample such as headspace gas from a mixture of water and alcohol, the results of which shall agree with the reference sample predicted value, or other methodologies approved by the Department. The preparatory documentation on the reference sample solution, such as a certificate of analysis, shall be made available to the Department on request.
  2. The set point value established under R17-5-601. All analytical results shall be expressed in grams of alcohol per 210 liters of breath (g/210L).
  3. The most current versions of manufacturer software and firmware to ensure continuous compliance under this Article and A.R.S. Title 28, Chapter 4, Article 5.
- J.** An IISP shall ensure that a motor vehicle used to provide mobile services from a service center has current vehicle registration in this state and maintains the required mandatory insurance and financial responsibility coverage in A.R.S. § 28-4009.
- K.** A technician shall ensure that a person who receives mobile services receives the same level of training and service as a person who receives services at a service center.
- L.** The manufacturer shall ensure that a CIID electronically transmits the Summarized Reporting Record for a calibration check to the Department as provided in R17-5-610(D)(4).

**Historical Note**

New Section made by final exempt rulemaking at 24 A.A.R. 1725, effective July 1, 2018 (Supp. 18-2).

**R17-5-619. Application; IISP Implementation Plan**

- A.** An IISP that applies for authorization of an ignition interlock service provider contract under A.R.S. § 28-1468 shall submit all documents and meet all the requirements in the ignition interlock service provider authorization agreement; in Title 28, Chapter 5, Article 4, Arizona Revised Statutes; and these rules.
- B.** In addition to this information, an IISP shall submit to the Department, with the application, a detailed implementation plan that outlines the steps and time frames necessary for the IISP to be fully operational. The implementation plan must include:
1. The IISP's plan for establishing a service center in every county in this state;
  2. The IISP's procedures for imposing progressive discipline on its employees, agents, or subcontractors who fail to comply with the requirements of Arizona statute; Department administrative rules; or the terms of the authorization agreement;
  3. A plan for transitioning ignition interlock services to another IISP that ensures continuous monitoring will occur if a participant decides to transition services to another IISP or if the IISP ceases conducting business or leaves this state;
  4. A means by which the IISP will provide all participant records and information or electronic access to the records and information to the ignition interlock device manufacturer in the event the IISP ceases conducting business or leaves this state. At the end or termination of an ignition interlock service authorization agreement, the manufacturer shall provide the Department with electronic access to all person's ignition interlock records for three years; and
  5. Documentation that the IISP is an authorized agent of the manufacturer and a point of contact for the manufacturer, including the IISP's telephone number and e-mail address.
- C.** An IISP shall be approved by the Director through the application for authorization agreement process before offering ignition interlock services in the state.
- D.** An IISP shall use this process to reapply to the Director for reauthorization of an ignition interlock service provider contract.

**Historical Note**

New Section made by final exempt rulemaking at 24 A.A.R. 1725, effective July 1, 2018 (Supp. 18-2).

**R17-5-620. Authorization Time Frame; Ignition Interlock Service Provider**

- A.** The Director shall, within 10 days of the date of receipt of an application for authorization of an ignition interlock service provider contract, provide notice to the IISP that the application is either complete or incomplete.
1. The date of receipt is the date the Director receives the application.
  2. If an application is incomplete, the dated notice shall specifically identify the required information that is missing.

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- B. An applicant with an incomplete application shall provide all missing information to the Director within 15 days of the Director's notice.
  - 1. After receiving all of the required information, the Director shall notify the IISP that the application is complete.
  - 2. The Director may deny an IISP's application if the IISP fails to provide the required information within 15 days of the Director's notice.
- C. The Director shall render a decision on an application for authorization within 30 days of the date on the notice acknowledging receipt of a complete application, provided to the applicant under subsections (A) or (B).
- D. If the Director denies an application for authorization, the Director shall notify the IISP in writing within 20 days after the denial, and of the grounds for the denial in accordance with A.R.S. § 28-1468 (E).
- E. For the purposes of A.R.S. § 41-1073, the Department establishes the following time frames for the purpose of reviewing an application for authorization:
  - 1. Administrative completeness review time frame: 10 days.
  - 2. Substantive review time frame: 30 days.
  - 3. Overall time frame: 40 days.
- F. The Director shall use this process for reapplication for authorization of an ignition interlock service provider contract.
  - d. A statement that the IISP agrees to immediately notify the Department of any change to the information provided on the application form.
- C. The Department shall process an IISP's service center application only if the IISP meets all applicable application requirements.
- D. The Department shall, within 10 days of receiving a service center application, provide notice to the IISP that the application is either complete or incomplete.
  - 1. The date of receipt is the date the Department receives the application.
  - 2. If an application is incomplete, the notice shall specifically identify the required information that is missing.
- E. An IISP with an incomplete application shall provide all missing information to the Department within 15 days of the date on the Department's notice.
  - 1. After receiving all of the required information, the Department shall notify the IISP that the application is complete.
  - 2. The Department may deny approval of a service center if the IISP fails to provide the required information within 15 days of the date on the notice.
- F. The Department shall render a decision on a service center application within 30 days of the date indicated on the notice acknowledging receipt of a complete application provided to the IISP under subsections (D) or (E).
- G. For the purpose of A.R.S. § 41-1073, the Department establishes the following time frames for processing an application for approval of a service center:
  - 1. Administrative completeness review time frame: 10 days.
  - 2. Substantive review time frame: 30 days.
  - 3. Overall time frame: 40 days.
- H. If a service center is no longer authorized by a manufacturer to install its CIID, the IISP shall notify the Department within 24 hours.
- I. An IISP shall be the authorized representative of a specific manufacturer while the authorization agreement is in effect, for a service center to install the manufacturer's CIID.
- J. If an IISP, subcontractor, or agent opens or relocates a service center, or the service center is operated by another entity, an IISP, subcontractor, or agent shall submit a new service center application for approval.
- K. An IISP shall use this process to reapply to the Department for a service center application.

**Historical Note**

New Section made by final exempt rulemaking at 24 A.A.R. 1725, effective July 1, 2018 (Supp. 18-2).

**R17-5-621. Service Center Application**

- A. On approval by the Director of an IISP's signed application for authorization to provide ignition interlock services, an IISP shall submit to the Department for approval a properly completed service center application for approval of the IISP's service centers.
- B. An IISP shall provide the following information to the Department:
  - 1. The service center name, which shall match the name on the service center;
  - 2. The business address of the established place of business of each service center or business location;
  - 3. The telephone number of each established place of business of each service center or business location;
  - 4. The service center's legal status as a sole proprietorship, partnership, limited liability company, or a corporation;
  - 5. The name of the sole proprietor, each partner, officer, director, manager, member, agent, or 20% or more stockholder;
  - 6. The name and model number of each CIID the IISP plans to install;
  - 7. An indication of any service centers that will provide mobile services;
  - 8. Any applicable business licenses and the governmental entity; and
  - 9. The following statements signed by the IISP:
    - a. A statement that all information provided on the application, including all information provided on any attachment to the application is complete, true, and correct;
    - b. A statement that the IISP agrees to indemnify and hold harmless from all liability the state of Arizona and any department, division, agency, officer, employee, or agent of the state of Arizona;
    - c. A statement that the IISP agrees to comply with all requirements in these rules; and

**Historical Note**

New Section made by final exempt rulemaking at 24 A.A.R. 1725, effective July 1, 2018 (Supp. 18-2).  
Amended by final rulemaking at 26 A.A.R. 1047, effective July 5, 2020 (Supp. 20-2).

**R17-5-622. Technician Application**

- A. On approval by the Department of an IISP's service center application, an IISP shall submit to the Department for approval, a properly completed technician application with the following information:
  - 1. Name of the technician;
  - 2. The technician's date of birth;
  - 3. The technician's residence address;
  - 4. The technician's driver license number;
  - 5. Name of the service center where the technician is employed;
  - 6. Location of the service center where the technician is employed; and
  - 7. The following statements signed by the technician and the IISP:



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- a. A statement that all information provided on the application form, including all information provided on any attachment to the application form is complete, true, and correct;
  - b. A statement that the technician and the IISP agree to indemnify and hold harmless from all liability the state of Arizona and any department, division, agency, officer, employee, or agent of the state of Arizona;
  - c. A statement that the technician agrees to comply with all requirements in these rules; and
  - d. A statement that the IISP agrees to immediately notify the Department of any change to the information provided on the application form.
- B.** The Department shall process a technician's application only if a technician meets all applicable application requirements.
- C.** The Department shall, within 10 days of receiving a technician application, provide notice to the applicant that the application is either complete or incomplete.
- 1. The date of receipt is the date the Department receives the application.
  - 2. If an application is incomplete, the notice shall specifically identify the required information that is missing.
- D.** An applicant with an incomplete application shall provide all missing information to the Department within 15 days of the date on the Department's notice.
- 1. After receiving all of the required information, the Department shall notify the applicant that the application is complete.
  - 2. The Department may deny approval of a technician application if the applicant fails to provide the required information within 15 days of the date on the notice.
- E.** The Department shall render a decision on a technician application within 30 days of the date indicated on the notice acknowledging receipt of a complete application provided to the IISP under subsections (C) or (D).
- F.** For the purpose of A.R.S. § 41-1073, the Department establishes the following time frames for processing an application for approval of a technician:
- 1. Administrative completeness review time frame: 10 days.
  - 2. Substantive review time frame: 30 days.
  - 3. Overall time frame: 40 days.
- G.** If an IISP and the IISP's technician are no longer authorized by a manufacturer to install its CIID, the IISP shall notify the Department within 24 hours.
- H.** An IISP shall be the authorized representative of a specific manufacturer that has an authorization agreement in effect for a technician to service the manufacturer's CIID.
- I.** An IISP shall submit a separate technician application when an IISP hires a new technician.
- J.** After the Department approves a technician, the Department will assign to each technician, a unique technician identification number to identify each technician who installs, calibrates, inspects, or removes a CIID.
- K.** An IISP shall use this process to reapply to the Department for a technician application.

**Historical Note**

New Section made by final exempt rulemaking at 24 A.A.R. 1725, effective July 1, 2018 (Supp. 18-2).

**R17-5-623. Termination of Authorization; Notification**

- A.** If the Director terminates an IISP's authorization agreement, the Director shall notify each person with the manufacturer's CIID that the person has 30 days to obtain another IISP.
- B.** Any IISP owner or principal whose agreement has been terminated as a result of the IISP's authorization being cancelled is

not eligible to re-apply for authorization from the Department until 36 months after the date of termination.

**Historical Note**

New Section made by final exempt rulemaking at 24 A.A.R. 1725, effective July 1, 2018 (Supp. 18-2).

**ARTICLE 7. IGNITION INTERLOCK DEVICE TECHNICIANS****R17-5-701. Definitions**

The definitions provided under A.R.S. §§ 28-101 and R17-5-601 apply to this Article unless the context otherwise requires.

**Historical Note**

New Section recodified from R17-4-801 at 7 A.A.R. 3483, effective July 20, 2001 (Supp. 01-3). Section repealed by final rulemaking at 12 A.A.R. 2297, effective August 5, 2006 (Supp. 06-2). New Section made by final rulemaking at 13 A.A.R. 3499, effective December 1, 2007 (Supp. 07-4). Amended by final rulemaking at 20 A.A.R. 3132, effective April 1, 2015 (Supp. 14-4). Section amended by final exempt rulemaking at 24 A.A.R. 1725, effective July 1, 2018 (Supp. 18-2).

**R17-5-702. Records Check; Technician Qualifications; IISP Self-Certification of Technician**

- A.** If the Director enters into an IISP's ignition interlock authorization agreement under A.R.S. § 28-1468, an IISP shall conduct an annual criminal records check and a certified driver's license record check on all employees, agents, or subcontractors listed on the IISP's application within 30 days prior to each individual's start date.
- B.** An IISP shall self-certify and train a technician in the service area that the technician will provide.
- C.** The qualifications for a technician are:
  - 1. A technician shall be at least 18 years of age.
  - 2. A technician who is required to drive a motor vehicle on a highway in this state in the technician's capacity shall have a valid Arizona driver license as required by A.R.S. § 28-3151, unless exempted under A.R.S. § 28-3152.
  - 3. A technician shall have the necessary mechanical ability, training, and certification from the IISP required to perform installation, inspection, service, calibration, or removal of a CIID from a motor vehicle.
- D.** A technician shall:
  - 1. Maintain the confidentiality of any personal information, driver license information, or ignition interlock data or reports relating to a person;
  - 2. Ensure that a person does not observe the technician's actions relating to installation and removal of a CIID;
  - 3. Comply with the ignition interlock rules in 17 A.A.C. 5, Articles 6 and 7, and Arizona Revised Statutes Title 28, Chapter 4, Article 5; and
  - 4. Conduct installation, service, calibration, inspection, or removal of an ignition interlock device from a motor vehicle in accordance with industry standards.
- E.** A technician is prohibited from using the global positioning system capabilities of a CIID to track the location of a person and shall not release location information gathered by the CIID.

**Historical Note**

New Section recodified from R17-4-805 at 7 A.A.R. 3483, effective July 20, 2001 (Supp. 01-3). Section repealed by final rulemaking at 12 A.A.R. 2297, effective August 5, 2006 (Supp. 06-2). New Section made by final rulemaking at 13 A.A.R. 3499, effective December 1, 2007 (Supp. 07-4). Amended by final rulemaking at 20

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A.A.R. 3132, effective April 1, 2015 (Supp. 14-4). Section repealed; new Section made by final exempt rulemaking at 24 A.A.R. 1725, effective July 1, 2018 (Supp. 18-2).

**R17-5-703. Repealed****Historical Note**

New Section recodified from R17-4-806 at 7 A.A.R. 3483, effective July 20, 2001 (Supp. 01-3). Section repealed by final rulemaking at 12 A.A.R. 2297, effective August 5, 2006 (Supp. 06-2). Section R17-5-703 renumbered from R17-5-610 and amended by final rulemaking at 13 A.A.R. 3499, effective December 1, 2007 (Supp. 07-4). Amended by final rulemaking at 20 A.A.R. 3132, effective April 1, 2015 (Supp. 14-4). Section repealed by final exempt rulemaking at 24 A.A.R. 1725, effective July 1, 2018 (Supp. 18-2).

**Exhibit A. Repealed****Historical Note**

Exhibit A renumbered from R17-5-610, Exhibit A, and repealed by final rulemaking at 13 A.A.R. 3499, effective December 1, 2007 (Supp. 07-4).

**Exhibit B. Repealed****Historical Note**

Exhibit B renumbered from R17-5-610, Exhibit B, and repealed by final rulemaking at 13 A.A.R. 3499, effective December 1, 2007 (Supp. 07-4).

**R17-5-704. Repealed****Historical Note**

New Section recodified from R17-4-807 at 7 A.A.R. 3483, effective July 20, 2001 (Supp. 01-3). Section repealed by final rulemaking at 12 A.A.R. 2297, effective August 5, 2006 (Supp. 06-2). New Section made by final rulemaking at 13 A.A.R. 3499, effective December 1, 2007 (Supp. 07-4). Amended by final rulemaking at 20 A.A.R. 3132, effective April 1, 2015 (Supp. 14-4). Section repealed by final exempt rulemaking at 24 A.A.R. 1725, effective July 1, 2018 (Supp. 18-2).

**R17-5-705. Repealed****Historical Note**

New Section recodified from R17-4-808 at 7 A.A.R. 3483, effective July 20, 2001 (Supp. 01-3). Section repealed by final rulemaking at 12 A.A.R. 2297, effective August 5, 2006 (Supp. 06-2). New Section made by final rulemaking at 13 A.A.R. 3499, effective December 1, 2007 (Supp. 07-4). Amended by final rulemaking at 20 A.A.R. 3132, effective April 1, 2015 (Supp. 14-4). Section repealed by final exempt rulemaking at 24 A.A.R. 1725, effective July 1, 2018 (Supp. 18-2).

**R17-5-706. Calibration Check; Requirements**

- A. An IISP-certified technician shall inspect, maintain, and check each CIID for calibration accuracy and operational performance before the device is placed into, or returned to service.
- B. A person with a CIID installed on a motor vehicle is responsible for obtaining a calibration check of the CIID by the IISP's technician at the IISP's service center within every 77 to 90-day period after device installation, and every 77 to 90 days thereafter, during the person's ignition interlock period.
- C. An IISP-certified technician shall perform a calibration check at the IISP's service center at least once every 90 days after device installation, and at least every 90 days thereafter.

- D. The calibration check performed under R17-5-610 shall include an inspection of the device to verify that it is properly functioning in accordance with all of the following criteria:

1. Accuracy standards as prescribed under R17-5-603;
  - a. The device shall be calibrated before placed into, or returned to service.
  - b. The calibration test shall consist of introducing to the device a known alcohol concentration from a reference sample device, the analysis of which indicates the device's agreement with the known concentration. The manufacturer's software shall be capable of performing, documenting, and reporting the result of this calibration test. The calibration test result shall verify the accuracy of the ignition interlock device according to the standards prescribed under R17-5-603; and
2. Anticircumvention standards and operational features as prescribed under R17-5-603.

- E. The calibration test referenced under subsection (D) shall be performed when the information uploaded from a device indicates that the device has experienced an interruption in service or was completely disconnected. Additionally, the complete device, including the camera and its connection to the vehicle, shall be examined for evidence of tampering while it is still attached to the vehicle. An IISP shall document or photograph any evidence of tampering or circumvention and submit the documentation to the Department as required by these rules and A.R.S. Title 28, Chapter 4, Article 5.
- F. If calibration confirmation test results reveal that the device is not properly calibrated, the device shall be recalibrated to restore the accuracy standards prescribed under R17-5-603 before the device is returned to service.
- G. At least once every 90 days, a technician shall perform a physical inspection of the ignition interlock device, including an anticircumvention check, while it is still attached to the vehicle.
- H. A technician shall perform a physical inspection of the ignition interlock device any time an early recall occurs.
- I. If at any time an individual device model fails to meet the provisions of this Section, the manufacturer, IISP, or IISP-certified technician, as appropriate, shall either:
  1. Repair, recalibrate, and retest the device model to ensure that it does meet all applicable standards; or
  2. Remove the device model from service.

**Historical Note**

New Section recodified from R17-4-501 at 7 A.A.R. 3483, effective July 20, 2001 (Supp. 01-3). Section repealed by final rulemaking at 12 A.A.R. 2297, effective August 5, 2006 (Supp. 06-2). New Section made by final rulemaking at 13 A.A.R. 3499, effective December 1, 2007 (Supp. 07-4). Amended by final rulemaking at 20 A.A.R. 3132, effective April 1, 2015 (Supp. 14-4). Amended by final exempt rulemaking at 24 A.A.R. 1725, effective July 1, 2018 (Supp. 18-2).

**R17-5-707. Repealed****Historical Note**

New Section made by final rulemaking at 13 A.A.R. 3499, effective December 1, 2007 (Supp. 07-4). Amended by final rulemaking at 20 A.A.R. 3132, effective April 1, 2015 (Supp. 14-4). Section repealed by final exempt rulemaking at 24 A.A.R. 1725, effective July 1, 2018 (Supp. 18-2).

**R17-5-708. Repealed**

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**Historical Note**

New Section made by final rulemaking at 13 A.A.R. 3499, effective December 1, 2007 (Supp. 07-4).

Amended by final rulemaking at 20 A.A.R. 3132, effective April 1, 2015 (Supp. 14-4). Section repealed by final exempt rulemaking at 24 A.A.R. 1725, effective July 1, 2018 (Supp. 18-2).

**ARTICLE 8. MANDATORY INSURANCE AND FINANCIAL RESPONSIBILITY****R17-5-801. Definitions**

In addition to the definitions under A.R.S. §§ 28-101 and 28-4001, in this Chapter, unless otherwise specified:

*“Arizona Mandatory Insurance Reporting System Guide for Insurance Companies”* means the Department’s guide that is available on the agency’s website and provides technical information to a company about information transmission between the Department and the company.

*“Company”* means an insurance or indemnity company authorized to write motor vehicle liability coverage in Arizona.

*“Customer number”* means the system-generated, or other distinguishing number, assigned by the Department to each person conducting business with the Department, as prescribed in R17-5-805.

*“EDI”* means electronic data interchange, which is the transmission of data in a standardized format from one computer to another without the use of magnetic tape.

*“EDI reporting”* means the computer-to-computer transmission of data from a company to the Department.

*“Error return”* means the computer-to-computer transmission, from the Department to a company, of all data reporting errors received during EDI reporting.

*“FEIN”* means the federal employer identification number or federal tax identification number used to identify a business entity.

*“FTP”* means file transfer protocol, which is a common protocol used by the Department for exchanging files over any network that supports EDI reporting transmitted through the Internet or Intranet.

*“Information exchange”* means EDI reporting where a company or service provider transmits a report to the Department through a connection to a private information network.

*“Motor Vehicle Division”* means the Arizona Department of Transportation’s Motor Vehicle Division.

*“NAIC”* means the National Association of Insurance Commissioners.

*“Private information network”* means the value-added network used by a company or service provider to facilitate EDI transmissions to the Department and to provide other network services where fees are charged for the network connection based on the number of characters and messages transmitted.

*“Reportable activity”* means the information required to be transmitted to the Department under A.R.S. § 28-4148 and this Article.

*“Self-insurer”* means a person or entity that has met the qualifications, completed the application process, and received a certificate of self-insurance issued by the Department under R17-5-810.

*“Service provider”* means a person or entity that reports for an insurance company through a connection to a private information network or an FTP for EDI reporting.

*“SR22”* means a certification filed, by a company duly authorized to transact business in this state, as proof of financial responsibility for the future, which guarantees that the insured owner or operator has in effect at least the minimum motor vehicle liability insurance coverage required under A.R.S. Title 28, Chapter 9, Article 3.

*“SR26”* means a certification filed by a company duly authorized to transact business in this state, which notifies the Department that an insured owner or operator required to maintain proof of financial responsibility for the future, under A.R.S. Title 28, Chapter 9, Article 3, is no longer covered under a previously reported SR22.

*“Value-added network”* means a private network provider that is hired by a company to facilitate EDI or provide other network services.

*“X12”* means the American National Standards Institute, Accredited Standards Committee, uniform standards for the inter-industry electronic exchange of business transactions by EDI.

*“X12 (TS811)”* means X12 Transaction Set 811, Consolidated Service Invoice – Statement, version 3050, which is the specific set of EDI transactions developed for the insurance industry in the X12 standard format for automobile liability insurance reporting.

**Historical Note**

New Section made by final rulemaking at 13 A.A.R. 858, effective March 6, 2007 (Supp. 07-1). Section amended by final expedited rulemaking at 24 A.A.R. 279, effective January 12, 2018 (Supp. 18-1).

**R17-5-802. Insurance Company Electronic Reporting Requirement; Applicability**

- A. A company that provides motor vehicle liability insurance coverage for an Arizona vehicle shall electronically transmit to the Department all reportable activity under A.R.S. § 28-4148 and R17-5-803 using one of the authorized EDI reporting methods identified in the *Arizona Mandatory Insurance Reporting System Guide for Insurance Companies*. Each transmission shall include all of the applicable record matching criteria prescribed under R17-5-804 or R17-5-805.
- B. A company that issues 1,000 or more SR22 policies per calendar year shall electronically transmit to the Department all SR22 and SR26 activity using one of the Department-authorized EDI reporting methods identified in the *Arizona Mandatory Insurance Reporting System Guide for Insurance Companies*. Each transmission shall include all of the applicable record matching criteria prescribed under R17-5-804 or R17-5-805.
- C. The Department shall not accept or record an out-of-state motor vehicle liability insurance policy for a passenger vehicle, even if written by a company authorized to transact business in this state.

**Historical Note**

New Section made by final rulemaking at 13 A.A.R. 858, effective March 6, 2007 (Supp. 07-1). Section amended by final expedited rulemaking at 24 A.A.R. 279, effective January 12, 2018 (Supp. 18-1).

**R17-5-803. Insurance Company Reportable Activity**

- A. A company shall transmit to the Department:

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1. All reportable activity, not previously reported, that was processed by the company seven or fewer days before each reporting date; or
  2. A statement of inactivity, if no reportable activity occurred by the reporting date.
- B.** For the purpose of this Article, reportable activity shall include:
1. A policy cancellation;
  2. A policy non-renewal;
  3. A new policy issuance;
  4. A commercial policy reissuance;
  5. A vehicle added to a policy;
  6. A vehicle deleted from a policy;
  7. A policy reinstatement; and
  8. All SR22 and SR26 filings by insurance companies issuing 1,000 or more SR22 policies per calendar year.
- C.** Reportable activity does not include the addition or deletion of a vehicle to or from a non-vehicle-specific commercial policy.

**Historical Note**

New Section made by final rulemaking at 13 A.A.R. 858, effective March 6, 2007 (Supp. 07-1). Section amended by final expedited rulemaking at 24 A.A.R. 279, effective January 12, 2018 (Supp. 18-1).

**R17-5-804. Record Matching Criteria for a Vehicle-specific Policy**

For each vehicle-specific policy transmitted to the Department, a company shall include all of the following information to assist with the matching of policies to Department customers:

1. The complete and valid vehicle identification number;
2. The policy number; and
3. The NAIC number of the reporting company.

**Historical Note**

New Section made by final rulemaking at 13 A.A.R. 858, effective March 6, 2007 (Supp. 07-1). Section amended by final expedited rulemaking at 24 A.A.R. 279, effective January 12, 2018 (Supp. 18-1).

**R17-5-805. Record Matching Criteria for a Non-vehicle-specific Commercial Policy**

- A.** For each non-vehicle-specific commercial policy transmitted to the Department, a company shall include all of the following information to assist with the matching of policies to Department customers:

1. The Department customer number of the insured:
  - a. If a policy covers all vehicles registered in the name of a business or organization, the customer number is the FEIN of the business or organization, or a system-generated number; or
  - b. If a policy covers all vehicles registered in the name of a private individual, the customer number is the Arizona Driver License number or the non-operating identification license number of the private individual;
2. The policy number; and
3. The NAIC number of the responsible company.

- B.** If the Department customer number required under subsection (A)(1) is not available to a company, the company may provide the complete and valid vehicle identification number of each vehicle covered under the policy in-lieu of the Department customer number.

**Historical Note**

New Section made by final rulemaking at 13 A.A.R. 858, effective March 6, 2007 (Supp. 07-1). Section amended by final expedited rulemaking at 24 A.A.R. 279, effective

January 12, 2018 (Supp. 18-1).

**R17-5-806. Department-authorized EDI Reporting Methods; Reporting Schedule**

- A.** A company shall transmit to the Department all reportable activity listed in R17-5-803 using a Department-authorized EDI reporting method specified in the *Arizona Mandatory Insurance Reporting System Guide for Insurance Companies*.
- B.** A company shall transmit all reportable activity to the Department at least once every seven days.

**Historical Note**

New Section made by final rulemaking at 13 A.A.R. 858, effective March 6, 2007 (Supp. 07-1). Section amended by final expedited rulemaking at 24 A.A.R. 279, effective January 12, 2018 (Supp. 18-1).

**R17-5-807. X12 Data Format for Policy Receipt and Error Return**

- A.** Reporting format. A company shall transmit to the Department all reportable activity using the format prescribed in the *Arizona Mandatory Insurance Reporting System Guide for Insurance Companies* provided by the Department.
- B.** Error return format. The Department shall return to a company all reporting errors received during a transmission of reportable activity using the X12 error return format prescribed in the *Arizona Mandatory Insurance Reporting System Guide for Insurance Companies*.
- C.** The Department shall return to a company an acknowledgment that a transmission of reportable activity was received and processed using the format in the *Arizona Mandatory Insurance Reporting System Guide for Insurance Companies*.

**Historical Note**

New Section made by final rulemaking at 13 A.A.R. 858, effective March 6, 2007 (Supp. 07-1). Section amended by final expedited rulemaking at 24 A.A.R. 279, effective January 12, 2018 (Supp. 18-1).

**R17-5-808. Insurance Company Reporting Errors; Resolution; Noncompliance**

- A.** The Department shall:
1. Return to a company, using the X12 error return format provided in R17-5-807(B), all reporting errors received during or after a transmission; and
  2. Instruct the company to correct all reporting errors affecting the Department's processing of the required data.
- B.** All companies reporting electronic policy information shall notify the Department prior to making changes to any reporting systems, or previously established policy reporting formats, that may affect the Department's ability to match and process the information received.

**Historical Note**

New Section made by final rulemaking at 13 A.A.R. 858, effective March 6, 2007 (Supp. 07-1). Section amended by final expedited rulemaking at 24 A.A.R. 279, effective January 12, 2018 (Supp. 18-1).

**R17-5-809. Insurance Company Failure to Submit Required Data; Request for Hearing**

If a company fails to submit the data required under A.R.S. § 28-4148, and this Article, the Department shall:

1. Send to the company, a dated written notice, which:
  - a. Identifies the business week or reporting period in which the company did not submit the required information;

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- b. Instructs the company to submit the information for the identified business week or reporting period within seven days of the date of the notice;
  - c. Informs the company that a failure to respond to the Department's request within the allotted time-frame, shall result in a referral of the matter to the Arizona Department of Insurance, under A.R.S. § 20-237, which may result in a civil penalty for each violation of up to \$250 per day for each day the insurer is in violation of A.R.S. § 28-4148; and
  - d. Provides notice of the company's right to request a hearing with the Arizona Department of Insurance under A.R.S. § 20-237; and
2. Advise the Arizona Department of Insurance if the company fails to comply with the Department's written notice provided under this Section.

**Historical Note**

New Section made by final rulemaking at 13 A.A.R. 858, effective March 6, 2007 (Supp. 07-1). Section amended by final expedited rulemaking at 24 A.A.R. 279, effective January 12, 2018 (Supp. 18-1).

**R17-5-810. Self-insurance as Alternate Proof of Financial Responsibility; Provisions; Applicability**

- A. Self-insurance applicant qualification. A person or entity may apply for self-insurance under this Section if the applicant:
- 1. Owns the minimum number of vehicles prescribed under A.R.S. § 28-4007(A) with current Arizona registration;
  - 2. Demonstrates minimum assets of \$1 million on documentation required under subsections (C) and (D);
  - 3. Meets any additional financial responsibility requirements under A.R.S. § 28-4033(A), according to the insured vehicle's weight and/or intended use; and
  - 4. Provides a business office contact for the company with a current phone number and mailing information.
- B. A self-insurance applicant shall provide, on a self-insurance application form provided by the Department, the following information:
- 1. Applicant's name;
  - 2. Business name, if applicable;
  - 3. Mailing address, city, state, and ZIP code;
  - 4. A selection of coverage type:
    - a. Public liability only; or
    - b. Public liability and property damage;
  - 5. Number of vehicles in the applicant's fleet;
  - 6. A selection list that describes the nature of the applicant's business;
  - 7. A description of any hazardous materials transported by type, class, and weight;
  - 8. A report of all accidents in the prior 39-month period before the application date;
  - 9. The applicant's signature and official business title to certify that all information is true and correct; and
  - 10. Acknowledgment by a notary public or by the signature of an authorized Department agent.
- C. Supplementary documentation. In addition to a completed self-insurance application form, the applicant shall submit a profit and loss statement certified by a Certified Public Accountant for the 12-month period before the application date. The profit and loss statement shall include one of the following:
- 1. A balance sheet; or
  - 2. An annual financial report.
- D. On approval of an application, the Department shall issue a certificate of self-insurance that is continuously valid, but shall require the self-insurer to submit a 12-month update of supple-

mentary documentation prescribed under subsection (C) on or before July 1 of each successive year.

- E. An initial self-insurance applicant or a self-insurer making an annual update shall submit documentation required under subsections (B) through (D) to the following address:
- Motor Vehicle Division  
Financial Responsibility Unit  
P.O. Box 2100, Mail Drop 535M  
Phoenix, AZ 85001-2100
- F. A self-insurer shall keep a copy of the self-insurance certificate in each covered vehicle at all times.
- G. A self-insurer shall submit periodic, written notification updates to the Department of vehicles added or removed from self-insurance coverage. The written notification shall include the vehicle identification number of each vehicle.
- H. A self-insurer that terminates self-insurance shall provide new evidence of financial responsibility as required under A.R.S. § 28-4135 for each vehicle previously covered under a self-insurance certificate.
- I. In addition to the reasonable grounds prescribed under A.R.S. § 28-4007(C), the Department may cancel a self-insurance certificate under the following circumstances:
- 1. A self-insurer fails to comply with provisions of the Department's annual update requirement under subsection (D), or
  - 2. A self-insurer no longer owns the covered business or fleet.
- J. For the purpose of A.R.S. § 28-4007(C) and this Section, the Department shall conduct a self-insurance cancellation hearing according to the provisions prescribed under 17 A.A.C. 1, Article 5.

**Historical Note**

New Section made by final rulemaking at 13 A.A.R. 858, effective March 6, 2007 (Supp. 07-1). Section amended by final expedited rulemaking at 24 A.A.R. 279, effective January 12, 2018 (Supp. 18-1).

**R17-5-811. Certificate of Deposit as Alternate Proof of Financial Responsibility; Applicability**

For the purpose of A.R.S. §§ 28-4076(2) and 28-4084, a person depositing a \$40,000 certificate of deposit with the state treasurer as alternate proof of financial responsibility may apply the certificate to a maximum of 25 non-commercial vehicles registered in the person's name.

**Historical Note**

New Section made by final rulemaking at 13 A.A.R. 858, effective March 6, 2007 (Supp. 07-1).

**ARTICLE 9. TRANSPORTATION NETWORK COMPANIES****R17-5-901. Definitions**

In addition to the definitions provided under A.R.S. § 28-9551, when applicable to a transportation network company, the following definitions apply to this Article unless otherwise specified:

"Applicant" means a person that meets the statutory requirements of a transportation network company as prescribed under A.R.S. Title 28, Chapter 30, Article 3.

"Designated point of contact" means a person employed by a transportation network company who has the authority to gather and provide records to the Department on request.

"Transportation network company permit" means a document issued by the Department to an applicant that meets the requirements prescribed under A.R.S. Title 28, Chapter 30, Article 3, as authorization to conduct transportation network services in this state.

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“Violation” means a failure to maintain or make available to the Department any records the transportation network company is required to maintain and provide to the Department on request as provided under A.R.S. §§ 28-9554 through 28-9556.

**Historical Note**

New Section made by exempt rulemaking under Laws 2015, Ch. 235, § 14, at 21 A.A.R. 1825, effective August 21, 2015 (Supp. 15-3). Section repealed; new Section made by final rulemaking at 23 A.A.R. 223, effective March 6, 2017 (Supp. 17-1).

**R17-5-902. Transportation Network Company Permit - Initial Application; Issuance; Fee**

- A. An applicant for a transportation network company permit issued by the Department under A.R.S. § 28-9552, shall apply to the Department by:
  1. Completing and submitting online the application form provided by the Department at [www.azdot.gov](http://www.azdot.gov);
  2. Providing the full name and contact information of the applicant's agent for service of process in this state;
  3. Certifying that the transportation network company meets the requirements of A.R.S. Title 28, Chapter 30, Article 3;
  4. Filing a legible illustration of the applicant's trade dress; and
  5. Paying a \$1,000 application fee as provided under A.R.S. § 28-9552(A).
- B. Upon receipt and acceptance of all required documents, fees, and certifications, the Department shall issue to an applicant a transportation network company permit.
- C. The application fee paid to the Department under subsection (A) is refundable in full if the transportation network company permit application is:
  1. Denied by the Department, or
  2. Withdrawn by the applicant before the Department issues a transportation network company permit.
- D. A transportation network company permit issued by the Department under this Section expires three years after issuance and may be renewed as provided under R17-5-903.

**Historical Note**

New Section made by exempt rulemaking under Laws 2015, Ch. 235, § 14, at 21 A.A.R. 1825, effective August 21, 2015 (Supp. 15-3). Section repealed; new Section made by final rulemaking at 23 A.A.R. 223, effective March 6, 2017 (Supp. 17-1).

**R17-5-903. Transportation Network Company Permit - Renewal Application; Issuance; Fee**

- A. A transportation network company shall apply to the Department for renewal of a transportation network company permit issued by the Department under A.R.S. § 28-9552 and R17-5-902, no earlier than 90 days, and no later than 30 days, before the permit expires by:
  1. Completing and submitting online the renewal application form provided by the Department at <https://secure.servicearizona.com>;
  2. Filing with the Department a legible illustration of the applicant's trade dress if different than the illustration already on file with the Department;
  3. Certifying that the transportation network company meets the requirements of A.R.S. Title 28, Chapter 30, Article 3; and
  4. Paying a \$1,000 renewal application fee as provided under A.R.S. § 28-9552(A).

- B. Upon receipt and acceptance of all required documents, fees, and certifications, the Department shall issue to an applicant a transportation network company permit renewal.
- C. A transportation network company permit renewal issued by the Department expires three years after the date the existing transportation network company permit expires.
- D. The holder of an expired transportation network company permit may apply to the Department for a new transportation network company permit using the renewal application procedure provided under R17-5-903(A).

**Historical Note**

New Section made by exempt rulemaking under Laws 2015, Ch. 235, § 14, at 21 A.A.R. 1825, effective August 21, 2015 (Supp. 15-3). Section repealed; new Section made by final rulemaking at 23 A.A.R. 223, effective March 6, 2017 (Supp. 17-1).

**R17-5-904. Transportation Network Company Permit or Renewal - General Provisions**

- A. A transportation network company permit or renewal issued by the Department under this Article shall include an assigned number that remains effective until either withdrawn by the Department or until it expires.
- B. A transportation network company permit or renewal issued by the Department under this Article shall not be transferred or assigned, in whole or in part, to any person other than the person to whom the permit is issued, except upon a merger, change in control, or sale of substantially all of the transportation network company's assets to an entity that assumes the duties and obligations of the permit. The transportation network company shall notify the Department within 30 days of such a transfer or assignment, and the Department shall have 30 days beginning on such notification to nullify the transfer or assignment based on the criteria set forth in this Article. An initial public offering shall not be deemed to trigger a transfer or assignment under this Section.

**Historical Note**

New Section made by exempt rulemaking under Laws 2015, Ch. 235, § 14, at 21 A.A.R. 1825, effective August 21, 2015 (Supp. 15-3). Section repealed; new Section made by final rulemaking at 23 A.A.R. 223, effective March 6, 2017 (Supp. 17-1).

**R17-5-905. Transportation Network Company - Record Review**

- A. The Department, after providing reasonable notice to a transportation network company, may review with or without cause all records a transportation network company is required to make available to the Department on request as provided under A.R.S. §§ 28-9554 through 28-9556.
- B. A transportation network company shall make all records described under subsection (A) available to the Department for review at an Arizona location.
- C. The Department shall conduct a record review during the transportation network company's normal business hours.
- D. The Department shall provide a copy of its review report to the transportation network company's designated point of contact. The report shall include the review results and indicate any violations found.

**Historical Note**

New Section made by exempt rulemaking under Laws 2015, Ch. 235, § 14, at 21 A.A.R. 1825, effective August 21, 2015 (Supp. 15-3). Section repealed; new Section made by final rulemaking at 23 A.A.R. 223, effective

## CHAPTER 5. DEPARTMENT OF TRANSPORTATION - COMMERCIAL PROGRAMS

March 6, 2017 (Supp. 17-1).

**R17-5-906. Transportation Network Company - Designated Point of Contact**

- A. A transportation network company shall provide to the Department the name and contact information of the transportation network company's designated point of contact in this state.
- B. A transportation network company shall notify the Department within 10 business days of making a change to the name or contact information of the transportation network company's designated point of contact in this state.

**Historical Note**

New Section made by exempt rulemaking under Laws 2015, Ch. 235, § 14, at 21 A.A.R. 1825, effective August 21, 2015 (Supp. 15-3). Section repealed; new Section made by final rulemaking at 23 A.A.R. 223, effective March 6, 2017 (Supp. 17-1).

**ARTICLE 10. VEHICLE FOR HIRE**

**R17-5-1001. Definitions**

In addition to the definitions in A.R.S. §§ 28-101 and 28-9501, the following terms apply to this Article unless otherwise specified:

"Appealable agency action" has the meaning prescribed in A.R.S. § 41-1092.

"Applicant" means a company that applies to the Department for a vehicle for hire company permit as prescribed under A.R.S. Title 28, Chapter 30, Article 1, and these rules.

"Application" means forms designated as an application and all documents and additional information the Department requires a vehicle for hire company applicant to submit to obtain a vehicle for hire company permit.

"Contested case" has the meaning prescribed in A.R.S. § 41-1001.

"Designated point of contact" means a person employed by a vehicle for hire company who has the authority to gather and provide records to the Department on request.

"Good standing" means that an applicant does not have:

- Any outstanding civil penalties owed to the Department;
- Any suspension, revocation, or cancellation of a vehicle for hire company permit issued by the Department;
- Any delinquent fees, taxes, or unpaid balances owed to the Department; or
- Any open complaints submitted to the Department regarding compliance with vehicle for hire statutes or rules.

"Government agency" means this state and any political subdivision of this state that receives and uses tax revenues.

"*Handbook 44*" means the U. S. Department of Commerce, National Institute of Standards and Technology (NIST) *Handbook 44*, Specifications, Tolerances, and Other Technical Requirements for Weighing and Measuring Devices, Section 5.54. Taximeters, revised as of 2016.

"NIST" means the National Institute of Standards and Technology of the U.S. Department of Commerce.

"Permittee" means the owner or responsible party in the vehicle for hire company that meets all permit requirements and holds a vehicle for hire company permit.

"Trade dress" means a removable and distinct logo, insignia or emblem attached to, or visible from the exterior of a taxi while

providing vehicle for hire services as a taxi, and that includes the word "taxi" or "cab."

"Vehicle for hire company permit" means the permit required in A.R.S. § 28-9503 for a vehicle for hire company to operate in this state.

"Violation" means the failure of a vehicle for hire company to:

Provide to the Department any records the vehicle for hire company is required to maintain and provide on request, as provided in A.R.S. § 28-9507;

Follow these rules; or

Follow A.R.S. Title 28, Chapter 30, Articles 1 and 2.

**Historical Note**

New Section made by final rulemaking at 23 A.A.R. 223, effective March 6, 2017 (Supp. 17-1).

**R17-5-1002. Incorporation by Reference**

The Department incorporates by reference the U. S. Department of Commerce, National Institute of Standards and Technology (NIST) *Handbook 44*, Specifications, Tolerances, and Other Technical Requirements for Weighing and Measuring Devices, Section 5.54. Taximeters, revised as of 2016, and no later amendments or editions. The incorporated material is available at [www.nist.gov/pml/pubs/hb44.cfm](http://www.nist.gov/pml/pubs/hb44.cfm). The incorporated material is on file with the Department at 206 S. 17th Ave., Phoenix, AZ.

**Historical Note**

New Section made by final rulemaking at 23 A.A.R. 223, effective March 6, 2017 (Supp. 17-1).

**R17-5-1003. Vehicle for Hire Company Permit; Good Standing; Handbook 44**

- A. An applicant to the Department for a vehicle for hire company permit shall be in good standing with the Department at the time the vehicle for hire company applies for or renews a vehicle for hire company permit.
- B. A vehicle for hire company that operates a vehicle for hire as a taxi shall have an operating taxi meter installed in each taxi by a person or company that uses *Handbook 44*.
- C. A vehicle for hire company operating a taxi shall maintain, and make available to the Department, records for the installation and calibration of each taxi meter for the duration of the three-year vehicle for hire company permit.

**Historical Note**

New Section made by final rulemaking at 23 A.A.R. 223, effective March 6, 2017 (Supp. 17-1).

**R17-5-1004. Vehicle for Hire Company Permit - Initial Application; Issuance; Fee**

- A. A vehicle for hire company shall apply to the Department for a vehicle for hire company permit by:
  1. Completing and submitting the application form to the Department that is located at: [www.azdot.gov](http://www.azdot.gov);
  2. Providing the full name and contact information of the vehicle for hire company's agent for service of process in this state;
  3. Submitting a clear illustration of the vehicle for hire company's trade dress, if operating as a taxi;
  4. Paying the application fee of \$24 per vehicle that is used as a taxi by the vehicle for hire company at the time of application, not to exceed a total of \$1,000 per applicant, as required by A.R.S. § 28-9503;
  5. Certifying that the vehicle for hire company meets all vehicle for hire company requirements in A.R.S. Title 28, Chapter 30, Article 1; and

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6. Stating the total number of vehicles for hire in the vehicle for hire company fleet at the time of application.
- B.** A vehicle for hire company shall provide to the Department the name and contact information of the vehicle for hire company's designated point of contact in this state.
- C.** After the Department receives and accepts a completed application, all certifications, and the application fee, if applicable, the Department shall issue to an applicant a vehicle for hire company permit.
- D.** A vehicle for hire company permit issued by the Department expires three years after the date of issuance.
- E.** A vehicle for hire company may apply to renew a vehicle for hire company permit as provided in R17-5-1005.
- F.** A vehicle for hire company shall notify the Department within 10 business days of making a change to the name or contact information of the vehicle for hire company's designated point of contact in this state.
- G.** A vehicle for hire company permit or renewal issued by the Department under this Article may be transferred to a person other than the person to whom the permit is issued, if ownership of the vehicle for hire company changes. The vehicle for hire company shall notify the Department within 30 days of such a transfer.

**Historical Note**

New Section made by final rulemaking at 23 A.A.R. 223, effective March 6, 2017 (Supp. 17-1).

**R17-5-1005. Vehicle for Hire Company Permit - Renewal Application; Issuance; Fee**

- A.** A vehicle for hire company shall apply to the Department for renewal of an existing vehicle for hire company permit under A.R.S. § 28-9503, no earlier than 90 days and no later than 30 days before the three-year permit expires by:
1. Completing and submitting the required information, all certifications, and the application fee, if applicable, to the Department at: <https://secure.servicearizona.com>;
  2. Submitting a clear illustration of the vehicle for hire company's trade dress, if operating as a taxi, and if different than the illustration already on file with the Department;
  3. Paying the renewal application fee of \$24 per vehicle that is used as a taxi at the time of permit renewal, not to exceed a total of \$1,000 per applicant, as required by A.R.S. § 28-9503; and
  4. Certifying that the vehicle for hire company meets all the vehicle for hire company requirements in A.R.S. Title 28, Chapter 30, Article 1.
- B.** Upon receipt and acceptance of all required documents, fees, if applicable, and certifications, the Department shall issue to an applicant a vehicle for hire company permit renewal.
- C.** A vehicle for hire company permit renewal issued by the Department expires three years after the existing vehicle for hire company permit expires.
- D.** The holder of an expired vehicle for hire company permit may apply to the Department for a new vehicle for hire company permit using the renewal application procedure provided under R17-5-1005(A).

**Historical Note**

New Section made by final rulemaking at 23 A.A.R. 223, effective March 6, 2017 (Supp. 17-1).

**R17-5-1006. Vehicle for Hire Company Permit or Renewal - General Provisions**

A vehicle for hire company permit issued by the Department shall include an assigned number that remains effective until either withdrawn by the Department or until the permit expires.

**Historical Note**

New Section made by final rulemaking at 23 A.A.R. 223, effective March 6, 2017 (Supp. 17-1).

**R17-5-1007. Vehicle for Hire Company; Record Review; Inspection**

- A.** The Department, after providing reasonable notice to a company with a vehicle for hire company permit, may review, with or without cause, all records of a vehicle for hire company as prescribed in A.R.S. § 28-9507, at intervals determined by the Department.
- B.** A vehicle for hire company shall make all records described under subsection (A) available to the Department for review at an Arizona location.
- C.** The Department shall conduct a record review during the vehicle for hire company's normal business hours.
- D.** The Department may conduct a periodic, random inspection of a taxi meter and any vehicle for hire, or in response to a complaint by the public. An inspection may include an inspection of the taxi meter in a taxi and the signage required by A.R.S. § 28-9506.
- E.** After the inspection, the Department shall provide a copy of the inspection report to the vehicle for hire company or the designated point of contact. The report shall include any deficiencies or violations indicated during the inspection.

**Historical Note**

New Section made by final rulemaking at 23 A.A.R. 223, effective March 6, 2017 (Supp. 17-1).

**R17-5-1008. Posting of Fares**

- A.** When a livery vehicle provides local transportation at fares that are established in a contract with a government agency, the livery vehicle interior signage shall indicate that fares are determined by contract with a government agency when providing those services.
- B.** When a livery vehicle provides local transportation services at fares that are not established in a contract with a government agency, the livery vehicle interior signage shall post fares in accordance with A.R.S. § 28-9506(A)(2).

**Historical Note**

New Section made by final rulemaking at 23 A.A.R. 223, effective March 6, 2017 (Supp. 17-1).

**R17-5-1009. Appealable Agency Actions; Rehearing; Judicial Review**

- A.** A.R.S. Title 41, Chapter 6, Article 10 applies to all contested cases and all appealable agency actions of the Department under A.R.S. Title 28, Chapter 30, Article 2.
- B.** A vehicle for hire company whose permit, renewal, or authority is denied has a right to a hearing, an opportunity for rehearing under A.R.S. Title 41, Chapter 6, Articles 6 and 10, and if the denial is upheld, judicial review under A.R.S. Title 12, Chapter 7, Article 6.

**Historical Note**

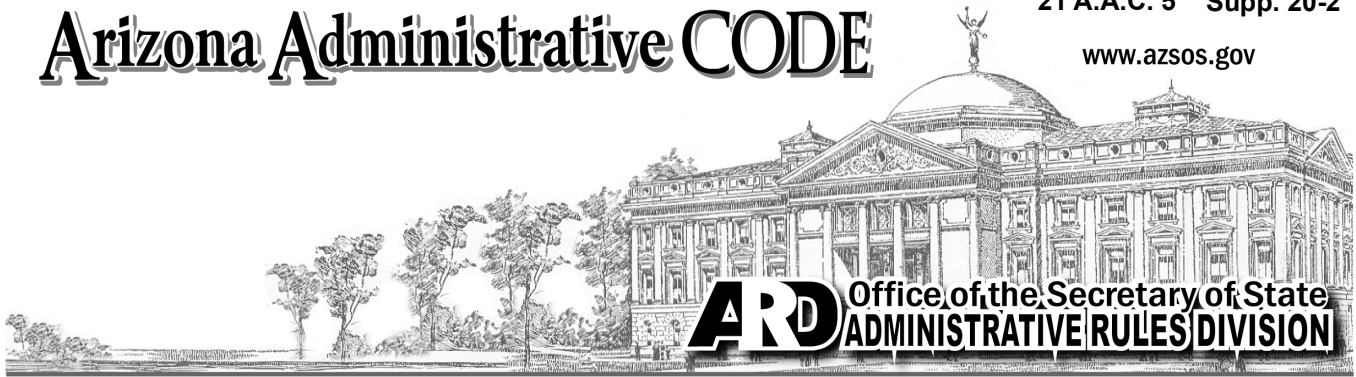
New Section made by final rulemaking at 23 A.A.R. 223, effective March 6, 2017 (Supp. 17-1).



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## TITLE 21. CHILD SAFETY

### CHAPTER 5. DEPARTMENT OF CHILD SAFETY - PERMANENCY AND SUPPORT SERVICES

The table of contents on the first page contains quick links to the referenced page numbers in this Chapter. Refer to the notes at the end of a Section to learn about the history of a rule as it was published in the *Arizona Administrative Register*.

Sections, Parts, Exhibits, Tables or Appendices codified in this supplement. The list provided contains quick links to the updated rules.

This Chapter contains a rule Section that expired in the Arizona Administrative Code between the dates of April 1, 2020 through June 30, 2020.

[R21-5-307](#). [Expired](#) ..... [9](#)

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#### The release of this Chapter in Supp. 20-2 replaces Supp. 20-1, 1-20 pages

Please note that the Chapter you are about to replace may have rules still in effect after the publication date of this supplement. Therefore, all superseded material should be retained in a separate binder and archived for future reference.



## Administrative Rules Division

The Arizona Secretary of State electronically publishes each A.A.C. Chapter with a digital certificate. The certificate-based signature displays the date and time the document was signed and can be validated in Adobe Acrobat Reader.

## TITLE 21. CHILD SAFETY

## CHAPTER 5. DEPARTMENT OF CHILD SAFETY - PERMANENCY AND SUPPORT SERVICES

Authority: A.R.S. § 8-453(A)(5)

*Editor's Note: Chapter 5 contains rules which were exempt from the regular rulemaking process under Laws 2014, 2nd Special Session, Ch. 1, Sec. 158. The law required the Department to post on its website proposed exempt rulemakings for a minimum of 30 days, at which time the public could provide written comments. In addition, at least two public hearings were held prior to the filing of the final exempt rules. Because the Department solicited comments on its proposed exempt rules, the rules filed with the Office of the Secretary of State are considered final exempt rules (Supp. 15-4).*

**ARTICLE 1. INTERSTATE COMPACT ON THE PLACEMENT OF CHILDREN**

*Article 1, consisting of Sections R21-5-101 through R21-5-107, made by final exempt rulemaking at 21 A.A.R. 2979, effective January 2, 2016 (Supp. 15-4).*

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**ARTICLE 2. INDEPENDENT LIVING AND TRANSITIONAL INDEPENDENT LIVING PROGRAMS**

*Article 2, consisting of Sections R21-5-201 through R21-5-209, made by final exempt rulemaking at 21 A.A.R. 3255, effective January 24, 2016 (Supp. 15-4).*

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*423, made by final exempt rulemaking at 21 A.A.R. 3255, effective January 24, 2016 (Supp. 15-4).*

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*Article 5, consisting of Sections R21-5-501 through R21-5-514, made by final exempt rulemaking at 21 A.A.R. 3255, effective January 24, 2016 (Supp. 15-4).*

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## CHAPTER 5. DEPARTMENT OF CHILD SAFETY - PERMANENCY AND SUPPORT SERVICES

**ARTICLE 1. INTERSTATE COMPACT ON THE PLACEMENT OF CHILDREN****R21-5-101. Definitions**

The definitions contained in A.R.S. § 8-548 and the following definitions apply in this Article:

1. "Child" means any person less than the age of 18 years.
2. "Compact" or "ICPC" means the Interstate Compact on the Placement of Children.
3. "Compact Administrator" means the same as A.R.S. § 8-548.
4. "Compact State" means a state that is a member of the Interstate Compact on the Placement of Children.
5. "Department" or "DCS" means the Arizona Department of Child Safety.
6. "Interstate placement" means any movement of a child from one state to another state for the purpose of establishing a suitable living environment and providing necessary care.
7. "Intra-state placement" means the placement of a child within a state by an agency of that state.
8. "Placement" means the same as in A.R.S. § 8-548.
9. "Receiving state" means the same as in A.R.S. § 8-548.
10. "Sending agency" means the same as in A.R.S. § 8-548.
11. "Sending state" means the state where the sending agency is located, or the state in which the court holds exclusive jurisdiction over a child, which causes, permits, or enables the child to be sent to another state.

**Historical Note**

New Section made by final exempt rulemaking at 21 A.A.R. 2979, effective January 2, 2016 (Supp. 15-4).

**R21-5-102. Authority**

The ICPC is governed by A.R.S. §§ 8-548 through 8-548.06 and the ICPC regulations. ICPC regulations are posted on the Association of Administrators of the Interstate Compact on the Placement of Children website. These regulations supplement those authorities and must be read in conjunction with them.

**Historical Note**

New Section made by final exempt rulemaking at 21 A.A.R. 2979, effective January 2, 2016 (Supp. 15-4).

**R21-5-103. Conditions of Placement**

No person, court, or public or private agency in a Compact State shall place a child in another Compact State until the Compact Administrator in the receiving state has notified the Compact Administrator in the sending state, on a prescribed form, that such placement does not appear to be contrary to the interests of the child and does not violate any applicable laws of the receiving state.

**Historical Note**

New Section made by final exempt rulemaking at 21 A.A.R. 2979, effective January 2, 2016 (Supp. 15-4).

**R21-5-104. Financial Responsibility**

The sending person, court, or public or private agency shall be held financially responsible for:

1. Sending the child to the receiving state;
2. Returning the child to the sending state; and
3. Treatment of the child during the period of placement.

**Historical Note**

New Section made by final exempt rulemaking at 21 A.A.R. 2979, effective January 2, 2016 (Supp. 15-4).

**R21-5-105. Applicability**

A. Except as listed in subsection (B), the ICPC applies to the placement of:

1. Children in another Compact State by an agency, court or person, which has care or custody of the children.
  2. Foreign-born children who are brought under the jurisdiction of a Compact State by an international child placing agency.
- B. In addition to the children listed in statute that are not subject to ICPC, the ICPC does not apply:
1. When a child is placed in an institution caring for the mentally ill, mentally impaired, epileptic, or in any institution primarily educational in character or in any hospital or other medical facility.
  2. To the placement of children into and out of the United States when the other jurisdiction involved is a foreign country.
  3. When a sending court or agency seeks an independent (not ICPC related) courtesy check for placement with a parent from whom the child was not removed, the responsibility for credentials and quality of the courtesy check rests directly with the sending court or agency and the person or party in the receiving state who agrees to conduct the courtesy check without invoking the protection of the ICPC home study process. This does not prohibit a sending state from requesting an ICPC.
  4. The Compact does not apply in court cases of paternity, divorce, custody, and probate pursuant to which or in situations where children are being placed with parents or relatives or non-relatives.

**Historical Note**

New Section made by final exempt rulemaking at 21 A.A.R. 2979, effective January 2, 2016 (Supp. 15-4).

**R21-5-106. Placement Approval**

Sending and receiving states must obtain approval from the Compact Administrator in both the sending and receiving states prior to the placement of a child in another Compact State.

**Historical Note**

New Section made by final exempt rulemaking at 21 A.A.R. 2979, effective January 2, 2016 (Supp. 15-4).

**R21-5-107. Operations**

In providing services provided under this Article, the sending and the receiving state shall:

1. Maintain all information required by state and federal law.
2. Comply with all federal and their respective state laws and regulations regarding the disclosure and use of confidential health and personal information.
3. Comply with all federal and their respective state non-discrimination laws and regulations.
4. Ensure that interpreters, including assistance for the visually or hearing impaired, are available to those receiving services at no cost.

**Historical Note**

New Section made by final exempt rulemaking at 21 A.A.R. 2979, effective January 2, 2016 (Supp. 15-4).

**ARTICLE 2. INDEPENDENT LIVING AND TRANSITIONAL INDEPENDENT LIVING PROGRAMS****R21-5-201. Definitions**

The following definitions apply to this Article:

1. "Active participation" means the foster youth is demonstrating efforts toward completion of case plan goals such as regular attendance at school or employment that results in school credits or earned wages.
2. "Aftercare services" means assistance and support available to eligible, former foster youth living in Arizona

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- after the Department, tribal foster care, or other state foster care case is dismissed, and includes services available through the Transitional Independent Living Program.
3. "Age of majority" means that a person is at least 18 years old.
  4. "Approved living arrangement" means a residence that has been reviewed by the assigned Child Safety Worker or other responsible agency staff and approved within the individual case plan.
  5. "Arizona Young Adult Program" means a group of programs and services designed to assist eligible youth to make a successful transition to adulthood. The programs and services include Independent Living Services, the Independent Living Subsidy Program, Voluntary Out-of-home Care for Foster Youth 18 through 20 Years of Age, and the Transitional Independent Living Program.
  6. "Child placing agency" means the same as in A.R.S. § 8-501(A)(1)(a)(iii), and includes a Child Welfare Agency that OLR licenses as a Placing Agency to place a child in a licensed foster home, or facility.
  7. "Child Welfare Agency" means the same as in A.R.S. § 8-501.
  8. "Child Safety Worker" means the same as in A.R.S. § 8-801.
  9. "Custody of the Department" means that the foster youth:
    - a. Is in out-of-home care under the supervision of the Department while the subject of a dependency petition, as an adjudicated dependent, or placed voluntarily under A.R.S. § 8-806; or
    - b. Is 18, 19, or 20 years of age, a resident of Arizona, and has signed an individual case plan agreement for voluntary out-of-home care. This includes foster youth who were dually adjudicated (dependent and delinquent) and released from a secure setting prior to, or on the foster youth's 19th birthday.
  10. "Department" or "DCS" means the Arizona Department of Child Safety.
  11. "Eligible youth" means a person who meets the qualifications in A.R.S. § 8-521 for the Independent Living Program, the qualifications in A.R.S. § 8-521.01 for the Transitional Independent Living Program, or is a person who was formerly in another state's child welfare program who would otherwise be eligible.
  12. "Employment" means:
    - a. Paid employment;
    - b. Participation in employment-readiness activities, which include career assessment and exploration, and part time enrollment in an employment or career readiness education program;
    - c. Volunteer positions;
    - d. Job-shadowing;
    - e. Internship; or
    - f. Other paid or unpaid employment-related activities.
  13. "Extraordinary purchase" means an expenditure by an eligible youth that impedes an eligible youth's ability to meet the financial obligations outlined in the eligible youth's budget.
  14. "Foster youth" means a person in the custody of the Department.
  15. "Full-time student" means an eligible youth enrolled in an education program identified by the program as being full-time due to the number of credits, credit hours, or other measure of enrollment.
  16. "Independent Living Program" means the program authorized by A.R.S. § 8-521 to provide an Independent Living Subsidy and educational case management to a foster youth.
  17. "Independent Living Services" or "IL Services" means an array of assistance and support services, including those provided under the Independent Living Program, that the Department provides, contracts, refers, or otherwise arranges that are designed to help a foster youth transition to adulthood by building skills and resources necessary to ensure personal safety, well-being, and permanency into adulthood.
  18. "Independent Living Subsidy" or "IL Subsidy" means a monthly stipend provided under the Independent Living Program to a foster youth, to assist in meeting monthly living expenses. This stipend replaces any foster care maintenance payment from the Department for support of the foster youth's daily living expenses.
  19. "Individual case plan" means an agreement between an eligible foster youth and the Department, directed by the foster youth that documents specific services and assistance that support the foster youth's goals in relation to:
    - a. Natural supports including permanent connections to and relationships with family and community, including peer and community mentors;
    - b. A safe, stable, desired living arrangement, which may include a permanent arrangement such as guardianship or adoption;
    - c. Daily living skills;
    - d. Secondary and postsecondary education and training;
    - e. Employment and career planning;
    - f. Physical health, including reproductive health;
    - g. Life care planning;
    - h. Emotional health;
    - i. Mental health;
    - j. Spiritual or faith needs;
    - k. Interpersonal relationships; and
    - l. Age-appropriate extra-curricular, enrichment, and social activities.
  20. "Individual service plan" means an agreement that is directed by an eligible youth in the TIL Program that documents specific services and assistance to support the eligible youth's goals including, as applicable:
    - a. Financial,
    - b. Housing,
    - c. Counseling,
    - d. Employment,
    - e. Education, and
    - f. Other appropriate support and services.
  21. "Life skills assessment" means a measure of an eligible youth's ability to function in a variety of areas such as daily living skills, knowledge of community resources, and budgeting, as determined by a validated assessment tool.
  22. "Medical professional" means a doctor of medicine or osteopathy, physician's assistant, or registered nurse practitioner licensed in A.R.S. Title 32, or a doctor of medicine licensed and authorized to practice in another state or foreign country. A medical professional from another state or foreign country must provide verification of valid and current licensure in that state or country.
  23. "Misuse of funds" means that an eligible youth has expended money provided by the Department for specific purposes (such as education or living expenses) on an item that is not permitted by law (such as illegal drugs and alcohol), or on an extraordinary purchase that is not included in an approved budget or individual case or ser-

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vice plan, to the degree that the funds are not available for necessary items and purchases approved within the case plan, service plan, or budget.

24. "Natural supports" means relationships and connections that occur in everyday life, independent of formal services, with people or groups who provide personal or other support during a person's lifetime.
25. "Out-of-home care" means a placement approved by the Department such as a licensed foster home, residential group care facility operated by a Child Welfare Agency, therapeutic residential facility, independent living setting, approved unlicensed independent living setting, or in a relative or non-relative placement. Out-of-home care excludes a detention facility, forestry camp, training school, or any other facility operated primarily for the detention of a child who is determined delinquent.
26. "Personal Crisis" means an unexpected event or series of events in an eligible youth's life that prevents or impedes participation in scheduled services or activities.
27. "Residential group care facility" means a Child Welfare Agency that is licensed to receive more than five children for 24-hour social, emotional, or educational supervised care and maintenance at the request of a child, child placing agency, law enforcement agency, parent, guardian, or court. A residential group care facility provides care in a residential setting for children for an extended period of time.
28. "Responsible agency staff" means the assigned Child Safety Worker, another identified Department employee, or contracted staff.
29. "Service team members" means the eligible youth, the youth's attorney(s), the Guardian ad Litem (GAL), the Court Appointed Special Advocate (CASA), tribal child welfare staff, other parties to the dependency case, contract, or other service providers, responsible agency staff, and other adults involved with the youth or supporting the youth's activities or employment.
30. "Substantial non-compliance" means an eligible youth's:
  - a. Termination from an educational, vocational, or employment program due to lack of attendance or failure to make satisfactory progress as defined by the program for reasons unrelated to physical health including pregnancy, emotional, or mental health;
  - b. Persistent lack of communication during a 60-day period with the assigned Child Safety Worker or other responsible agency staff known to the youth that results in a loss of contact with the eligible youth, or interferes with the Department's ability to provide services and supervision or to document individual case plan or service plan progress;
  - c. Persistent misuse of funds provided to support individual case plan or service plan goals; or
  - d. For an eligible foster youth, failure to communicate unexpected changes in the living arrangement as agreed to in the individual case plan or the Independent Living Subsidy agreement.
31. "Transitional Independent Living Program" or "TIL Program" means a program of services for residents of Arizona who are eligible youth under A.R.S. § 8-521.01, that provides assistance and support in counseling, education, vocation, employment, and the attainment or maintenance of housing.
32. "Transitional Independent Living Services" or "TIL Services" means those services the Department provides through the Transitional Independent Living Program under A.R.S. § 8-521.01, and may include assistance and

support with health care, money management, housing, counseling, education, vocational training, and employment. The Department or its contractors provide services through a written agreement with the eligible youth.

33. "Validated assessment tool" means a written or verbal survey tool that can demonstrate empirical evidence for reliability and validity.
34. "Work day" means Monday through Friday, excluding Arizona state holidays.
35. "Young Adult Transitional Insurance" means a category of health care coverage under the state Medicaid program (Arizona Health Care Cost Containment System or AHCCCS) for Medicaid eligible youth who have reached the age of majority in foster care.

**Historical Note**

New Section made by final exempt rulemaking at 21 A.A.R. 3255, effective January 24, 2016 (Supp. 15-4). Amended by emergency rulemaking at 25 A.A.R. 771, effective March 21, 2019, for 180 days (Supp. 19-1). Emergency amendments renewed at 25 A.A.R. 2485, for an additional 180 days effective September 18, 2019 (Supp. 19-3). Emergency expired; amended by final rulemaking at 26 A.A.R. 241, effective March 15, 2020 (Supp. 20-1).

**R21-5-202. Provision of Services**

- A. The Department shall provide services and stipends for the IL Services, IL Subsidy, and TIL services to eligible youth in a manner that is fair and equitable.
- B. The Department shall provide Independent Living Services to eligible foster youth based on needs identified by the eligible foster youth, by service team recommendations, or the findings of a life skills assessment. The services shall address needs identified in the eligible foster youth's individual case plan and may include one or more of the following, depending on the individual case plan goals:
  1. Information and assistance to create and maintain a network of natural supports;
  2. Independent living skills training;
  3. Program incentives;
  4. Information and assistance in life care and health care planning, including enrollment in a health plan;
  5. Educational, career, and vocational planning;
  6. Financial assistance for post-secondary education and training;
  7. Out-of-home care for foster youth 18 through 20 years of age; or
  8. Aftercare services through the Transitional Independent Living Program.

**Historical Note**

New Section made by final exempt rulemaking at 21 A.A.R. 3255, effective January 24, 2016 (Supp. 15-4).

**R21-5-203. Denial of Services**

The Department shall deny services if a person does not meet the eligibility requirements of A.R.S. §§ 8-806, 8-521, 8-521.01, and R21-5-204.

**Historical Note**

New Section made by final exempt rulemaking at 21 A.A.R. 3255, effective January 24, 2016 (Supp. 15-4).

**R21-5-204. Eligibility**

- A. Independent Living Services. In order to be eligible for IL Services a person shall:
  1. Be at least 16 years of age and less than 21 years of age;

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2. Be in the custody of the Department or tribal child welfare agency;
  3. Reside in out-of-home care;
  4. Be referred by the eligible youth's assigned Child Safety Worker, other Department staff, or a tribal social services representative; and
  5. Be a resident of Arizona if 18, 19, or 20 years of age.
- B. Independent Living Subsidy.**
1. In order to be eligible for the IL Subsidy, a person shall:
    - a. Be at least 17 years of age, in the custody of the Department, and employed or a full-time student.
    - b. With the assistance of the responsible agency staff, complete the Independent Living Subsidy Agreement or other approved forms designated by the Department.
  2. Conditions for approval and continuation in the Independent Living Subsidy Program include:
    - a. Active participation in activities outlined in the individual case plan;
    - b. Adherence to the terms of the IL Subsidy Agreement, including:
      - i. Communication with the Child Safety Worker;
      - ii. Maintenance of a Department-approved living arrangement, including approval of a roommate, except those assigned by school or work; and
      - iii. Participation in scheduled meetings to review progress and update the individual case plan and IL Subsidy Agreement.
  3. Eligible youth 18, 19, and 20 years of age who are temporarily residing out of state for the purpose of education or vocational training, and who maintain Arizona residency, may receive the Independent Living Subsidy under the same conditions as above.
- C. Transitional Independent Living Program.** Under A.R.S. § 8-521.01, in order to be eligible for the Transitional Independent Living Program, a person must be less than 21 years of age and have been in out-of-home care and in the custody of the Department, a licensed residential group care facility, or a tribal child welfare agency while 16, 17, or 18 years of age. Persons who were in another state's child welfare agency under the same conditions are also eligible.

**Historical Note**

New Section made by final exempt rulemaking at 21 A.A.R. 3255, effective January 24, 2016 (Supp. 15-4).

**R21-5-205. Out-of-home Care Services for Foster Youth 18 through 20 Years of Age**

- A.** The Department may provide out-of-home care services and supervision to a foster youth less than 21 years of age, who reached the age of 18 years while in the custody of the Department, and was either in out-of-home care or in secure care, as defined by A.R.S. § 8-201, through a delinquency action, when the foster youth:
1. Requests out-of-home care;
  2. Has residency in the state of Arizona;
  3. Participates in developing an individual case plan agreement for out-of-home care; and
  4. Demonstrates acceptance of personal responsibility for his or her part of the agreement through active participation in the individual case plan.
- B.** The foster youth, Child Safety Worker, and involved service team members shall develop the individual case plan for out-of-home care:

1. Within the 90-day period prior to the foster youth's 18th birthday for foster youth continuing in out-of-home care past 18 years of age;
  2. Within ten work days for foster youth who enter out-of-home care during the 90-day period prior to the foster youth's 18th birthday; and
  3. For eligible youth re-entering foster care at 18 years of age or older, within seven work days of the eligible youth's return to Department care and supervision.
- C.** The individual case plan shall outline the services and supports to be provided under R21-5-202(B) and include at least one of the following activities:
1. Completion of secondary education or a program leading to an equivalent credential;
  2. Enrollment in an institution that provides post-secondary education or vocational education;
  3. Participation in a program or activity designed to promote or remove barriers to employment; or
  4. Employment of at least 80 hours per month.
- D.** Foster youth participating in out-of-home care shall demonstrate acceptance of personal responsibility by actively participating in an individual case plan, unless prevented by a documented behavioral health or medical condition, or other personal crisis or life event, such as pregnancy, birth, necessary maternity leave as determined by a medical professional, adoption, or guardianship of a child.
- E.** The Child Safety Worker shall support the foster youth to address any documented condition, crisis, or life event listed in subsection (D), by:
1. Facilitating a youth led discussion that includes a review of the supports and services available as intervention strategies, to assist in resolving the condition, crisis, or concern;
  2. Documenting the foster youth's preferred intervention strategy for addressing the condition, crisis, or concern; and
  3. Expeditiously providing or otherwise arranging the preferred intervention strategy.

**Historical Note**

New Section made by final exempt rulemaking at 21 A.A.R. 3255, effective January 24, 2016 (Supp. 15-4). Amended by emergency rulemaking at 25 A.A.R. 771, effective March 21, 2019, for 180 days (Supp. 19-1). Emergency amendments renewed at 25 A.A.R. 2485, for an additional 180 days effective September 18, 2019 (Supp. 19-3). Emergency expired; amended by final rulemaking at 26 A.A.R. 241, effective March 15, 2020 (Supp. 20-1).

**R21-5-206. Transitional Independent Living Program**

- A.** The Transitional Independent Living Program provides services to eligible youth, under A.R.S. § 8-521.01 that complements their own efforts toward becoming self-sufficient. The Department may provide the following assistance, depending on individual service plan goals:
1. Financial,
  2. Housing,
  3. Counseling,
  4. Employment,
  5. Education, and
  6. Other appropriate support and services.
- B.** The eligible youth requesting services through the Transitional Independent Living Program shall provide the following information to the responsible agency staff:
1. Identifying information including:
    - a. Name (and any aliases); and

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- b. Date of birth;
- 2. Information regarding the eligible youth's former foster care status such as the state or tribal child welfare system where the youth was in care, and approximate dates of care, if known; and
- 3. Any available contact information for the youth, including:
  - i. Phone number,
  - ii. Friend or family phone number,
  - iii. Email address, and
  - iv. Any other communication method identified by the youth.
- C. An eligible youth and responsible agency staff shall develop an individual service plan for the eligible youth to receive these services.
- D. The individual service plan shall address the level of need based on the items noted in subsection (A).

**Historical Note**

New Section made by final exempt rulemaking at 21 A.A.R. 3255, effective January 24, 2016 (Supp. 15-4).

**R21-5-207. Re-entry Into Out-of-home Care**

- A. The Department shall facilitate re-entry into out-of-home care for eligible youth participating in the Transitional Independent Living Program.
- B. On request for re-entry by the eligible youth, the Department shall confirm the eligible youth's request to receive out-of-home care, supervision, and other services with the youth and within ten work days:
  - 1. Facilitate a meeting with the eligible youth to review the requirements under R21-5-205;
  - 2. Assist the eligible youth to develop an individual case plan that includes an effective date for reopening the Department case;
  - 3. Identify the name and contact information of the Child Safety Worker or responsible agency staff assigned to the case;
  - 4. Identify the out-of-home care type selected such as, foster home, residential group care facility, Independent Living Program, or other arrangement;
  - 5. Notify the identified Child Safety Worker or responsible agency staff assigned to the case; and
  - 6. Complete all necessary authorizations for out-of-home care and other services to reasonably ensure a smooth transition from the TIL Services to the IL Services.
- C. If the eligible youth reports he or she is in crisis and unsafe, the Department shall immediately assess the youth's safety and assist the youth to secure a safe living arrangement and to manage the crisis.
- D. An eligible youth may request to postpone re-entry, decline re-entry at any time, or re-initiate the request any time prior to the eligible youth's 21st birthday. The responsibilities of the Department to process the request for re-entry shall begin upon the Department's receipt of the eligible youth's request for re-entry under subsection (B).
- E. Supports and services shall continue for youth who re-enter out-of-home care, as outlined in R21-5-205.
- F. If the Department denies re-entry, the Department shall provide the youth with written notification of the reason for this decision and the youth's grievance and appeal rights within 15 work days of the request for re-entry.

**Historical Note**

New Section made by final exempt rulemaking at 21 A.A.R. 3255, effective January 24, 2016 (Supp. 15-4).

**R21-5-208. Termination of Services**

- A. The Department may terminate IL Services, including out-of-home care for foster youth 18 through 20 years of age, and TIL services if the eligible youth:
  - 1. Reaches the age of 21 years;
  - 2. Reaches the age of 18 years and does not desire continued services;
  - 3. Makes a voluntary decision to terminate services; or
  - 4. Demonstrates substantial non-compliance or otherwise refuses to meet the requirements of the individual case plan or individual service plan after the responsible agency staff or designee has made active efforts to engage the eligible youth in identifying and resolving issues, including assessing the effectiveness of current services, and identifying and providing additional or different support services.
- B. The Department shall deny IL Services, including out-of-home care for foster youth age 18 through 20 years, and TIL services if the Department determines the person is:
  - 1. Not eligible;
  - 2. Unwilling to create an individual case or service plan; or
  - 3. Not participating in the individual case or service plan.
- C. The Child Safety Worker or responsible agency staff shall notify the person in writing of the Department's decision to terminate or deny services within ten work days of the person's application for services.
- D. The notice shall include information on the person's right to grieve any decision to terminate or deny services.
- E. Within ten work days of the notice to terminate or deny services, the Child Safety Worker or responsible agency staff shall contact the person to:
  - 1. Assist the person through the grievance process including the completion and submittal of any required Department forms; or
  - 2. Identify and engage a personal advocate to assist the person through the grievance process, including the completion and submittal of any required Department forms.
- F. When termination of services to a foster youth is planned due to one of the reasons outlined in (A)(1) through (3) of this Section, the Child Safety Worker or responsible agency staff shall schedule a discharge staffing with the foster youth within ten work days of the foster youth's 21st birthday or the Department's receipt of the foster youth's notice to discontinue services to provide any necessary documents not previously provided, such as a birth certificate, social security card, state identification card, credit report, and a copy of the foster youth's health and education records.
- G. The Department shall not terminate services for substantial non-compliance under subsection (A)(4) until the Child Safety Worker or responsible agency staff satisfies all responsibilities including:
  - 1. Staffing of the individual case or service plan;
  - 2. Adhering to the grievance process described in R21-5-209; and
  - 3. Developing and implementing a discharge plan that provides information on available community resources, and connects the person to those resources.
- H. Services shall remain in effect until the reasons for termination are resolved or the grievance or appeal process is completed.
- I. For Independent Living Subsidy only, if the Department determines that continuation of the Independent Living Subsidy would place the foster youth at risk of immediate harm, the Child Safety Worker or responsible agency staff shall:
  - 1. Document this fact in the case file progress notes, and



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2. Arrange for a safe living arrangement and sufficient support services to reasonably ensure the foster youth's safety in the interim.

**Historical Note**

New Section made by final exempt rulemaking at 21 A.A.R. 3255, effective January 24, 2016 (Supp. 15-4).

**R21-5-209. Grievance Process**

- A. A person eligible for services under R21-5-204 who disagrees with a Department adverse action decision to reduce, terminate, or deny services for that person may:
  1. File a grievance under this Section;
  2. Choose not to file a grievance and appeal the adverse action under A.A.C. Title 21, Chapter 1, Article 3 by filing a notice of appeal within 20 days after receipt of the adverse action decision reducing, terminating, or denying services; or
  3. File a grievance, and if the person is dissatisfied with the results of the grievance process, appeal under A.A.C. Title 21, Chapter 1, Article 3 by filing a notice of appeal within 20 days after receipt of the grievance response letter.
- B. In the event that a person disagrees with a Department decision to reduce, terminate, or deny services, the Child Safety Worker or responsible agency staff shall:
  1. Inform the person of the formal grievance process;
  2. Provide the person with the Department's grievance form and directions for submittal to the designated Department staff, such as the Department's Ombudsman's Office; and
  3. Offer to assist the person in completing and submitting the form, or referring the person to the appropriate Department staff, such as the Department's Ombudsman, for assistance in completing and submitting the form.
- C. Upon receipt of the grievance form, the Department shall:
  1. Schedule a face-to-face meeting with the person who filed the grievance within seven work days from the date the grievance was received by the Department, or schedule a teleconference if a face-to-face meeting is not possible;
  2. Evaluate the grievance to determine if the grievance can be resolved by the Department to the satisfaction of the person;
  3. Mail a grievance response letter to the person within three work days of the meeting; and
  4. Include an appeal form with the grievance response letter so the person may appeal the adverse action.
- D. If the person agrees with the Department's decision to terminate services, the Child Safety Worker or responsible agency staff shall proceed with case closure including completing a discharge plan with the person that includes information on aftercare services and other community based support.
- E. The Department shall retain documentation of all grievances in the case file according to the Department's retention schedule.

**Historical Note**

New Section made by final exempt rulemaking at 21 A.A.R. 3255, effective January 24, 2016 (Supp. 15-4).

**ARTICLE 3. DEPARTMENT ADOPTION SERVICES****R21-5-301. Definitions**

In addition to the definitions in A.R.S. § 8-101, the following definitions apply in this Article, Article 4 of this Chapter, and 21 A.A.C. 9:

1. "Adoptable child" means a child who is legally available for adoption but who has not been placed for adoption.

2. "Adoptee" means a child who is the subject of a legal petition for adoption.
3. "Adoption agency" means an individual or entity, including a corporation, company, partnership, firm, association, or society, other than the Department, licensed by the Department to place a child for adoption.
4. "Adoption entity" or "entity" means the Department and includes an adoption agency, but does not include a private attorney who is licensed to practice law in the state of Arizona and who is only assisting in a direct placement adoption to the extent allowed by A.R.S. § 8-130(C).
5. "Adoption placement" or "placement" means the act of placing an adoptable child in the home of an adoptive parent who has filed, or is contemplating filing, a petition to adopt the child.
6. "Adoption Registry" means the electronic database described in A.R.S. § 8-105.
7. "Adoption services" means activities conducted in furtherance of an adoption and includes the activities listed in A.A.C. R21-5-303 and R21-9-201(B).
8. "Adoptive parent" means an individual who has successfully completed the application process and has been certified by the court to adopt. An adoptive parent includes an individual who does not have a child placed in their home.
9. "Agency placement" means the child is placed in an adoptive home chosen by the adoption agency.
10. "AHCCCS" means the Arizona Health Care Cost Containment System, which is the State's program for medical assistance available under Title XIX of the Social Security Act and state public insurance statutes under A.R.S. Title 36, Chapter 29.
11. "Applicant" means an individual who has applied to become an adoptive parent.
12. "Birth parent" means the biological mother or father of a child.
13. "Central Registry" means the information maintained by the Department of substantiated reports of child abuse or neglect for the purposes of A.R.S. § 8-804.
14. "Certification application" means the form that an applicant submits to an adoption entity or to the court to request a certification investigation to become certified as an adoptive parent.
15. "Certification investigation" means the process referred to in A.R.S. § 8-105(C) by which an adoption entity determines if an applicant is a fit and proper person to adopt.
16. "Certification order" means a judicial determination that an applicant is acceptable to adopt children.
17. "Certification report" or "adoptive home study" means the written report described in A.R.S. § 8-105, in which an adoption entity summarizes the results of a certification investigation and makes a recommendation for or against certification of an applicant.
18. "Child with special needs" means a child who has one of the special needs listed in A.R.S. § 8-141.
19. "Department" or "DCS" means the Arizona Department of Child Safety.
20. "Developmentally appropriate" means an action that takes into account:
  - a. A child's age and family background;
  - b. The predictable changes that occur in a child's physical, emotional, social, cultural, and cognitive development; and
  - c. A child's pattern and history of growth, personality, and learning style.

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21. "Direct placement" means the child is placed in an adoptive home by the birth parent or legal parent.
  22. "Final report to the court" means a written report that includes a social study under A.R.S. § 8-112, in which an adoption entity advises the court of the entity's assessment and recommendations about the finalization of a particular adoption.
  23. "Foster parent" means the same as in A.R.S. § 8-501.
  24. "ICPC" means the Interstate Compact on the Placement of Children described in A.R.S. § 8-548.
  25. "ICWA" means the Indian Child Welfare Act described in 25 U.S.C. 1901 et seq.
  26. "Legally available" means a child whose birth or legal parents are deceased, have voluntarily relinquished their parental rights, or whose parental rights have been terminated by the court.
  27. "License" means a permission granted by the Department to an adoption agency authorizing the adoption agency to perform adoption services in A.A.C. R21-9-201(B).
  28. "Open adoption" means an adoption in which the adoptive parent and the birth or legal parent agree to share varying degrees of each other's personal information for future contact.
  29. "Out-of-state agency" means any person or entity that is authorized or licensed by a state other than Arizona, or a foreign country, to perform adoption services.
  30. "Placed child" means an adoptable child who has been placed with an adoptive parent, and the adoptive parent has not yet filed a petition to adopt the child.
  31. "Placement supervision period" means the time period from the date of adoption placement until the court enters a final order of adoption, during which the adoptive parent has the rights under A.R.S. § 8-113.
  32. "Reasonable fee" means
    - a. A fee commensurate with:
      - i. The actual cost of providing a specific adoption service or item to a specific individual, or
      - ii. The average cost of a service or item if the adoption entity routinely uses an averaging method to determine the cost of a particular service or item.
    - b. A reasonable fee may include reasonable compensation for officers and employees and a reasonable profit margin above actual or averaged costs.
  33. "Service plan" means a written document of developmentally appropriate pre-placement and post-placement services necessary to facilitate a child's transition to an adoptive home.
  34. "Social study" means the written report described in A.R.S. § 8-112, after a petition for adoption has been filed, where the adoption entity summarizes the results of its investigation, and makes a definite recommendation for or against the proposed adoption and the reasons for that recommendation.
  2. The adoptive parent's certification status,
  3. The adoptive parent's availability for adoptive placement, and
  4. The type of child the adoptive parent is open to considering for adoption including:
    - a. Age;
    - b. Sex; or
    - c. Special needs.
- B.** Upon request, the Department shall provide personally identifiable Adoption Registry information to:
1. The court;
  2. An adoption agency, including a private attorney;
  3. Under a court order, a National or Regional Adoption registry and exchange; and
  4. An out-of-state agency.
- C.** Before providing information, the Department shall obtain, from the person requesting the information, the following:
1. The name and affiliation of the person requesting the information;
  2. The reason for the request; and
  3. If the requesting party is other than a court representative, a signed statement acknowledging that the information is confidential and promising not to release the information to anyone except as allowed by A.R.S. §§ 8-120, 8-121, and 8-105.

**Historical Note**

New Section made by final exempt rulemaking at 21 A.A.R. 3255, effective January 24, 2016 (Supp. 15-4).

**R21-5-303. Department Adoption Services**

- A.** The Department provides the following adoption services for families and children in accordance with the limitations and provisions of A.R.S. Title 8, Chapter 1, Article 1:
1. For families:
    - a. Recruiting adoptive parents;
    - b. Informing persons interested in adopting a child about the adoption process;
    - c. Conducting certification investigations of applicants under A.R.S. § 8-105;
    - d. Preparing certification reports under A.R.S. § 8-105; and
    - e. Submitting the names and profiles of adoptive parents for listing in the Adoption Registry.
  2. For children:
    - a. Accepting adoption consents from birth parents;
    - b. Preparing non-identifying, pre-placement information on adoptive children for adoptive parents, as required in A.R.S. § 8-129;
    - c. Submitting the name and profile of an adoptive child for listing in the Adoption Registry;
    - d. Preparing a child for adoptive placement;
    - e. Matching an adoptable child with an adoptive parent;
    - f. Placing an adoptable child in the home of an adoptive parent;
    - g. Investigating and reporting to the court on the acceptability of an adoptive parent under A.R.S. § 8-105(H);
    - h. Monitoring an adoption placement during the placement supervision period;
    - i. Providing services to a child placed for adoption and the adoptive family to assist with adjustment to the adoption placement;
    - j. Conducting a social study under A.R.S. § 8-112 and preparing a final report to the court determining suitability of placement; and

**Historical Note**

New Section made by final exempt rulemaking at 21 A.A.R. 3255, effective January 24, 2016 (Supp. 15-4).

**R21-5-302. Adoption Registry: Information Maintained; Confidentiality**

- A.** The Department shall maintain and keep current the Adoption Registry with the information required under A.R.S. § 8-105. The Adoption Registry shall include the following current information for each child or adoptive parent listed on the Adoption Registry:
1. The child's availability for adoptive placement,

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- k. Assisting an attorney by providing legal documents to enable an adoptive parent to complete the adoption process.
- B. When performing adoption services, the Department shall adhere to the standards established for an adoption agency in 21 A.A.C. 9.

**Historical Note**

New Section made by final exempt rulemaking at 21 A.A.R. 3255, effective January 24, 2016 (Supp. 15-4).

**R21-5-304. Department Procedures for Processing Certification Applications**

- A. Upon review of a certification application, the Department shall notify the applicant in writing that the application is either complete or incomplete. An application is complete when it contains the information and supporting documentation described in R21-5-404. If the application is incomplete, the notice shall specify what information is missing.
- B. An applicant with an incomplete application has 30 days from the date of the notice to provide the missing information. If the applicant fails to do so, the Department may close the file. An applicant whose file has been closed and who later wishes to apply for certification may reapply.
- C. Upon review of a complete application, the Department shall decide whether to accept the application, according to the priority schedule listed in R21-5-305, and the availability of the Department's resources. If the Department cannot accept the application, the Department shall return the original application and all supporting documentation to the applicant. The applicant may reapply.
- D. After the Department accepts the completed application, the Department shall provide the applicant written notice of the acceptance. The Department shall complete the certification investigation as specified in R21-5-405 within 90 days of the date of the notice. The Department shall prepare a certification report under R21-5-406.
- E. The Department shall process a renewal application under this Section and R21-5-407.

**Historical Note**

New Section made by final exempt rulemaking at 21 A.A.R. 3255, effective January 24, 2016 (Supp. 15-4).

**R21-5-305. Department Priorities for Receipt of Services**

The Department shall accept and process certification applications and render adoption services according to the following priority schedule:

- 1. An applicant for whom the court has ordered the Department to do a certification investigation and report;
- 2. An applicant seeking to adopt a particular adoptable child with special needs;
- 3. An applicant wishing to adopt a child with special needs;
- 4. An applicant considering adopting a child with special needs; and
- 5. All other applicants.

**Historical Note**

New Section made by final exempt rulemaking at 21 A.A.R. 3255, effective January 24, 2016 (Supp. 15-4).

**R21-5-306. Department Recruitment Efforts**

The Department shall actively recruit persons to adopt children with special needs by:

- 1. Publicizing the need for such adoptive parents;
- 2. Registering adoptable children, as appropriate, with the Adoption Registry or other local, state, regional and national adoption resources;
- 3. Advising prospective adoptive parents of:

- a. The availability of children with special needs,
- b. The procedures involved in adopting such children, and
- c. The support services and subsidies that may be available to persons adopting such children; and
- 4. Other measures similar to those described in this Section.

**Historical Note**

New Section made by final exempt rulemaking at 21 A.A.R. 3255, effective January 24, 2016 (Supp. 15-4).

**R21-5-307. Expired****Historical Note**

New Section made by final exempt rulemaking at 21 A.A.R. 3255, effective January 24, 2016 (Supp. 15-4).  
Section expired under A.R.S. § 41-1056(J) at 26 A.A.R. 1322, effective June 3, 2020 (Supp. 20-2).

**R21-5-308. Termination of Adoption Services**

- A. The Department may terminate services to an applicant or adoptive parent when:
  - 1. The adoption is finalized;
  - 2. The applicant or adoptive parent requests closure before receiving a child for placement;
  - 3. The applicant or adoptive parent ceases to be a resident of Arizona before receiving a child for placement;
  - 4. The court declines to certify the applicant or adoptive parent;
  - 5. The applicant or adoptive parent refuses to comply with the requirements in A.R.S. Title 8, Chapter 1, Article 1, or this Chapter, Articles 3 and 4;
  - 6. The applicant fails to submit a completed certification application within 90 days of the date on which the Department sent the person an application form;
  - 7. The adoptive parent is no longer willing to be an adoptive parent; or
  - 8. The adoptive parent is no longer certified to adopt.
- B. The Department may terminate adoption services to an adoptive child when:
  - 1. The court issues a final adoption order; or
  - 2. The court determines that adoption is no longer the most appropriate case plan for the child, and the Department provides alternate services consistent with the child's new case plan.

**Historical Note**

New Section made by final exempt rulemaking at 21 A.A.R. 3255, effective January 24, 2016 (Supp. 15-4).

**ARTICLE 4. ADOPTION ENTITY SERVICES****R21-5-401. Definitions**

The definitions in R21-5-301 apply in this Article.

**Historical Note**

New Section made by final exempt rulemaking at 21 A.A.R. 3255, effective January 24, 2016 (Supp. 15-4).

**R21-5-402. Recruitment**

- A. When recruiting applicants, an adoption entity shall comply with the requirements of this Section.
- B. The adoption entity shall conduct recruitment efforts pursuant to a written plan, which shall describe:
  - 1. Specific recruitment goals, including:
    - a. The number and composition of adoptive parents the entity will serve; and
    - b. The children the entity will accept for placement and any limitations such as:
      - i. Age;
      - ii. Medical special needs;

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- iii. Developmental special needs;
    - iv. Mental health; or behavioral health special needs.
  - 2. Methods of recruitment;
  - 3. The number and professional qualifications of staff designated to handle recruitment; and
  - 4. The means by which the adoption entity shall fund the agency's recruitment efforts.
- C. The adoption entity's recruitment efforts shall be consistent with the personal characteristics of the children the entity has available for adoption and reasonably expects will become available for adoption through the entity.
- D. An adoption entity shall not:
- 1. Promise to place more children than the adoption entity's prior history shows it can reasonably expect to place;
  - 2. Promise to place a child in less time than the average waiting period demonstrated by the adoption entity's past practice;
  - 3. Promise adoption subsidy prior to the formal approval and receipt of an adoption assistance agreement that meets the requirements of A.R.S. Title 8 Chapter 1 Article 2; or
  - 4. Make any other statements or promises the entity knows or reasonably should know are false, misleading, or inaccurate.
- E. The Department may take an adverse licensing action against an adoption agency that does not comply with this Section.

**Historical Note**

New Section made by final exempt rulemaking at 21 A.A.R. 3255, effective January 24, 2016 (Supp. 15-4).

**R21-5-403. Orientation: Persons Interested in Adoption**

- A. Prior to accepting a certification application from a person considering the adoption of a child, or an application for placement from a person who intends to seek a placement through the adoption entity, an adoption entity shall provide the person with an adoption orientation, which shall explain the following:
- 1. The adoption process, including all legally mandated procedures, and estimated time-frames for completion of such procedures;
  - 2. The adoption entity's policies and procedures that directly affect services to adoptive parents;
  - 3. The adoption entity's fee structure and written fee agreement;
  - 4. The types and number of children the agency typically has had and reasonably expects to have available for adoption placement and the average length of time between certification and placement;
  - 5. The Department's responsibility for licensing and monitoring agencies, and the public's right to register a complaint about an agency as prescribed in 21 A.A.C. 9, Article 2;
  - 6. The function of the Adoption Registry and the adoptive parent's right to decide whether to be included in the Adoption Registry; and
  - 7. Confidentiality requirements, open adoptions, and the confidential intermediary program described in A.R.S. § 8-134.
- B. A person who is already knowledgeable about all or part of the matters listed in subsection (A) may waive orientation on those matters, with the approval of the adoption entity. A person may be knowledgeable due to a prior adoption through an Arizona adoption entity, employment in adoption services, or for other similar reasons.

- C. An adoption entity shall maintain written documentation showing that any person who has applied to the entity for certification or for placement of a child has received the orientation described in subsection (A), required by R21-9-227, or has obtained a waiver described in subsection (B). If some or all of the adoption orientation is waived, the adoption entity shall document the matters waived and the reasons for the waiver.
- D. An adoption entity shall not charge a person for anything other than a certification application fee, or enter into an adoption fee agreement with a person, until the person has received the orientation in subsection (A).

**Historical Note**

New Section made by final exempt rulemaking at 21 A.A.R. 3255, effective January 24, 2016 (Supp. 15-4).

**R21-5-404. Application for Certification**

An applicant who wishes to become certified as an adoptive parent shall apply for certification as provided in A.R.S. § 8-105. An adoption entity shall require an applicant to provide at least the following information:

- 1. Personally identifying information for each prospective adoptive parent, including:
  - a. Name and date of birth;
  - b. Social Security number;
  - c. Race and ethnicity;
  - d. Physical description;
  - e. Current address and duration of Arizona residency;
  - f. Marital history; and
  - g. The name, address, and phone number of immediate family members, including emancipated adult children;
- 2. The name, date of birth, and social security number of any person currently residing with the applicant;
- 3. A listing of the applicant's insurance policies, including:
  - a. Any insurance that may be available to cover the medical expenses of a birth mother or adoptive child; and
  - b. The name of the insured, the insurance policy number, and the effective dates of coverage;
- 4. A current financial statement describing the applicant's assets, income, debts, and financial obligations;
- 5. A physician's statement as to the applicant's current physical and mental health;
- 6. A medical and psychological history on the applicant and the applicant's household members. The history may be a declaration by the applicant of past physical and mental illness for the applicant and any household member;
- 7. The applicant's employment history;
- 8. The applicant's social history;
- 9. A statement from the applicant as to the type of child the applicant seeks to adopt and whether the applicant desires to adopt or would consider adopting a child with special needs;
- 10. Information on the following legal proceedings in which the applicant has been a party:
  - a. Dependency proceedings,
  - b. Severance or termination of parental rights proceedings,
  - c. Child support enforcement proceedings,
  - d. Proceedings involving allegations of child abuse or neglect,
  - e. Adoption proceedings, or
  - f. All criminal proceedings;
- 11. The applicant's prior history of adoption certification, including prior applications for certification and the dates of any certification denials;

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12. Whether the applicant wishes to be listed on the Adoption Registry;
13. A fingerprint card or fingerprints processed through the Court, meeting the requirements of A.R.S. § 41.1758.07 on each applicant and each adult residing in the home more than the age of 18 years; and
14. The names, addresses, and phone numbers of five personal references; two references from family members related to the applicant by blood or marriage, and three other references, who have known the applicant at least two years and who can attest to the applicant's character and fitness to adopt.

**Historical Note**

New Section made by final exempt rulemaking at 21 A.A.R. 3255, effective January 24, 2016 (Supp. 15-4).

**R21-5-405. Certification Investigation**

- A. Following acceptance of a completed certification application, the adoption entity shall conduct a certification investigation that includes:
  1. Personal interviews with the adoptive family. Such interviews shall:
    - a. Occur on at least two separate occasions, at least one of which shall be at the adoptive parent's residence;
    - b. Comprise no less than four hours of in person contact, and at least one hour shall take place at the adoptive parent's residence;
    - c. Include at least one separate interview with each member of the adoptive parent's household who is more than the age of five; and
    - d. Include at least one joint interview with both adoptive parents if they are married;
  2. Written statements from and personal contact (either a face-to-face meeting or a telephone call) with at least three of the applicant's personal references;
  3. An inquiry as to whether the applicant wishes to be listed in the Adoption Registry;
  4. Verification of the applicant's financial condition through a review of one or more of the documents listed in subsection (A)(7)(g) below;
  5. A request to the Department for a check of the Central Registry to determine if the applicant has a past record of substantiated allegations of child abuse or neglect;
  6. An evaluation of the success of the placement of other children adopted by the applicant;
  7. A review of any supporting documentation the adoption entity reasonably deems necessary to determine an applicant's fitness to adopt, including:
    - a. A physician's statement regarding the physical health of other adult household members and the applicant's children living in the home;
    - b. A statement from a psychiatrist or psychologist regarding the mental health of the applicant and the applicant's other household members;
    - c. Birth certificates;
    - d. Marriage certificate;
    - e. Dissolution of marriage or divorce papers and orders, including child support documentation;
    - f. Military discharge papers;
    - g. Financial statements, tax returns, pay stubs, and W-2 statements;
    - h. Bankruptcy papers;
    - i. Insurance policy information; and
    - j. Documentation showing Arizona residency.
- B. A person who meets the qualifications listed in 21 A.A.C. 9, Article 2, shall perform the certification investigation and shall

document all personal contacts made and all information reviewed and considered during the investigation.

**Historical Note**

New Section made by final exempt rulemaking at 21 A.A.R. 3255, effective January 24, 2016 (Supp. 15-4).

**R21-5-406. Certification Report and Recommendation**

- A. Upon completion of the certification investigation, the adoption entity shall prepare a certification report under A.R.S. § 8-105.
- B. In determining whether to recommend certification of an applicant, the adoption entity shall consider all factors bearing on fitness to adopt, including, but not limited to:
  1. The factors listed in A.R.S. § 8-105;
  2. The length and stability of the applicant's marital relationship, if applicable;
  3. The applicant's age and health;
  4. Past, significant disturbances, or events in the applicant's immediate family, such as:
    - a. Involuntary job separation,
    - b. Divorce, or death of spouse, child, or parent, and
    - c. History of child abuse or neglect;
  5. The applicant's ability to financially provide for an adopted child; and
  6. The applicant's history of providing financial support to the applicant's other children, including compliance with court-ordered child support obligations.
- C. The certification report shall specifically note any instances where an applicant has:
  1. Been charged with, been convicted of, pled no contest to, or is awaiting trial, on charges of an offense listed in A.R.S. § 41-1758.07; or
  2. Been a party to a dependency, guardianship, or termination of parental rights action.
- D. If the report recommends denial of certification, the adoption entity shall send the applicant written notice of the unfavorable recommendation, the reason for the denial, and an explanation of the applicant's right under A.R.S. § 8-105, to petition the court for review. The adoption entity shall mail the notice to the applicant at least five work days prior to filing the certification report with the Court.
- E. The adoption entity may notify the adoptive parent of the Court's certification decision if the Court fails to do so.

**Historical Note**

New Section made by final exempt rulemaking at 21 A.A.R. 3255, effective January 24, 2016 (Supp. 15-4).

**R21-5-407. Renewal of Certification**

- A. A certified adoptive parent who has not filed a petition for adoption within one year of the original certification order, may apply for an extension of certification, as provided in A.R.S. § 8-105.
- B. If the Court directs an adoption entity to investigate a certified adoptive parent who has requested a renewal of certification, the entity shall obtain from the adoptive parent seeking renewal:
  1. A copy of the request for renewal of certification;
  2. An updated profile of any changes in the certified adoptive parent's social, family, medical, and financial circumstances;
  3. New fingerprint clearance per Court requirements, following original certification;
  4. A current physical health statement for all members of the adoptive parent's household at least every third year following original certification; and
  5. Other information as the Court may request.

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- C. When investigating a request for a renewal of certification, the adoption entity shall, at a minimum, complete the following:
1. Conduct an in person interview at the applicant's home with the applicant and the applicant's other household members more than the age of five years,
  2. Investigate any change in circumstances described in the request for renewal as necessary to determine continuing fitness to adopt, and
  3. Document all actions.
- D. Upon completion of the renewal investigation, the adoption entity shall prepare and file with the Court a certification investigation that shall contain a recommendation for or against renewal of certification.
- E. If the adoption entity recommends that certification not be renewed, the entity shall send the adoptive parent the notice in R21-5-406(D).
- a. Name and any aliases used;
  - b. Address, phone number, and residential history;
  - c. Date and place of birth;
  - d. Social security number;
  - e. Race, citizenship, and any Native American tribal affiliation or membership;
  - f. Physical description;
  - g. Name of current employer and employment history;
  - h. Educational history;
  - i. Marital history and status;
  - j. Record of other births and children born to the birth parent;
  - k. Hobbies;
  - l. Future plans;
  - m. Record of arrests or convictions;
  - n. Medical, psychological, and substance use history;
  - o. For the birth mother, history of prenatal care, gestational substance or drug abuse, pregnancy, and delivery;
  - p. Immediate family relationships; and
  - q. Significant family events.

**Historical Note**

New Section made by final exempt rulemaking at 21 A.A.R. 3255, effective January 24, 2016 (Supp. 15-4).

**R21-5-408. Communication with Adoptive Parents Awaiting Placement**

Upon request, an adoption entity shall inform an adoptive parent awaiting placement of a child of the following:

1. The status of the adoptive parent's case;
2. The number of children the adoption entity currently has available for adoption;
3. The number of times the adoptive parent has been considered for the placement of a child;
4. The number of approved adoptive parents awaiting placement of a child through the adoption entity; and
5. The number of placements the adoption entity made in the prior year, the number of placements the adoption entity has made to date in the current year, and the number of placements the adoption entity anticipates making during the remainder of the current year.

**Historical Note**

New Section made by final exempt rulemaking at 21 A.A.R. 3255, effective January 24, 2016 (Supp. 15-4).

**R21-5-409. Prohibitions Regarding Birth Parents**

An adoption entity shall not:

1. Promise a birth parent that the birth parent shall have future contact with the child or the adoptive parent but may explain the concept of open adoption;
2. Promise a birth parent that the child will be placed with a specific adoptive parent or type of adoptive parent, except in a direct placement adoption. The adoption entity may advise the parent that it will use the entity's best efforts to honor any placement preferences the birth parent may have, to the extent that such preferences are consistent with the best interests of the child;
3. Promise a birth parent any financial or other consideration prohibited by law; or
4. Do or say anything to coerce or pressure a birth parent to sign a consent to adopt.

**Historical Note**

New Section made by final exempt rulemaking at 21 A.A.R. 3255, effective January 24, 2016 (Supp. 15-4).

**R21-5-410. Information about Birth Parents**

- A. Before accepting a child for placement, the adoption entity shall make a good faith effort to obtain the following information described in this Section from the child's birth parent, or person having custody of the child:

1. Information about each birth parent including:

- a. Name and any aliases used;
  - b. Address, phone number, and residential history;
  - c. Date and place of birth;
  - d. Social security number;
  - e. Race, citizenship, and any Native American tribal affiliation or membership;
  - f. Physical description;
  - g. Name of current employer and employment history;
  - h. Educational history;
  - i. Marital history and status;
  - j. Record of other births and children born to the birth parent;
  - k. Hobbies;
  - l. Future plans;
  - m. Record of arrests or convictions;
  - n. Medical, psychological, and substance use history;
  - o. For the birth mother, history of prenatal care, gestational substance or drug abuse, pregnancy, and delivery;
  - p. Immediate family relationships; and
  - q. Significant family events.
2. An explanation of the birth parent's decision to place the child for adoption, the factors that influenced the decision, and a record of any counseling the birth parent received concerning the decision.
  3. A record of the birth parent's contact with the child.
  4. A statement of the birth parent's feelings about future contact with the child.
  5. A list of the birth parent's preferences regarding an adoptive home for the child.
  6. Medical or psychological history on the birth parent's own parents, siblings, grandparents, aunts, uncles, and first cousins.
  7. Information on the child being surrendered for adoption, as appropriate to the age of the child and the child's:
    - a. Developmental history,
    - b. Medical and psychological history,
    - c. Family background,
    - d. Educational history, and
    - e. Membership in or affiliation with any Native American tribe.
  8. A listing of the birth parent's insurance policies, including:
    - a. Any insurance that may be available to cover the medical expenses of the birth mother or adoptive child; and
    - b. The name of the insured, the insurance policy number, and the effective dates of coverage.

- B. The adoption entity shall document all statements and information in a permanent record.

**Historical Note**

New Section made by final exempt rulemaking at 21 A.A.R. 3255, effective January 24, 2016 (Supp. 15-4).

**R21-5-411. Pre-consent Conference with Birth Parents**

- A. The adoption entity shall have a pre-consent conference with each birth parent who must provide consent to adoption under A.R.S. § 8-106, to explain in a language and form that each birth parent can understand the following:

1. The legal and practical consequences of executing a consent, including:
  - a. Applicable ICWA provisions; and
  - b. The fact that the consent, and all other affidavits executed in connection with an adoption, are executed under penalty of perjury;
2. The irrevocability and inalterability of a consent;

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3. The legal prohibition against paying the birth parent to execute a consent;
  4. The fact that the birth parent has no obligation to sign the consent; and
  5. The provisions of A.R.S. § 8-106, regarding an affidavit of any potential father.
- B.** The pre-consent conference shall occur:
1. No earlier than 12 hours after the birth of a child if the conference was not held before the birth under subsection (B)(2);
  2. No earlier than 60 days before the anticipated due date, if the conference is held before the child's birth;
  3. At least 24 hours before presenting a birth parent with the consent form for signature; and
  4. At a time that takes into account the known medical and emotional condition of each available birth parent.
- C.** The person conducting the pre-consent conference shall provide the birth parent with a sample consent form and shall convey the information described in subsection (A) in a language and form that the birth parent can understand.
- D.** The person conducting the pre-consent conference shall document that the information was given and understood and shall obtain the birth parent's signature on the documentation. If the conference is by telephone under subsection (E), the person may obtain the signature through the mail at a later date. If the conference is not held, the person shall document the reason under subsection (E).
- E.** The pre-consent conference may be by telephone and is not required if the birth parent cannot be located or refuses to participate in the conference. The adoption entity shall document the reason why the conference did not occur.
- F.** If required to obtain a consent from a birth father under A.R.S. § 8-106, the adoption entity shall, prior to obtaining the birth father's signature, advise the birth father of the matters listed in subsection (A) in a form and language the birth father can understand. The adoption entity shall include the advice listed in subsection (A) on the consent form.

**Historical Note**

New Section made by final exempt rulemaking at 21 A.A.R. 3255, effective January 24, 2016 (Supp. 15-4).

**R21-5-412. Consent to Adopt; Unknown Birth Parent**

- A.** A person who obtains a birth parent's signature on a consent shall not do so until the person reasonably determines:
1. That the requirements of R21-5-411 have been met;
  2. That the birth parent is not acting under duress;
  3. That the birth parent is physically and mentally capable of exercising informed consent; and
  4. That the birth parent has revealed all information known about the identity and location of the other birth parent.
- B.** No one shall advise a birth parent to falsely state that he or she does not know the identity or location of the other birth parent.
- C.** When a birth parent professes not to know the identity or location of the other birth parent, the person taking the consent shall explain the risks and consequences of this response, including the following:
1. Potential invalidation of the adoption;
  2. Potential detriment to the child's social and physical well-being, due to lack of information concerning the unidentified birth parent's social and medical history; and
  3. Potential penalties for perjury.
- D.** When a birth parent knows, but refuses to disclose, the identity or location of the other birth parent, the adoption entity shall advise the birth parent as provided in subsection (C) and shall also explain that the Court may refuse to finalize the adoption.

- E.** The adoption entity shall document all action taken in compliance with this Section.
- F.** The adoption entity shall give the birth parent a copy of the consent and retain a copy in the permanent adoption file.
- G.** The adoption entity shall request a search of the confidential putative fathers registry of information that the Arizona Department of Health Services maintains under A.R.S. § 8-106.01 when:
1. A birth father's identity is unknown or undisclosed, and
  2. The adoption entity believes that a search of the putative fathers registry may prevent disruption of a placement or an adoption.

**Historical Note**

New Section made by final exempt rulemaking at 21 A.A.R. 3255, effective January 24, 2016 (Supp. 15-4).

**R21-5-413. Adoptable Child: Assessment and Service Plan**

- A.** Prior to selecting an adoptive placement for an adoptable child, the adoption entity shall:
1. Assess the child's medical, psychological, social, and developmental needs;
  2. Design an adoptive family profile consistent with the child's needs and best interests;
  3. Develop a written service plan; and
  4. Assess whether the child is a potential candidate for an adoption subsidy.
- B.** The service plan shall, at a minimum, include:
1. Placing the child on the Adoption Registry if there is no adoptive parent readily available to adopt the child;
  2. Giving the child a developmentally appropriate explanation of the adoption process.
- C.** The adoption entity shall provide the child with services in accordance with the child's service plan.

**Historical Note**

New Section made by final exempt rulemaking at 21 A.A.R. 3255, effective January 24, 2016 (Supp. 15-4).

**R21-5-414. Placement Determination**

- A.** An adoption entity shall have and follow a written policy for making placement recommendations and decisions in both direct placement and adoption placement adoptions.
- B.** Except as otherwise provided in subsection (C), in an agency placement adoption a team shall make the placement decision. The team shall at a minimum, include:
1. The case manager or person who assessed the adoptable child, and
  2. The case manager or person who is knowledgeable about the potential adoptive parents for the adoptable child.
- C.** In international adoptions, where the case manager or person who assessed the child is out of the country and unavailable, the adoption team shall include the person who is most familiar with the adoptable child's needs.
- D.** In an agency placement adoption, an adoption entity shall place an adoptable child in the adoptive setting that best meets the child's safety, social, emotional, physical and mental health needs. In determining who can best meet the needs, the adoption entity shall consider ICWA placement preferences if applicable and the following relevant factors in no order of preference:
1. The marital status, length and stability of the marital relationship of the adoptive parent;
  2. The family's ability to meet the child's emotional, physical, mental, and social needs;
  3. The family's ability to financially provide for the child;
  4. The wishes of a child who is 12 years of age or more;

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5. Family relationships between the child and the adoptive parent's family members;
  6. The placement of the child's siblings;
  7. The availability of relatives, the adoptable child's former foster parents, or other significant persons to provide support to the adoptive parent and child;
  8. The wishes of the child's birth parent; and
  9. All information in the case files of the child and the adoptive parent.
- E. The adoption entity shall document the placement decision.
1. For adoptions conducted pursuant to the ICPC, the documentation shall comply with the requirements of the ICPC under A.R.S. § 8-548 et seq.
  2. For all other adoptions, the documentation shall include the following:
    - a. The adoptive child's critical needs and characteristics that weigh most heavily in the placement determination,
    - b. The names and general characteristics of those adoptive parents who most closely match the child's needs and who are seriously considered for placement, and
    - c. The reasons why a particular adoptive parent chosen for placement best meets the child's needs.
- F. For adoptions not covered by the ICPC, the adoption entity may document the placement decision in a file or placement log that is separate from the clients' case files.

**Historical Note**

New Section made by final exempt rulemaking at 21 A.A.R. 3255, effective January 24, 2016 (Supp. 15-4).

**R21-5-415. Provision of Information on a Placed Child**

After selecting an adoptive placement for a child, and before placing the child with the chosen adoptive parent, the adoption entity shall provide the adoptive parent with all non-identifying information available on the child, including, without limitation, the following:

1. All records concerning the child's medical, psychological, social, legal, family, and educational background;
2. All records concerning the birth parents' medical, psychological, social, legal, family, and educational background;
3. The medical and social background on the child's other immediate family members, including siblings and birth grandparents;
4. The child's plan for adoption services, as described in R21-4-413; and
5. Information on adoption subsidy that may be available for the child.

**Historical Note**

New Section made by final exempt rulemaking at 21 A.A.R. 3255, effective January 24, 2016 (Supp. 15-4).

**R21-4-416. Transportation**

An adoption entity that transports an adoptive child shall:

1. Ensure that any person who transports an adoptive child is informed of the child's medical needs and is capable of meeting any medical needs that are reasonably likely to arise during transport;
2. Not leave an adoptive child unattended during transportation if the adoptive child:
  - a. Is less than seven years of age;
  - b. Has a developmental disability; and
  - c. Is more than seven years of age if the adoption entity has determined, and documented in the child's

- record, that the child is physically and emotionally incapable of traveling alone;
3. Require all persons who provide transport to carry personal identification and a written statement from the adoption entity describing the person's authority and responsibilities while performing transport duties;
4. Require proof of driver's license from any person accepting temporary or permanent responsibility for transporting an adoptive child during the course of placement;
5. Document all transportation plans and actual transportation events in the child's record;
6. All vehicles used in transporting adoptive children shall be insured;
7. Ensure that an adoptive child is properly secured in a child restraint system that meets the requirements listed in R21-9-224(E).

**Historical Note**

New Section made by final exempt rulemaking at 21 A.A.R. 3255, effective January 24, 2016 (Supp. 15-4).

**R21-5-417. Placement Services**

- A. An adoption entity shall make counseling services available to the adoptive parents' family as the entity deems reasonable and necessary to facilitate the child's acceptance into the adoptive parent's family and to preserve stability. The adoption entity may make such services available by advising the adoptive family that such services may be beneficial and referring the adoptive parent and his or her family to community resources and providers.
- B. The adoption entity shall make information on adoption related educational and supportive resources available to adoptive parents.
- C. The adoptive parent must sign a document stating if he or she is declining any form of adoption counseling.

**Historical Note**

New Section made by final exempt rulemaking at 21 A.A.R. 3255, effective January 24, 2016 (Supp. 15-4).

**R21-5-418. Post-placement Supervision: Non-foster Parent Placement**

- A. When a child is placed for adoption with a person who is not the child's foster parent, a case manager from the adoption entity shall visit the home within 30 calendar days of the date of adoptive placement to:
1. Ensure that the adoptive parent received all available non-identifying information from the adoption entity on the child;
  2. Address any questions or concerns the adoptive parent or child may have about the adoption process or placement;
  3. Ensure that the family has addressed the educational needs of a school-age child; and
  4. Ensure that an adoptive parent who works has made appropriate child care arrangements.
- B. Following the initial placement visit in subsection (A), a case manager from the adoption entity shall:
1. Visit the adoptive family at least once every three months until the adoption is finalized:
    - a. Except, when the adoptive child is a child with special needs, the visits shall occur at least once a month; and
    - b. During the first six months following the initial placement visit, at least alternating visits shall occur at the adoptive family's home;
  2. Interview all members of the adoptive family's household during the placement supervision period;



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3. Discuss how the child and the adoptive parent's family are adapting, the current relationship among members of the adoptive parent's family, and the following issues with the adoptive parent if appropriate in light of the child's age and development:
    - a. How the presence of the child has changed familial relationships;
    - b. How the child and the extended family view each other;
    - c. The role each family member has assumed regarding child care and discipline;
    - d. How the adoptive parent is coping with the needs and demands of the placed child;
    - e. How the child challenges or tests the placement and how the family reacts to these episodes, including any feelings of insecurity about the propriety of the family members' response;
    - f. How the family perceives the child's sense of identity and the need to fill in gaps in the child's history; and
    - g. How the child has adjusted to the school environment;
  4. If developmentally appropriate, privately interview the child about:
    - a. The child's feelings about the adoption;
    - b. How the child and family are adapting; and
    - c. The child's relationships with the members of the family.
- C. The case manager shall document all contacts and communications made under this Section.

**Historical Note**

New Section made by final exempt rulemaking at 21 A.A.R. 3255, effective January 24, 2016 (Supp. 15-4).

**R21-5-419. Post-placement Supervision: Foster Parent Placement**

- A. When a foster parent plans to adopt a foster child who is age 5 years or older, a case manager from the adoption entity shall privately interview the child and all members of the adoptive family household who are age 5 years or older about their feelings towards the adoption, before the adoption consent is signed.
- B. When a child is placed for adoption with a person who has been a foster parent to the child, a case manager from the adoption entity shall conduct a home visit at least every two months from the time legal consent for adoption has been signed until the finalization of adoption unless the adoptive child is a child with special needs. If the adoptive child is a child with special needs, the case manager shall visit at least once a month.
- C. During the visits described in subsection (B), the case manager shall:
  1. If developmentally appropriate, privately interview the child to discuss a child's feelings about the adoption; and
  2. Interview all members of the adoptive family household, including children, if developmentally appropriate, to discuss, as described in R21-5-418, how the child and family are adapting, and the current relationship among members of the family.
- D. The case manager shall document all contacts and communications under this Section.

**Historical Note**

New Section made by final exempt rulemaking at 21 A.A.R. 3255, effective January 24, 2016 (Supp. 15-4).

**R21-5-420. Protracted Placement**

If an adoption is not finalized within two years from the date of consent, and the child is still placed in the adoptive home, the adoption entity handling the adoption shall provide the Department with written documentation explaining the reason why the adoption has not been finalized, no later than 30 calendar days after the two-year period has ended.

**Historical Note**

New Section made by final exempt rulemaking at 21 A.A.R. 3255, effective January 24, 2016 (Supp. 15-4).

**R21-5-421. Finalizing the Placement**

An adoption entity shall cooperate with the adoptive parent and the attorney, if any, retained by the adoptive parent, to finalize the adoption.

1. The entity shall provide all information and documents needed to finalize the adoption and shall file a final written report to the court at least 14 calendar days before the final adoption hearing, or at such other time as the Court may require. The report shall include the information listed in this subsection, unless the entity has already provided this information in an earlier report, and the information has not changed since the earlier report.
  - a. The name and age of each adoptive parent and the relationship, if any, of each adoptive parent to the child to be adopted;
  - b. The name, age, and birthplace of the child to be adopted, and whether any or all of this information is unknown to the adoptive parent;
  - c. The entity or other source from which the adoptive parent received the child to be adopted;
  - d. The circumstances surrounding the surrender of the child to the entity;
  - e. The results of the entity's evaluation of the child and of the adoptive parent, including:
    - i. A description of the care the child is receiving;
    - ii. The adjustment of the child and parent; and
    - iii. A summary statement of the entity's recommendation to the court regarding finalization;
  - f. A full description of any property belonging to the child to be adopted;
2. For children 12 years of age and older, the adoption entity shall solicit and consider the child's wishes concerning adoption.
3. The adoption entity shall notify the AHCCCS Administration of any potential third party payer, as prescribed in A.R.S. § 36-2946, if the entity has not already done so.

**Historical Note**

New Section made by final exempt rulemaking at 21 A.A.R. 3255, effective January 24, 2016 (Supp. 15-4).

**R21-5-422. Placement Disruption**

- A. When a placement fails, the adoption entity shall provide services, including counseling to the adoptive parent and his or her family and child, to help them cope with the loss and separation.
- B. An adoption entity shall have and follow written procedures for an adoptive placement disruption. The procedures shall include:
  1. Provision of counseling services to the adoptive parent, his or her family, and the child as needed; and
  2. Provision for placement of the child in another adoptive home or other developmentally appropriate living arrangement.

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- C. The adoptive entity shall document the reasons for the disruption and shall take such information into account when making future placements for the adoptive parent and the child.

**Historical Note**

New Section made by final exempt rulemaking at 21 A.A.R. 3255, effective January 24, 2016 (Supp. 15-4).

**R21-5-423. Confidentiality**

Any person or entity who participates in an adoption or provides adoption services shall comply with the confidentiality requirements under A.R.S. §§ 8-120, 8-121, and 36-2903.01.

**Historical Note**

New Section made by final exempt rulemaking at 21 A.A.R. 3255, effective January 24, 2016 (Supp. 15-4).

**ARTICLE 5. ADOPTION SUBSIDY****R21-5-501. Definitions**

In addition to the definitions in A.R.S. §§ 8-141 and 8-501, the following definitions apply in this Article.

1. "Adoption agency" means an individual or entity, including a corporation, company, partnership, firm, association, or society, other than the Department, licensed by the Department to place a child for adoption.
2. "Adoption Specialist" means the Department of Child Safety Specialist, or adoption agency staff person, who is responsible for managing the child's case prior to the adoption finalization.
3. "Adoption subsidy" means the same as A.R.S. § 8-141, and includes nonrecurring adoption expenses under A.R.S. § 8-161 et seq. If the child qualifies, the adoption subsidy may include one or more of the following:
  - a. Medical, dental, and mental health subsidy;
  - b. Maintenance subsidy;
  - c. Special services subsidy; and
  - d. Reimbursement of nonrecurring adoption expenses.
4. "Adoption subsidy agreement" means the agreement in A.R.S. § 8-144 concerning the Adoption Subsidy Program and includes the agreement in A.R.S. § 8-162 concerning the nonrecurring adoption expense program.
5. "Adoption Subsidy Program" means a unit within the Department of Child Safety that administers the adoption subsidy.
6. "Adoption Subsidy Supervisor" means a Department employee who is responsible for the Adoption Subsidy Program within a defined geographic area, and that the Department has authorized to approve an adoption subsidy agreement.
7. "Adoptive parent" means an adult who the court has certified or approved to adopt a child, or an adult who has adopted a child.
8. "AHCCCS" means the Arizona Health Care Cost Containment System, which is the state's program for medical assistance available under Title XIX of the Social Security Act and state public insurance statutes, A.R.S. Title 36, Chapter 29.
9. "AHCCCS hospital reimbursement system" means the payment structure that AHCCCS uses to pay for inpatient and outpatient hospital services.
10. "Complete adoption subsidy application" means a packet containing the following:
  - a. An "Adoptive Family Subsidy Application" form provided by the Department that the adoptive parent, the Adoption Specialist, and Adoption Specialist supervisor have completed and signed; and
  - b. The supporting documentation and information requested in the "Adoptive Family Subsidy Application."
11. "Debilitating" means a lifelong, progressive, or fatal condition characterized by physical, mental, or developmental impairment that impedes an individual's ability to function independently.
12. "Department" or "DCS" means the Arizona Department of Child Safety.
13. "Developmental disability" means the same as A.R.S. § 8-141.
14. "Diagnose" means to identify a physical, psychological, social, learning, or developmental condition or disability according to the accepted standards of the medical, mental health, or educational professions.
15. "Emergency situation" means a circumstance that, if unaddressed, would be detrimental to a child's life, health, or safety.
16. "Emotional disturbance" means the same as A.R.S. § 8-141.
17. "Lawfully present in the United States" means the child is a U.S. citizen, national, or an alien authorized by an appropriate federal entity or court to be present in the United States.
18. "Legally free" means the parental rights of a child's birth or legal parents have been terminated.
19. "Maintenance subsidy" means a monthly payment paid to a custodial adoptive parent to assist with the costs directly related to meeting some of the adopted child's needs, including child care, health insurance co-payments and deductibles, and supplemental educational services for the adopted child.
20. "Mental disability" means the same as A.R.S. § 8-141.
21. "Nonrecurring adoption expenses" means the same as A.R.S. § 8-161, and are reasonable and necessary expenses directly related to the legal process of adopting a child with special needs. Allowable expenses include adoption fees, court costs, attorney's fees, fingerprinting fees, home study fees, costs for physical and psychological examinations, costs for placement supervision, and travel expenses necessary to complete the adoption.
22. "Physical disability" means the same as A.R.S. § 8-141.
23. "Qualified professional" means a practitioner licensed or certified by the state of Arizona or another state to evaluate and diagnose a condition or disability, or provide medical, dental, mental health services, or approved by the Department to provide educational or respite services.
24. "Sibling relationship" means two or more brothers or sisters who are related by blood or by law, and who are being adopted by the same family.
25. "Special allowance" means funds provided for clothing or personal expenses, therapeutic or personal attendant care, and other specialized payments such as emergency clothing, education, and gift allowances.
26. "*Special needs*" means one or more of the following conditions which existed before the finalization of adoption:
  - a. Physical, mental or developmental disability.
  - b. Emotional disturbance.
  - c. High risk of physical or mental disease.
  - d. High risk of developmental disability.
  - e. Age of six or more years at the time of application for an adoption subsidy.
  - f. Sibling relationship.
  - g. Racial or ethnic factors.
  - h. High risk of severe emotional disturbance if removed from the care of his foster parents.

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- i. Any combination of the special needs described in this paragraph. A.R.S. § 8-141.
- 27. "Special services subsidy" means financial assistance for extraordinary, infrequent, or uncommon needs related to a special needs condition specified in the adoption subsidy agreement.
- 28. "Standard of care" means a medical or psychological procedure or process that is accepted as treatment for a specific illness, injury, medical, dental, learning, or psychological condition through custom, peer review, or consensus by the professional medical, dental, educational, or mental health community.
- 29. "Title IV-E" means section 473 of Title IV of the Social Security Act, 42 U.S.C. 673, which establishes the federal adoption assistance program.
- 30. "Title XIX" means Medicaid, as defined by Section 1900, Title XIX, of the Social Security Act, 42 U.S.C. 1396.
- 31. "Title XX" means the Social Services Block Grant, as defined by Section 2001, Title XX, of the Social Security Act, 42 U.S.C. 1397.
- 32. "Undiagnosed pre-existing special need condition" means a physical, mental or developmental disability or emotional disturbance that existed before a court finalized the child's adoption, and that a qualified professional did not confirm before the child's adoption.

**Historical Note**

New Section made by final exempt rulemaking at 21 A.A.R. 3255, effective January 24, 2016 (Supp. 15-4).

**R21-5-502. Eligibility Criteria**

- A. The Department shall determine if a child qualifies for the Title IV-E adoption assistance program prior to determining whether the child qualifies for the Adoption Subsidy Program.
- B. A child shall qualify for Title IV-E adoption assistance if the child meets the additional eligibility criteria required in 42 U.S.C. 673(a)(2). If the child does not meet the additional criteria in Title IV-E, the child may still be eligible to receive adoption subsidy under subsection (C).
- C. An Arizona child shall be eligible for adoption subsidy when the child is:
  - 1. In the care, custody, and control of the Department, or an adoption agency licensed in Arizona, or was previously adopted and received Title IV-E or Arizona adoption subsidy;
  - 2. Legally free for adoption;
  - 3. Lawfully present in the United States; and
  - 4. Determined to be a child with special needs as defined by Title IV-E of the Social Security Act, and A.R.S. Title 8, Chapter 1, Articles 2 and 3 as follows:
    - a. The child cannot or should not be returned to the parent's home;
    - b. The child cannot be placed with adoptive parents without an adoption subsidy due to a special need of the child; and
    - c. A reasonable but unsuccessful effort was made to place the child without an adoption subsidy, unless the Department determined that it was not in the child's best interest to place the child with another family because of the child's significant emotional ties with the prospective adoptive parent while in their care as a foster child.

**Historical Note**

New Section made by final exempt rulemaking at 21 A.A.R. 3255, effective January 24, 2016 (Supp. 15-4).

**R21-5-503. Application for Adoption Subsidy**

- A. The adoptive parent shall submit a complete adoption subsidy application to the Department Adoption Subsidy Program prior to the finalization of the adoption. A complete adoption subsidy application shall include the following:
  - 1. The child's:
    - a. Name;
    - b. Date of birth;
    - c. Social Security Number; and
    - d. Ethnicity;
  - 2. The adoptive parents':
    - a. Name;
    - b. Date of birth;
    - c. Social Security Number;
    - d. Ethnicity;
    - e. Marital status;
    - f. Occupation;
    - g. Relationship to the child;
    - h. Adoption certification status;
  - 3. Information about:
    - a. The child's special needs;
    - b. Whether the child is lawfully present in the U.S.;
    - c. The Department or the adoption agency that has custody of the child;
    - d. Whether the child is free for adoption;
    - e. Efforts to place the child for adoption without adoption subsidy;
    - f. Resources for which the child is eligible; and
    - g. Financial benefits for which the child is eligible; and
  - 4. Description of:
    - a. The child's pre-existing special need conditions;
    - b. The need for maintenance payments; and
    - c. Nonrecurring expenses.
  - 5. The adoptive parent shall include the following documentation:
    - a. The child's specific special need identified by a qualified professional;
    - b. The child's need for a maintenance subsidy from:
      - i. The adoptive parent,
      - ii. Adoption Specialist, and
      - iii. A qualified professional;
    - c. The child's lawful presence in the United States if the child is not a U.S. citizen;
    - d. The child's pre-existing medical, dental, and mental health conditions as documented by a qualified professional:
      - i. Current within one year, or
      - ii. Provided in birth records; and
  - 6. Assurances that the following information is available in the adoption case record:
    - a. The Department or adoption agency that has custody of the child,
    - b. That the child is free for adoption, and
    - c. Efforts to place the child for adoption without adoption subsidy.
- B. An adoption subsidy application is complete when the Adoption Subsidy Program receives the application and all supporting documentation. Documentation may vary according to the conditions of the child, and may include the recommendations of qualified professionals.

**Historical Note**

New Section made by final exempt rulemaking at 21 A.A.R. 3255, effective January 24, 2016 (Supp. 15-4).

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**R21-5-504. Eligibility Determination**

The Department shall review the adoption subsidy application and determine eligibility according to the following:

1. The Department shall approve eligibility for adoption subsidy if a child meets the eligibility criteria listed in R21-5-502 and the adoptive parent submits a complete application. If the Department approves eligibility, the Department shall create an adoption subsidy agreement that the adoptive parent and the Adoption Subsidy Supervisor or designee shall sign before the court enters the final order of adoption.
2. The Department shall deny eligibility for an adoption subsidy if a child does not meet the eligibility criteria listed in R21-5-502. If the Department denies an adoption subsidy, the Department shall send a notice to the adoptive parent that explains the reason for denial, the applicant's right to appeal, and the time-frame to file an appeal.

**Historical Note**

New Section made by final exempt rulemaking at 21 A.A.R. 3255, effective January 24, 2016 (Supp. 15-4).

**R21-5-505. Adoption Subsidy Agreement**

- A. The Department shall create an adoption subsidy agreement that lists the scope and nature of the subsidies provided, including:
  1. The child's documented pre-existing special needs condition,
  2. The types of subsidy approved,
  3. The amount or rates as applicable to the types of subsidy approved, and
  4. The specific terms and conditions of the agreement.
- B. The adoption subsidy agreement shall become effective if the following occurs prior to the finalization of the adoption:
  1. The adoptive parent signs the agreement and returns it to the Department Adoption Subsidy Program, and
  2. The Adoption Subsidy Supervisor or designee signs the agreement.

**Historical Note**

New Section made by final exempt rulemaking at 21 A.A.R. 3255, effective January 24, 2016 (Supp. 15-4).

**R21-5-506. Medical, Dental, and Mental Health Subsidy**

Adoption subsidy provides medical, dental, and mental health subsidies in the form of federal Medicaid coverage to a child in the Adoption Subsidy Program.

1. If the child resides in Arizona, AHCCCS determines eligibility; or
2. If the child resides in another state, the relevant state agency in that state determines Medicaid eligibility.

**Historical Note**

New Section made by final exempt rulemaking at 21 A.A.R. 3255, effective January 24, 2016 (Supp. 15-4).

**R21-5-507. Maintenance Subsidy**

- A. The maintenance subsidy may not cover all the daily living expenses of the adopted child. The Department and the adoptive parent shall negotiate the amount of maintenance subsidy based on a child's current special needs and the family's circumstances.
  1. Under A.R.S. § 8-144(B), the amount of the maintenance subsidy shall not exceed the payments allowable for foster care, not including foster care special allowances.
  2. The Department shall deduct private or public monetary benefits, such as benefits received through Title II of the Social Security Act, paid to the child from the monthly

maintenance subsidy, as allowed under state or federal law. The adoptive parent shall report the receipt of any private or public monetary benefits for the child to the Adoption Subsidy Program as soon as the benefits are received.

**B. Payment of Maintenance Subsidy**

1. The Department shall not begin maintenance subsidy payments prior to the effective date of the adoption subsidy agreement.
2. The Department shall issue maintenance subsidy payments monthly to the adoptive parent as specified in the adoption subsidy agreement.

**C. Renegotiation of the Maintenance Rate**

1. The Department or the adoptive parent may initiate a change in the maintenance subsidy rate if there are changes in the child's needs.
2. The Department may renegotiate the amount of the adoption subsidy; however, the rate shall not exceed the payments allowable for foster care, not including foster care special allowances.
3. The adoptive parent shall provide the Department with documentation supporting the requested change in the maintenance subsidy rate.
4. If the child is in the care or custody of a state agency in Arizona or any other state, an adoption agency, or an individual other than the adoptive parent, the Department shall request, and the adoptive parent shall provide, documentation that the adoptive parent continues to be legally and financially responsible for the child.

**Historical Note**

New Section made by final exempt rulemaking at 21 A.A.R. 3255, effective January 24, 2016 (Supp. 15-4).

**R21-5-508. Special Services Subsidy**

- A. Special services subsidy shall be:
  1. Related to a special needs condition listed in the adoption subsidy agreement; and
  2. Necessary to improve or maintain the adopted child's functioning as documented by an appropriate qualified professional. The Adoption Subsidy Program shall review the documentation at least annually.
- B. Services approved for the payment of special services subsidy shall be:
  1. Provided by a qualified professional;
  2. Provided in the least restrictive environment and as close as possible to the adoptive parent's residence;
  3. In accordance with the "Standard of Care"; and
  4. Not otherwise covered by or provided through maintenance subsidy, medical subsidy, dental subsidy, mental health subsidy, or other resources for which the adopted child is eligible.
- C. The adoptive parent shall submit the special services request to the Adoption Subsidy Program and receive approval from the Adoption Subsidy Program prior to the adoptive parent's incurring the specified expense. The request shall include:
  1. Documentation from a qualified professional that the service is necessary; and
  2. Documentation that the adoptive parent had requested the service and the service provider had denied the request or documentation that the service is not available from other potential funding sources, such as AHCCCS/Medicaid, private insurance, school district, or other community resources.
- D. Special services subsidy shall not include:

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1. Payment for services to meet needs other than the pre-existing special needs conditions specifically listed in the adoption subsidy agreement;
  2. Payment for medical or dental services usually considered to be routine, such as well-child checkups, immunizations, and other services not related to the child's special needs conditions in the adoption subsidy agreement;
  3. Payment for health-related services that are not medically necessary, as determined by a qualified professional;
  4. Payment for social or recreational services such as routine child care, dance lessons, sports fees, camps, and similar services; and
  5. Payment for educational services that are not necessary to meet the special needs conditions specifically listed in the adoption subsidy agreement, or the services for which the school district is responsible.
- E.** The Department may request an independent review by a qualified professional of a special services request to determine the necessity for medical, dental, psychological, or psychiatric testing or services, or to evaluate the appropriateness of the treatment plan or placement.
- F.** The Department may issue reimbursements to the adoptive parent for approved special services, or the Department may pay the service provider directly.
- G.** Special services subsidy reimbursement is limited as follows:
1. The Department shall reimburse in-state and out-of-state inpatient and outpatient hospital services according to the AHCCCS hospital reimbursement system, as required by A.R.S. § 8-142.01(A), if the adoptive parent has obtained prior approval for the service from the Department. Prior approval is not required in an emergency situation.
  2. The Department shall not reimburse special services subsidy amounts in excess of the rates allowed by the Department or AHCCCS. The Department shall use the lowest applicable rates as established by AHCCCS, the Department's Comprehensive Medical and Dental Program (CMDP), or rates established by the Adoption Subsidy Program to be customary and reasonable.
  3. The Department shall not pay for requests that the adoptive parent or provider submits more than nine months after the date of service for which the adoptive parent or provider requests payment.

**Historical Note**

New Section made by final exempt rulemaking at 21 A.A.R. 3255, effective January 24, 2016 (Supp. 15-4).

**R21-5-509. Nonrecurring Adoption Expenses**

- A.** Nonrecurring adoption expenses shall not cover expenses related to visiting and placing the child.
- B.** Reimbursement of nonrecurring adoption expenses is subject to the limitations in A.R.S. § 8-164.

**Historical Note**

New Section made by final exempt rulemaking at 21 A.A.R. 3255, effective January 24, 2016 (Supp. 15-4).

**R21-5-510. Annual Review; Reporting Change**

- A.** Each year, the Department shall send a review form to the adoptive parent requesting that the adoptive parent provide:
1. Information indicating that the parent remains legally and financially responsible for the child;
  2. Information on any change in benefits for the child, such as benefits received through Title II of the Social Security Act;

3. Information on any change in circumstances, including changes in residence, marital status, educational status, or other similar changes; and
  4. A description of any changes in the child's special needs conditions that are listed in the adoption subsidy agreement.
- B.** The adoptive parent shall provide the Department with the requested information within 30 days of the adoptive parent's receipt of the review form.
- C.** The adoptive parent shall notify the Department in writing within five calendar days when any of the following occurs:
1. The adoptive parent is no longer legally responsible for the child;
  2. The adoptive parent is no longer providing support to the child;
  3. The child is no longer residing in the adoptive parent's home;
  4. The child has graduated from high school or obtained a general equivalency degree (GED);
  5. The child has married;
  6. The child has joined the military; or
  7. The child dies.

**Historical Note**

New Section made by final exempt rulemaking at 21 A.A.R. 3255, effective January 24, 2016 (Supp. 15-4).

**R21-5-511. Termination of Adoption Subsidy**

The Department shall terminate an adoption subsidy when any of the following occurs:

1. The child turns 18 years old and is not enrolled in and attending high school or a program leading to a high school diploma or general equivalency degree (GED);
2. The child is aged 18 through 21 years, has been continuously enrolled in school, and either drops out of school, graduates from high school, or obtains a general equivalency degree (GED);
3. The child turns 22 years old;
4. The adoptive parent is no longer legally responsible for the child;
5. The adoptive parent is no longer providing support to the child;
6. The child marries;
7. The child joins the military;
8. The special needs conditions of the child no longer exist;
9. The child dies;
10. The adoptive single parent or both adoptive parents die; or
11. The adoptive parent requests termination.

**Historical Note**

New Section made by final exempt rulemaking at 21 A.A.R. 3255, effective January 24, 2016 (Supp. 15-4).

**R21-5-512. New or Amended Adoption Subsidy Agreement**

An adoptive parent may apply for a new or amended adoption subsidy agreement after the adoption is final, only upon documentation of an undiagnosed pre-existing special needs condition that existed before the finalization of the adoption.

1. The adoptive parent shall send the Department a written request for adoption subsidy with documentation from a qualified professional diagnosing the special needs condition and confirming that it existed before the final order of adoption.
2. The adoptive parent and the Department shall follow the procedures in this Article for processing applications and determining eligibility.

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3. If the Department finds that the child has an undiagnosed pre-existing special needs condition that, if diagnosed prior to the adoption, would have met the eligibility criteria listed in R21-5-502, the Department shall grant a new subsidy or amend the adoption subsidy agreement to cover this special needs condition.

**Historical Note**

New Section made by final exempt rulemaking at 21 A.A.R. 3255, effective January 24, 2016 (Supp. 15-4).

**R21-5-513. Appeals**

Appeals for the Adoption Subsidy Program shall follow the process in 21 A.A.C. 1, Article 3.

**Historical Note**

New Section made by final exempt rulemaking at 21 A.A.R. 3255, effective January 24, 2016 (Supp. 15-4).

**R21-5-514. Confidentiality**

The Department shall maintain the confidentiality of all information used in the Adoption Subsidy Program according to all applicable federal and state laws.

**Historical Note**

New Section made by final exempt rulemaking at 21 A.A.R. 3255, effective January 24, 2016 (Supp. 15-4).